

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-20 One-Time Notification</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 1787</b>	<b>Date: February 3, 2017</b>
	<b>Change Request 9893</b>

**SUBJECT: New Common Working File (CWF) Medicare Secondary Payer (MSP) Type for Liability Medicare Set-Aside Arrangements (LMSAs) and No-Fault Medicare Set-Aside Arrangements (NFMSAs)**

**I. SUMMARY OF CHANGES:** This change request (CR) identifies the roles the A/B Medicare Administrative Contractors (A/B MACs), Durable Medical Equipment MACs (DME MACs), shared systems, and Common Working File (CWF) will have for creating Liability Insurance Medicare Set-Aside Arrangement (LMSA) or No-Fault Insurance Medicare Set-Aside Arrangement (NFMSA) records on CWF and process Medicare Secondary Payer (MSP) claims accordingly with an open set aside MSP record on CWF.

**EFFECTIVE DATE: July 1, 2017 - MCS, VMS, FISS and CWF Analysis and Design; October 1, 2017 - MCS, VMS, FISS and CWF Coding and Testing**

*\*Unless otherwise specified, the effective date is the date of service.*

**IMPLEMENTATION DATE: July 3, 2017 - MCS, VMS, FISS and CWF Analysis and Design; October 2, 2017 - MCS, VMS, FISS and CWF Coding and Testing**

*Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

**II. CHANGES IN MANUAL INSTRUCTIONS:** (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
N/A	N/A

**III. FUNDING:**

**For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

**IV. ATTACHMENTS:**

**One Time Notification**

# Attachment - One-Time Notification

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## I. GENERAL INFORMATION

**A. Background:** To comply with the Government Accountability Office final report entitled MSP Additional Steps are Needed to Improve Program Effectiveness for Non Group Health Plans (GAO-12-333), the Centers for Medicare & Medicaid Services (CMS) will establish two new set-aside processes: Liability Medicare Set-aside Arrangement (LMSA) and a No-Fault Medicare Set-aside Arrangement (NFMSA). An LMSA or NFMSA is an allocation of funds from a liability or an auto/no-fault related settlement, judgment, award, or other payment that is used to pay for an individual’s future medical and/or future prescription drug treatment expenses that would otherwise be reimbursable by Medicare. This CR: 1) addresses the policies, procedures, and system updates required to create and utilize an LMSA and NFMSA MSP record, similar to a Workers’ Compensation Medicare Set-Aside Arrangement (WCMSA) MSP record and 2) instructs the A/B MACs and shared systems when to deny payment for items or services that should be paid from an LMSA or NFMSA fund.

**B. Policy:** Pursuant to 42 U.S.C. §1395y(b)(2) and §1862(b)(2)(A)(ii) of the Social Security Act, Medicare is precluded from making payment when payment “has been made or can reasonably be expected to be made under a workers’ compensation plan, an automobile or liability insurance policy or plan (including a self-insured plan), or under no-fault insurance.” Medicare does not make claims payment for future medical expenses associated with a settlement, judgment, award, or other payment because payment “has been made” for such items or services through use of LMSA or NFMSA funds. However, Liability and No-Fault MSP claims that do not have a MSA will continue to be processed under current MSP claims processing instructions.

## II. BUSINESS REQUIREMENTS TABLE

*"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.*

Number	Requirement	Responsibility									
		A/B MAC			DME MAC	Shared-System Maintainers				Other	
		A	B	H		F	M	V	C		
9893.1	The LMSA and NFMSA MSP records shall only be applied to CWF if a Liability (L) or No-Fault/Auto (D) NGHP MSP record already exists on the CWF MSP Auxiliary File.									X	BCRC, MSPSC

Number	Requirement	Responsibility								Other
		A/B MAC			D M E M A C	Shared- System Maintainers				
		A	B	H H H		F I S S	M C S	V M S	C W F	
9893.2	The Liability (L) or No-Fault/Auto (D) NGHP MSP record on CWF shall have a termination date prior to a LMSA and NFMSA record being created.								X	BCRC, MSPSC
9893.3	The LMSA and NFMSA effective date shall be the day after the Liability (L) or No-Fault/Auto (D) NGHP MSP record is closed. For example, if the L MSP record shows a 10/31/16 termination date, the effective date of the LMSA shall be 11/1/16.								X	BCRC, MSPSC
9893.4	The BCRC shall create the LMSA and NFMSA HUSP transaction on CWF.								X	BCRC, MSPSC
9893.5	CWF and the shared system maintainers shall accept and process the below two new MSP codes for use with MSP HUSP transactions and to identify a LMSA and NFMSA in the CWF MSP Auxiliary file: <ul style="list-style-type: none"> <li>“S” shall be used to identify LMSAs; and</li> <li>“T” shall be used to identify NFMSAs.</li> </ul>					X	X		X	BCRC, MSPSC, REMAS
9893.6	CWF shall create two new contractor numbers 11144 and 11145 on incoming HUSP records.								X	BCRC, MSPSC
9893.6.1	Contractor number 11144 shall be associated to incoming MSP “S” HUSP records for application on the MSP Auxiliary file.								X	BCRC, MSPSC
9893.6.2	Contractor number 11145 shall be associated to incoming MSP “T” HUSP records for application on the MSP Auxiliary file.								X	BCRC, MSPSC
9893.6.3	The shared system maintainers shall accept contractor number 11144, MSP code “S” and source code “44” on the returned 03 CWF trailer response.					X	X	X	X	
9893.6.4	The shared system maintainers shall accept contractor number 11145, MSP code “T” and source code “45” on the returned 03 CWF trailer response					X	X	X	X	
9893.6.5	CWF, and the shared system maintainers, shall accept a “44” in the source code field on the HUSP and HUSC/HUST transactions for contractor 11144.					X	X		X	BCRC, MSPSC

Number	Requirement	Responsibility									
		A/B MAC			DME MAC	Shared-System Maintainers				Other	
		A	B	H H H		F I S S	M C S	V M S	C W F		
9893.6.5.1	CWF, and the VMS shared system maintainer, shall accept a "44" in the source code field on the HUSC/HUST transactions for contractor 11144.							X	X		
9893.6.6	CWF, and the shared system maintainers, shall accept a "45" in the source code field on the HUSP and HUSC/HUST transactions for contractor 11145.					X	X		X	BCRC, MSPSC	
9893.6.6.1	CWF, and the VMS shared system maintainer, shall accept a "45" in the source code field on the HUSC/HUST transactions for contractor 11145.							X	X		
9893.6.7	The CWF, and the shared system maintainers, shall only accept a "Y" Validity Indicator for HUSP transactions created by Contractor 11144 or Contractor 11145.					X	X		X	BCRC, MSPSC	
9893.6.7.1	CWF shall only return a HUSP to VMS if the MSP was originated by the DME MACs.				X			X	X		
9893.6.8	CWF shall send a "Y" validity indicator for HUSC transactions for Contractor 11144 and 11145.								X		
9893.6.9	CWF shall use the following address for contractor numbers 11144 and 11145: LMSA and NFMSA P.O. Box 138899 Oklahoma City, OK 73113-8897.								X		
9893.7	CWF shall only allow Contractors 11100 and 11144 to add, update, or delete MSP records created by contractor 11144.								X	BCRC, MSPSC	
9893.7.1	CWF shall only allow Contractors 11100 and 11145 to add, update, or delete MSP records created by contractor 11145.								X	BCRC, MSPSC	
9893.7.2	CWF shall create and send a HUSC transaction to the shared system maintainers that processed claims for each beneficiary when either an "add," "update," or "delete" transaction is received from contractor 11100, 11144 or contractor 11145.								X		
9893.8	The Contractor Reporting of Operational Workload (CROWD) Report shall be updated to reflect Special Project "7044" as "Liability Medicare Set-aside" and Special Project number "7045" as "No-Fault Medicare Set-aside."	X	X	X	X	X	X			CROWD	

Number	Requirement	Responsibility								Other
		A/B MAC			DME MAC	Shared-System Maintainers				
		A	B	H H H		F I S S	M C S	V M S	C W F	
9893.8.1	The A/B MACs, DME MACs and the designated shared system maintainers shall identify MSP savings for LMSAs and NFMSAs under special project 7044 and 7045, as applicable, when LMSA and NFMSA claims are processed.	X	X	X	X	X	X			
9893.8.2	MSP savings for special project 7044 shall be identified under the Liability column and savings for special project 7045 shall be identified under the No-Fault column in the MSP Savings Report and in CROWD.	X	X	X	X	X	X			CROWD
9893.8.3	MSP claims shall be considered cost avoided when a claim is returned without payment because CWF indicators indicate another insurer is primary to Medicare.								X	
9893.8.4	FISS shall create and use MSP savings type "DS" for No-Fault and "LS" for Liability when the claims process through post pay and posted to the MSP Savings file for NFMSAs and LMSAs.					X				
9893.9	CWF shall apply the same MSP consistency edit codes that it currently applies for MSP (Liability) code L (numeric code 47) to MSP code S.								X	
9893.9.1	The CWF shall apply the same MSP consistency edit codes that it now applies for MSP (Auto/No-Fault) code D (numeric code 14) to MSP code T making sure CWF has the correct MSP record associated with the claim.								X	
9893.10	The A/B MACs (A) shared system shall continue to accept claims with value code 47 and 14 for Part A claims that may be reviewed against an open "S" or "T" MSP auxiliary record.					X				
9893.11	The A/B MACs (B) and DME MAC shared systems shall continue to accept claims with insurance code 47 and 14 in association with an open "S" or "T" MSP auxiliary record.		X		X		X	X		
9893.12	The A/B MACs and DME MACs shall not make payment for those services related to the diagnosis code (or related within the family of diagnosis codes) associated with the open "S" or "T" MSP auxiliary record when the claim's date of service is on or after	X	X	X	X					

Number	Requirement	Responsibility								Other
		A/B MAC			D M E M A C	Shared- System Maintainers				
		A	B	H H H		F I S S	M C S	V M S	C W F	
	the MSP effective date.									
9893.13	The CWF shall create a new SP error code (SPXX) that shall set when an incoming HUSP transaction with MSP Code "S" or "T" is submitted and the Beneficiary MSP Auxiliary File contains an open "L" or "D" MSP occurrence that has the same effective date and diagnosis code(s). This means the LMSA or the NFMSA record cannot be created until the "L" or "D" record is closed.								X	
9893.14	The CWF maintainer shall create a new utilization error code (68XX) - "LMSA exists. Medicare contractor payment not allowed."								X	BDS
9893.14.1	The CWF maintainer shall create a new utilization error code (68XX) - "NFMSA exists. Medicare contractor payment not allowed."								X	BDS
9893.14.2	CWF shall set the new utilization error codes under the following conditions : <ul style="list-style-type: none"> <li>An open occurrence on the MSP Auxiliary file exists with a MSP code "S" or "T" and;</li> <li>A Medicare contractor attempts to pay the claim; and</li> <li>The diagnosis code(s) on the claim is/are related to the diagnosis code(s) on the open MSA record.</li> </ul>								X	BDS
9893.14.2.1	The two new 68XX and 68XX utilization error codes shall not set when the LMSA or NFMSA MSP Auxiliary record contains a termination date, no matter what the date of service is, so Medicare can make a payment.								X	BDS
9893.14.3	The shared systems shall accept both of the new error codes (68XX) and (68XX) when returned with an 08 trailer.					X		X	X	
9893.14.4	Upon receipt of the utilization error code, the MAC shall deny all claims, detail line level only for Part B services, (including conditional payment claims) related to the diagnosis codes, or related within the family of diagnosis codes, on the open CWF MSP	X	X	X	X	X			X	



Number	Requirement	Responsibility								Other
		A/B MAC			DME MAC	Shared-System Maintainers				
		A	B	H H H		F I S S	M C S	V M S	C W F	
	<ul style="list-style-type: none"> <li>N723—Patient must use liability set aside (LSA) funds to pay for the medical service or item.</li> <li>N724—Patient must use no-fault set-aside (NFSA) funds to pay for the medical service or item.</li> <li>MSN 29.33 - Your claim has been denied by Medicare because you may have funds set aside from your settlement to pay for your future medical expenses and prescription drug treatment related to your injury(ies).</li> <li>MSN 29.33 - Su reclamación ha sido denegada por Medicare porque usted podría sacar dinero de su convenio/acuerdo para pagar por sus futuros gastos médicos y su tratamiento con medicinas recetadas relacionadas a su lesión(es).</li> </ul>									
9893.16	<p>CWF shall ensure that the overrideable error code 68XX and 68XX may be overridden for payment by the shared system maintainers, A/B and DME MACs, with override code <u>N</u> for claim lines or claims on which:</p> <ul style="list-style-type: none"> <li>auto/no-fault insurance set-asides diagnosis codes do not apply, or are not related, or</li> <li>liability insurance set-asides diagnosis codes do not apply, or are not related, or</li> <li>when the LMSA and NFMSA benefits are exhausted/terminated per CARC or RARC and payment information found on the incoming claim as cited in CR 9009.</li> </ul>	X	X	X	X			X	X	
9893.16.1	CWF shall allow for an override of error code 68XX and 68XX within the header of claims transaction sent to CWF so that a secondary payment on a claim can be made when benefits are exhausted in the middle of a claim billing period.	X	X	X	X	X		X	X	BDS
9893.16.1.1	When WCMSA, LMSA or NFMSA benefits are terminated or exhausted during a provider stay or physician visit and the claim is not fully paid, the A/B				X	X		X	X	BDS

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	H H H		F I S S	M C S	V M S	C W F	
	MACs, DME MACs and shared system maintainers shall make a residual payment on that claim by sending the primary payer amounts to the MSPPAY module to calculate Medicare's residual payment if such services are covered and otherwise reimbursable by Medicare. <b>NOTE:</b> CR 9009 outlines policies for benefits exhausted that CWF and the SSMs shall follow for LMSAs and NFMSAs. This means the residual payment indicators identified in CR 9009 will apply as Medicare payment may be made due to MSA benefits being exhausted during a hospital stay or performed service.									
9893.16.2	A/B MACs (B) and DME MACs shall override payable lines with override code N. <b>NOTE:</b> Override code "N" is used where NGHP No-fault and liability services are involved and the service is either: <ul style="list-style-type: none"> <li>• Not a covered service under the primary payer's plan;</li> <li>• Not a covered diagnosis under the primary payer's plan; or</li> <li>• Benefits have been exhausted under the primary payer's plan.</li> </ul>		X		X					
9893.16.3	A/B MACs (A) shall override payable claims with override code N.	X			X					
9893.16.3.1	If the A/B MAC (A) is attempting to allow payment on the claim, the A/B MAC (A) shall include an "N" on the '001' Total revenue charge line of the claim.	X			X					
9893.16.4	If there is an open GHP record on CWF, the MSP claim shall be denied as it should be sent to the primary insurer first if it was not done so already. <b>NOTE:</b> CWF shall use MSP error code 6803 first in this situation.								X	
9893.16.4.1	A/B MACs (A) shall add VC 14, 15 or 47 with payment amount of \$0 to WC, Liability or NF claims when rejecting the claim due to an open MSA record at CWF. <b>NOTE:</b> MACs shall also apply occurrence code 1,2,3,4 or 5, as applicable, with the effective date of the MSA in the occurrence code date when cost avoiding the claim.	X								

Number	Requirement	Responsibility								Other
		A/B MAC			DME MAC	Shared-System Maintainers				
		A	B	H H H		F I S S	M C S	V M S	C W F	
9893.17	The Comprehensive Error Rate Testing (CERT) contractor shall accept the MSP codes D (14) and L (47) within the claims resolution code field.						X	X		CERT
9893.17.1	The A/B MACs and designated, shared system maintainers shall send the MSP codes D (14), E (15), for MCS, and L (47) to CERT as necessary.	X	X	X	X		X	X		CERT
9893.18	MACs and shared systems shall make payment for those services related to the diagnosis codes associated with the closed "W" "S" or "T" MSP auxiliary record for covered and reimbursable services. <b>NOTE:</b> CWF shall not send a MSP error code in this situation where the MSA record is closed.	X	X	X	X	X		X	X	
9893.18.1	For claims with dates of service between the WCMSA, LMSA or NFMSA effective and termination date, Medicare shall make a payment for covered and reimbursable services. <b>NOTE:</b> If there is an open GHP record on CWF, the MSP claim shall be denied as it should have been sent to the GHP insurer first if it was not done so already.	X	X	X	X	X	X	X	X	
9893.19	CWF and the CWF copy book shall be updated to include the two (2) byte field named "MSP Qualifier" codes "LT" and "AP" to populate the "MSP Qualifier" field for files sent to the MBDSS for generation of 270/271 to providers via HETS alerting them of the LMSA and NFMSAs.								X	HETS, MBD
9893.19.1	MACs shall update their HETS-related documentation to reflect that MSP Qualifier "LT" means Litigation (Liability) and represents an LMSA for provider education purposes.	X	X	X	X					
9893.19.2	A/B MACs and DME MACs shall update their HETS-related documentation to reflect that MSP Qualifier "AP" means Auto Insurance Policy (Auto/No-Fault) and represents a NFMSA for provider education purposes.	X	X	X	X					
9893.20	CWF shall associate "LT" in the "MSP Qualifier" field with MSP type "S" for HETS processing.								X	HETS
9893.20.1	CWF shall associate "AP" in the "MSP Qualifier"								X	HETS

Number	Requirement	Responsibility								Other
		A/B MAC			D M E M A C	Shared- System Maintainers				
		A	B	H H H		F I S S	M C S	V M S	C W F	
	field with MSP type "T" for HETS processing.									
9893.20.2	CWF shall transmit the "LT" and/or "AP" qualifier as part of its COB file exchanges with MBDSS and NGD for HETS processing.								X	HETS, MBD, NGD
9893.20.3	MBD and NGD shall modify their systems to accept and allow in the two (2) byte field named "MSP Qualifier" the codes "LT" and "AP" to populate the "MSP Qualifier" field.									MBD, NGD
9893.20.4	MBD and NGD shall accept the "LT" qualifier to denote a LMSA MSP occurrence.									MBD, NGD
9893.20.5	MBD and NGD shall accept the "AP" qualifier to denote a NFMSA MSP occurrence.									MBD, NGD
9893.21	HETS shall transmit, in the EB04 segment of the 270/271 interface, an insurance type "LT," which indicates a LMSA for MSP type code "S" records received from CWF.									HETS, MBD
9893.21.1	HETS shall transmit, in the EB04 segment of the 270/271 interface, an insurance type "AP," which indicates a NFMSA for MSP type code "T" records received from CWF.									HETS, MBD
9893.21.2	HETS shall continue to transmit an insurance type "47" on outbound 271 transactions in association with "traditional" Liability records (MSP type "L" on CWF).									HETS, MBD
9893.21.3	HETS shall continue to transmit an insurance type "14" on outbound 271 transactions in association with "traditional" Auto/No-Fault records (MSP type "D" on CWF).									HETS, MBD
9893.21.4	CWF shall continue to return Value Code "47" for MSP type code "S" on the MBD and NGD extract file under MSP Code.								X	
9893.21.5	CWF shall continue to return Value Code "14" for MSP type code "T" on the MBD and NGD extract file under MSP Code.								X	
9893.22	The 1524 report shall also capture the NFMSA and LMSA when the MSA records are open in CWF and	X	X	X	X	X	X			

Number	Requirement	Responsibility								
		A/B MAC			D M E M A C	Shared-System Maintainers				Other
		A	B	H H H		F I S S	M C S	V M S	C W F	
	does not capture this information when the MSA records are closed.									

### III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			D M E M A C	C E D I
		A	B	H H H		
9893.23	MLN Article: A provider education article related to this instruction will be available at <a href="http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/">http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/</a> shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web sites and include information about it in a listserv message within 5 business days after receipt of the notification from CMS announcing the availability of the article. In addition, the provider education article shall be included in the contractor's next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X	X	X	X	X

### IV. SUPPORTING INFORMATION

#### Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

#### Section B: All other recommendations and supporting information:

### V. CONTACTS

**Pre-Implementation Contact(s):** Richard Mazur, 410-786-1418 or [richard.mazur2@cms.hhs.gov](mailto:richard.mazur2@cms.hhs.gov) , Brian Pabst, 410-786-2487 or [Brian.Pabst@cms.hhs.gov](mailto:Brian.Pabst@cms.hhs.gov)

**Post-Implementation Contact(s):** Contact your Contracting Officer's Representative (COR).

## **VI. FUNDING**

### **Section A: For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

**ATTACHMENTS: 0**