

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-05 Medicare Secondary Payer	Centers for Medicare & Medicaid Services (CMS)
Transmittal 71	Date: September 18, 2009
	Change Request 6615

Subject: The Coordination of Benefits Contractor (COBC) Discontinues Dissemination of the Right to Recovery Letters

I. SUMMARY OF CHANGES: Effective October 1, 2009, the COBC will no longer be responsible for disseminating the Right to Recovery letters. The Medicare Secondary Payer Recovery Contractor (MSPRC) will assume this function on October 1, 2009.

New / Revised Material

Effective Date: October 1, 2009

Implementation Date: October 1, 2009

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.*

R/N/D	Chapter / Section / Subsection / Title
R	4/Table of Contents
R	4/40 The Coordination of Benefits Contractor (COBC) Discontinues Dissemination of the Right to Recovery Letters

III. FUNDING:

SECTION A: For Fiscal Intermediaries and Carriers:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their operating budgets.

SECTION B: 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:

Business Requirements

Manual Instruction

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

Attachment - Business Requirements

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SUBJECT: The Coordination of Benefits Contractor (COBC) Discontinues Dissemination of the Right to Recovery Letters

Effective Date: October 1, 2009

Implementation Date: October 1, 2009

I. GENERAL INFORMATION

A. Background: When the Coordination of Benefits Contractor (COBC) was notified of a non-group health plan Medicare Secondary Payer situation, it mailed the Right to Recovery letter to the attorney(s) representing the beneficiary or the beneficiary where no attorney was identified.

B. Policy: This transmittal is to notify all Medicare contractors that as of October 1, 2009, the COBC will no longer disseminate the Right to Recovery letter. The Medicare Secondary Payer Recovery Contractor will assume this function on October 1, 2009.

II. BUSINESS REQUIREMENTS TABLE

Use "Shall" to denote a mandatory requirement

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M M A C	F I	C A R R I E R	R H I	Shared-System Maintainers				OTHER
							F I S S	M C S	V M S	C W F	
6615.1	Medicare contractors shall contact the COBC for copies of the Right to Recovery letter for cases established prior to October 1, 2009.	X	X	X	X	X					
6615.2	Medicare contractors shall only request a copy of a Right to Recovery letter if CMS' Office of General Council or the Department of Justice asked for their assistance in assembling a case that they closed or that remained under their jurisdiction at the time of the transition to the MSPRC.	X	X	X	X	X					
6615.3	Medicare contractors shall not routinely contact the COBC for Right to Recovery letters.	X	X	X	X	X					

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)
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		A / B M A C	D M E M A C	F I 	C A R R I E R	R H H I	Shared-System Maintainers				OTH ER
	None.						F I S S	M C S	V M S	C W F	

IV. SUPPORTING INFORMATION

Section A: For any recommendations and supporting information associated with listed requirements, use the box below:

Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
	None.

Section B: For all other recommendations and supporting information, use this space:

V. CONTACTS

Pre-Implementation Contact(s): Patricia Gillespie 410-786-8123

Post-Implementation Contact(s): Patricia Gillespie 410-786-8123

VI. FUNDING

Section A: For *Fiscal Intermediaries (FIs)*, *Regional Home Health Intermediaries (RHHIs)*, and/or *Carriers*, use only one of the following statements:

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

Section B: For *Medicare Administrative Contractors (MACs)*, include the following statement:

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.

Medicare Secondary Payer (MSP) Manual

Chapter 4 - Coordination of Benefits Contractor (COBC) Requirements

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Dissemination of the Right to Recovery Letters

40 – *The Coordination of Benefits Contractor (COBC)* Discontinues Dissemination of the Right of Recovery Letters

(Rev. 71; Issued: 09-18-09; Effective: 10-01-09; Implementation: 10-01-09)

Prior to June 2003, when the COBC was notified of a non-group health plan Medicare Secondary Payer situation, it **issued a Right of Recovery** letter to the *beneficiary, beneficiary's representative, and/or insurer/workers' compensation entity, as appropriate*. The **Right of Recovery** letter informed the recipient *of Medicare's recovery rights with respect to* a claim and/or a civil action against a third party and confirmed the information related to the case that may identify Medicare as the secondary payer.

Effective June 2003, the CMS discontinued sending the Medicare contractors a copy of the Right to Recovery letter because the cost and resources associated with disseminating the Right of Recovery letter was not cost effective for the few instances where they were needed.

Effective October 1, 2009, the COBC will no longer be responsible for disseminating the Right to Recovery letters. The COBC is responsible for sending the Right to Recovery letter for cases that entered the Common Working File (CWF) before October 1, 2009. The Medicare Secondary Payer Recovery Contractor (MSPRC) will assume this function for non-GHP cases established on and after October 1, 2009.

The COBC will retain the original Right to Recovery letters for cases dated prior to October 1, 2009. Prior to the implementation of the MSPRC in October 2006, claims processing contractors were leads on non-GHP recovery cases. Contractors shall only request a copy of a Right to Recovery letter if CMS' Office of the General Council (OGC) or the Department of Justice asked for their assistance in assembling a case that they closed or that remained under their jurisdiction at the time of the transition to the MSPRC. If needed, the Medicare contractor shall obtain an exact copy of Right to Recovery letter for cases established prior to October 1, 2009 through an ECRS request using code "RR". Medicare contractors shall not routinely request copies.