



The Medicare Secondary Payer Commercial Repayment Center in Fiscal Year 2016

**Report to Congress as Required by Section 1893(h) of the
Social Security Act for FY 2016**

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Executive Summary

This is the annual report for the Medicare Secondary Payer (MSP) Commercial Repayment Center (CRC), the national contractor utilized by the Centers for Medicare & Medicaid Services (CMS) to identify and recover mistaken Medicare payments through post-payment review, for fiscal year (FY) 2016 (October 1, 2015 through September 30, 2016).

The mission of the MSP CRC is to identify and recover primary payments mistakenly made by the Medicare program when another entity had primary payment responsibility. The MSP CRC is a single contractor with national jurisdiction that became fully operational in the second quarter of FY 2014.

The CRC identifies potential Group Health Plan (GHP) based mistaken payments (that is, situations where Medicare made primary payment when it should have paid secondary to the GHP) and pursues recovery as appropriate. The CRC recovers these mistaken primary payments from the entity that had primary payment responsibility (typically the employer or other plan sponsor, insurer, or claims processing third party administrator (TPA)).

In FY 2016, CMS expanded the CRC's workload to include the recovery of certain conditional payments where an applicable plan (a Non-Group Health Plan (NGHP) entity such as a liability insurer, no-fault insurer, or workers' compensation entity) had or has primary payment responsibility. Upon learning that the applicable plan has primary payment responsibility, the CRC identifies and initiates recovery of conditional payments that it believes the applicable plan should have paid. These applicable plans were recently granted formal administrative appeal rights. As this represents a significant change to the existing approach to NGHP recovery, the CRC has performed a gradual rollout of this work to allow the stakeholder community a period of adjustment.

In FY 2016, the CRC identified \$243.68 million in mistaken payments and posted net collections of \$106.29 million on behalf of the Medicare program. Collections for the remaining identified debt will continue into FY 2017, as additional overpayments are identified and collections are initiated.

Introduction

Background

Section 1893(h) of the Social Security Act (the Act) requires the Secretary of the Department of Health and Human Services to utilize contractors as a part of the Medicare Integrity Program to identify and recover overpayments under the Medicare program associated with services for which payment is made under Part A or Part B of title XVIII of the Act.

Medicare beneficiaries frequently have other health coverage in addition to their Medicare benefits. In a situation where there are two or more payers that may be expected to make payment for a medical claim, the payer that is expected to pay first is referred to as the “primary payer.” In the event that the primary payment does not cover the entire amount owed, the provider or supplier will then bill the remaining amount to the “secondary payer,” and so forth.

The Medicare Secondary Payer (MSP) program involves two broad categories: Group Health Plan (GHP) and Non-Group Health Plan (NGHP). The term “GHP” refers to the arrangement between the employer or other plan sponsor (such as a union or employee health and welfare fund) and the insurer or claims-processing TPA. The term “NGHP” specifically refers to liability insurance (including self-insurance), no-fault insurance, or workers’ compensation. Pursuant to section 1862(b) of the Act, the Medicare program can generally only make secondary payments when a payment has been made (or can reasonably be expected to be made) by these GHPs or NGHP applicable plans.

In certain situations after a Medicare claim is paid, CMS may receive new or updated information about health coverage other than Medicare benefits. The CRC reviews new and updated GHP records to determine whether Medicare may have mistakenly paid any claims as the primary payer. Once the CRC identifies mistaken payments, it recovers the payment from the GHP.

In FY 2016, the CRC’s mission was expanded to include the identification and recovery of payments Medicare made conditionally when an NGHP applicable plan has or had Ongoing Responsibility for Medicals (ORM). When the CRC identifies conditional payments where the applicable plan had ORM, the CRC initiates recovery.

As with other recovery audit contractors engaged by CMS in accordance with section 1893(h) of the Act, the CRC is paid on a contingency fee basis. The amount of the contingency fee is a percentage of the mistaken payment that the identified debtor has returned to the Medicare program.

MSP CRC FY 2016 Results

Overview

The most significant change to CRC operations in FY 2016 was the implementation of a new recovery process for NGHP ORM conditional payments.

In FY 2016 the CRC identified a total of \$243.68 million in mistaken and conditional payments for both the GHP and NGHP ORM workload. The CRC processed collections of \$117.40 million on behalf of the Medicare program. Taking into account refunded excess collections of \$11.10 million, the CRC posted \$106.29 million in net collections. The CRC saw a decrease in GHP recoveries due in part to the maturity of the mandatory insurer reporting instituted under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 decreasing the instances of mistaken payments, as well as the CRC’s resolution of pending available recoveries.

Taking into account agency administrative costs of \$17.94 million (including contingency fees paid to the CRC), CMS returned \$88.35 million dollars to the Medicare Trust Funds as a direct result of this program, compared to the return of \$125.05 million for FY 2015.

Mistaken and Conditional Payments Identified

The CRC issued 29,717 demand letter packages relating to 34,406 individual beneficiaries, representing \$314.73 million in potential mistaken and conditional payments made by the Medicare program during FY 2016. In response to these demand letters, the CRC received information that validated \$243.68 million as correctly identified mistaken and conditional payments to be recovered.

Recoveries

The CRC’s net collections totaled \$106.29 million in FY 2016. This amount includes mistaken and conditional payments identified through the end of FY 2016 (collection efforts will continue into FY 2017 for mistaken payments identified in FY 2016). A total of \$97.61 million of these payments were direct payments (that is, checks received from debtors). During FY 2016, the CRC processed \$19.79 million in collections from the Department of the Treasury on delinquent debts. In addition, \$11.10 million in excess collections were identified and refunded to the identified debtors. Excess collections can occur when the Treasury offsets against a payment due to the debtor by another Federal program at the same time that a debtor makes direct payment to the CRC.

Amount Returned to the Medicare Trust Funds from the MSP Commercial Repayment Center in FY 2016

Direct Collections	Treasury Collections	Excess Collections Refunded	CMS Administrative Costs*	Amount Returned to Medicare Trust Funds
\$97,610,837.58	+ \$19,785,432.43	- \$11,102,862.55	- \$17,942,794.24	= \$88,350,613.22

*CMS Administrative Costs include contingency fees paid to the CRC as well as certain CMS administrative costs and funds paid to support contractors to facilitate CRC work.