



Provide Accurate Information Directly (PAID) Act S. 1989 - Section by Section

Scenario:

A 74-year old Medicare beneficiary is crossing the street and gets hit by a car. She is rushed to the hospital where she gets treated for a broken arm. Her hospital care, subsequent physician visits and prescription drugs for her broken arm are paid for by her Medicare Advantage plan.

She then files a claim with the auto insurer of the driver who accidentally hit her with his vehicle. Her claim is for her healthcare costs, her lost income, and her pain and suffering. Since her Medicare Advantage plan paid for her hospital and follow-up care, the plan is entitled to seek reimbursement from the driver's auto insurer for healthcare costs resulting from the accident under the Medicare Secondary Payer (MSP) laws.

Background:

The Medicare Secondary Payer (MSP) laws, first codified in 1980, have evolved over recent years as the Medicare benefit has expanded. In 1996, Congress created an MSP program for Medicare Advantage programs, and in 2003 it expanded that program for the Part D Prescription Drug benefit. Unfortunately, as OIG noted 15 years ago, the programs did not function well for non-group health plans such as liability, workers compensation, and no fault (auto) insurers due to a lack of information – insurers did not know if they were settling with a “beneficiary,” and Medicare did not know of the settlement.

To remedy that problem, in 2007, Congress enacted Section 111 of the MMSEA, creating a system where settling parties could notify Medicare of settlements, determine if a settling party was a Medicare beneficiary, and coordinate benefits to repay Medicare what was owed under the MSP laws. The system has (mostly) worked for Part A and Part B. However, Congress missed the chance to address the issue comprehensively, and never addressed beneficiaries covered in Medicare Advantage or Part D plans. Thus, while settling parties today can learn whether or not the person, they are settling with is Medicare-eligible, they cannot learn the MA Plan or Part D Plan in which the beneficiary is enrolled, in order to coordinate benefits and repay MSP amounts.

The Problem:

Insurers and self-insured entities cannot settle claims without resolving all outstanding liens and payment demands. To resolve MSP claims with Medicare, every settlement is run through the CMS “query” process to determine *if* a claimant is a Medicare beneficiary, and if so, *how much* is owed to Medicare. CMS, however, only provides information about Medicare Part A and Part B, even though the law creates specific MSP recovery rights for MA (Part C) and Prescription Drug (Part D) Plans. While settling parties want to resolve repayments to MA and Part D Plans, they are in the dark as to who these plans are – only CMS has that information.

The PAID Act:

Section I – Name. The legislation is named the “Provide Accurate Information Directly (PAID) Act”

Section II -- Disclosure. CMS, in response to a “query” under the MMSEA (Section 111) Reporting system, today provides an inquiring party with information about whether the person subject to the query is or is not a Medicare beneficiary. Following enactment, and if the beneficiary at issue is a member of a Medicare Advantage (Part C) Plan or Medicare Prescription Drug (Part D) Plan, CMS will also be required to provide the inquiring party with that information and the name of the Plan (but not identification of the treatments) which has provided the beneficiary with services for the three years prior to the inquiry.

Section III – Effective Date. CMS will need to provide the information beginning 12 months after enactment.

**For more information contact: Conor Sheehey (Senator Scott) at conor_sheehey@scott.senate.gov or
Lauren Jee (Senator Cardin) at lauren_jee@cardin.senate.gov**