



FIXING MEDICARE SECONDARY PAYER POLICY

HOW THE COMMONSENSE PAID ACT BENEFITS EVERYONE

THE PROBLEM

When a Medicare beneficiary is injured and another entity is required to pay for their health care expenses — such as in a tort case, workers compensation claim, or auto insurance payment — Congress has long recognized that Medicare’s responsibility to pay is “secondary.” This well-established Medicare Secondary Payer (MSP) policy is designed to ensure that the Medicare program does not waste taxpayer dollars by reimbursing healthcare expenses for which another entity is legally responsible. A similar policy exists in Medicaid called Third Party Liability (or TPL). To facilitate coordination of benefits and repayment, in 2007 and 2012 Congress required CMS to set up a process where settling parties could “query” CMS as to whether a settling party was in fact a Medicare beneficiary, and if so find out how much could be repaid. While the system works today for Medicare Part A and Part B, CMS has not set up the system to address Medicare Advantage (MA) Plans, Part D Plans, or Medicaid. As a result, settling parties have no way to find out which MA Plan, Part D Plan, or Medicaid program the beneficiary is in, and therefore, cannot coordinate benefits or repay what is owed.

A SOLUTION: THE PROVIDE ACCURATE INFORMATION DIRECTLY (PAID) ACT

Congress can save the federal government significant (and scorable) money and drive better coordination of benefits to repay MSP and TPL claims if it mandates the sharing of certain information between CMS and settling parties — specifically, whether the beneficiary is enrolled in MA, Part D, or the Medicaid program. If settling parties are simply provided with not only whether a claimant is a beneficiary (which Medicare today provides), but also with the identity of the MA or Part D plan or Medicaid program and the dates of coverage, they will be able to resolve and repay MSP or TPL liabilities associated with settlements, judgments, or awards. This can be done in response to the existing “Section 111” query process to provide settling parties with the necessary information of whether the beneficiaries has been, for the past three years, enrolled in an MA Plan, Part D Plan, or Medicaid, and identify the plan.

To achieve a more efficient solution for beneficiaries, taxpayers, and employers, Congress should enact the Provide Accurate Information Directly Act (PAID ACT). Passage of the PAID Act will allow settling parties to repay MSP and TPL amounts, and allow for the coordination of benefits, saving the Medicare and Medicaid programs hundreds of millions of dollars.

ABOUT MARC

The Medicare Advocacy Recovery Coalition (MARC) is a national Coalition advocating for the improvement of the Medicare and Medicaid Secondary Payer (MSP) programs. MARC’s membership represents virtually every sector of the MSP regulated community, including plaintiffs and defense attorneys, brokers, insureds, insurers, insurance and trade associations, self-insureds and third-party administrators.