



# MLN Matters®



Information for Medicare Fee-For-Service Health Care Professionals

Related Change Request (CR) #:3729

MLN Matters Number: MM3729

Related CR Release Date: March 4, 2005

Related CR Transmittal #: 26

Effective Date: June 6, 2005

Implementation Date: June 6, 2005

**Note:** This article was updated on February 4, 2013, to reflect current Web addresses. All other information remains unchanged.

## *MMA - Clarification for Change Request (CR) 3267*

### Provider Types Affected

Hospitals and independent laboratories billing Medicare carriers or fiscal intermediaries (FIs) for laboratory services

### Provider Action Needed

This article contains information provided in Change Request (CR) 3729 that clarifies policies previously issued in CR 3267 (Transmittal 228, July 16, 2004). It also informs hospitals and independent labs that 1) they may use collected and retained Medicare Secondary Payer (MSP) information for the billing of non-face-to-face reference lab services, and 2) they are required to collect MSP information from the beneficiary when billing for face-to-face encounters with Medicare patients for lab services.

### Background

Treatment of hospitals for certain services under Medicare Secondary Payer (MSP) Provisions of the Medicare Prescription Drug Improvement & Modernization Act of 2003 (MMA) states:

“(a) IN GENERAL. – The Secretary shall not require a hospital (including a critical access hospital) to ask questions (or obtain information) relating to the application of section 1862(b) of the Social Security Act (relating to Medicare Secondary Payer provisions) in the case of reference lab services described in subsection (b), if the Secretary does not impose such requirement in the case of such services furnished by an independent laboratory.”

“(b) REFERENCE LABORATORY SERVICES DESCRIBED. – Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of such tests, or both) furnished without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital involved and in which the hospital submits a claim only for such test or interpretation.”

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The Centers for Medicare & Medicaid Services (CMS) will not require independent reference laboratories to collect MSP information in order to bill Medicare for reference laboratory services as described in subsection (b) above.

Therefore, pursuant to the MMA (Section 943), CMS will not require hospitals to collect MSP information in order to bill Medicare for reference laboratory services (as described in subsection (b) above). This policy, however, will not be a valid defense to Medicare's right to recover when a mistaken payment situation is later found to exist.

Therefore, in situations where hospital and independent labs have already collected and retained MSP information for beneficiaries, they may use the collected and retained MSP information for the billing of non-face-to-face reference lab services.

In addition, in situations when there is a face-to-face encounter with the beneficiary, hospitals and independent labs are required to collect MSP information from the beneficiary when billing for face-to-face lab services.

This clarification should have been made as part of CR 3267 (which clarified CR 3064, Transmittal 11, February 27, 2004).

### Additional Information

CR 3267 (Transmittal 228, July 16, 2004) can be reviewed at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R17MSP.pdf> on the CMS website.

CR 3064 (Transmittal 11, February, 27, 2004) can be reviewed at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R11MSP.pdf> on the CMS website.

The [Medicare Secondary Payer Manual](#) (Pub. 100-5) can be found by clicking on the manual name.

The Medicare Claims Processing Manual (Pub. 100-04), Chapter 26 (Completing and Processing Form CMS-1500 Data Set) provides instructions on how to process reference lab claims submitted on Form CMS-1500, and can be found at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c26.pdf> on the CMS website.

For complete details, please see the official instruction issued to your carrier/intermediary regarding this change. That instruction may be viewed by going to <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R26MSP.pdf> on the CMS website.

If you have any questions, please contact your carrier/intermediary at their toll-free number, which may be found at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html> on the CMS website.

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