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Medicare Secondary Payer (MSP) Recovery and Settlements Related to Zantac

A large number of Medicare beneficiaries are settling, or have settled, liability insurance claims, to resolve allegations that they developed certain cancers after ingesting Zantac. As Medicare has paid in full or in part for the treatment of these illnesses, by law Medicare is required to pursue recovery of what it paid.

CMS' Recovery Process

Generally, when a Medicare beneficiary receives a liability insurance settlement, the beneficiary's attorney reports the settlement to the Center's for Medicare & Medicaid Services' (CMS') Benefit Coordination and Recovery Center (BCRC). The BCRC will review the beneficiary's medical claims and identify ones that are related to the settlement. The BCRC will issue letters explaining how much Medicare expects to be repaid. These letters include instructions on how to appeal the amount if the amount is incorrect and how to request a full or partial waiver of recovery. More information on this process can be found at <https://www.cms.gov/medicare/coordination-benefits-recovery/overview/whats-new>.

Alternative Option- Global Recovery

For Zantac-related liability insurance settlements, CMS is also providing the opportunity to participate in a Global Resolution, where CMS calculates one Global Recovery Claim for a group or "universe" of many Medicare beneficiaries at a time. Some Lien Resolution Entities that have been hired to make sure CMS is repaid have already communicated with CMS about participating in this process. Once Lien Resolution Entities provide CMS with settlement details (including the settlement date(s) and the settlement amount) for each beneficiary in the group or universe, CMS reviews that information, calculates its Global Recovery Claim, and informs the law firm or Lien Resolution Entity responsible for that universe of beneficiaries of the Global Recovery Claim. The law firm or Lien Resolution Entity will inform beneficiaries of the amount the law firm or Lien Resolution Entities expect them to contribute to the Global Recovery Claim and CMS will be repaid. To participate in this Zantac Global Resolution process, Lien Resolution Entities must submit universes no later than December 31, 2028, and payment must be received by June 1, 2029.

The Frequently Asked Questions below are being provided to assist beneficiaries with understanding the Medicare reimbursement process.

Zantac Frequently Asked Questions

1. What gives Medicare the right to be reimbursed from my Zantac settlement?

ANSWER: When a Medicare beneficiary receives a settlement and that settlement relates to an illness or injury, like Zantac and the different types of cancers it allegedly caused, that settlement must be reported to Medicare. Medicare is required to look at the medical claims it paid to find ones that relate to the illness or injury and collect that money back from the settlement. The settlement, by law, is considered a “primary payer” to Medicare, which means that it is supposed to pay for that care before Medicare pays. If Medicare already paid for that care, Medicare is required to get that money back.

2. What if I am not a Medicare beneficiary?

ANSWER: Everyone must have their Medicare enrollment status verified through Medicare. This ensures that all Medicare obligations are satisfied and that there is no outstanding Medicare liability for you. If you are not a Medicare beneficiary, you will not have to pay Medicare anything.

3. What are my options for reimbursing Medicare from my Zantac settlement?

ANSWER: Beneficiaries receiving Zantac settlements may reimburse Medicare in one of two ways:

Option 1: Through the standard recovery process, which is administered through Medicare’s MSP recovery contractor, the Benefits Coordination and Recovery Center (BCRC). The BCRC will set up an individual recovery case and look at medical claims that Medicare paid related to cancer care. Once the BCRC finds those medical claims in its system, the BCRC will add up the amounts Medicare paid. The BCRC will issue a letter asking for repayment for that amount from the settlement. They will include a list of all the medical claims and amounts that Medicare expects to collect. The letter will also explain how to notify the BCRC that included claims are incorrect.

Option 2: Through a Global Resolution facilitated by CMS Headquarters and lien resolution entities.

Because there are so many people who said they got the same types of cancer after taking Zantac, CMS was asked to calculate a “global claim,” which means that CMS looked at Medicare beneficiaries’ medical claims for 10 different types of cancers to calculate a cost of care for each type of cancer. Once CMS knows exactly how many people have or had each of the different types of cancer, CMS will multiply the number of beneficiaries times the amount for each cancer category. That amount would be the total amount CMS would expect to be repaid.

4. Who determines how much I owe Medicare in the Zantac global resolution?

ANSWER: If you are participating in the global resolution process, CMS does not determine the individual amount you owe Medicare. A Medicare “claim” amount on your settlement forms is allocated by your attorney and/or the lien resolution entity hired by your attorney. Please contact your attorney and/or the applicable lien resolution entity if you have questions about your individual amount.

5. Am I part of the Zantac global resolution?

ANSWER: CMS is using the global recovery process for Zantac claims for those Medicare beneficiaries whose attorneys enter them into the process. If you have not received letters from the BCRC, your attorney likely enrolled you in the Zantac global resolution. Please check with your attorney to determine if you are part of the Zantac global resolution.

6. How long will the Zantac global resolution be available?

ANSWER: Settlements must occur and be reported to CMS before January 1, 2029 to be eligible for participation in CMS' global recovery option. All other settlements will be resolved through the BCRC.

7. How do I determine the status of my Zantac settlement?

ANSWER: Beneficiaries should contact their attorney to determine the status of their Zantac settlement.

8. Is it better to have my Zantac settlement resolved through the standard process with the BCRC or “globally”?

ANSWER: Please carefully review all information received from your attorney and contact them with any questions regarding how Medicare's claim is being resolved. The options are a personal decision, and it is best to discuss this with your attorney.

9. Why did the BCRC say they have no record of my Zantac case when I called them?

ANSWER: Your attorney likely enrolled you in the Zantac global resolution. The BCRC does not have information on the Zantac global resolution because they are responsible for standard MSP recovery only and do not handle the global recovery process. Please contact your attorney and/or the applicable lien resolution entity for information on the Zantac global resolution.

10. How do I remove myself from the Zantac global resolution and have my settlement(s) resolved through the BCRC?

ANSWER: Please coordinate removal from the Zantac global resolution with your attorney and the applicable lien resolution entity. You and/or your attorney and/or lien resolution entity will need to start a recovery case with the BCRC (please see <https://www.cms.gov/medicare/coordination-of-benefits-and-recovery/coordination-of-benefits-and-recovery-overview/contacts/contacts-page> for how attorneys and beneficiaries may contact the BCRC). Once you are removed from the Zantac global resolution, you will not be able to have any of your Zantac settlements resolved “globally”.

11. How does the recovery process work if I decide to resolve my Zantac case through the BCRC?

ANSWER: Please see the Non-Group Health Plan (NGHP) Medicare Secondary Payer (MSP) Beneficiary Reference Guide located at <https://www.cms.gov/files/document/non-group-health-plan-nghp-medicare-secondary-payer-msp-beneficiary-reference-guide.pdf> for details about resolving your case through the BCRC.