

# Medicare Secondary Payer (MSP)

## Chapter 7 - Contractor MSP Recovery Rules

### Crosswalk

<b>New Chap</b>	<b>New Section</b>	<b>Int. Pub. 13</b>	<b>Carrier Pub. 14</b>	<b>PMs</b>	<b>Other</b>	<b>Subject</b>
7	10	A3-3490.3G, A3-3491.13	B3-3329.9			General
7	10.1	A3-3490.3G, A3-3491.13	B3-3329.9			IRS/SSA/CMS Data Match (Data Match) Identified Cases
7	10.2	A3-3491.13	B3-3329.9			Other Than Data Match Identified Cases
7	10.3					Source of Recovery Action
7	10.4	A3-3329.6.G	B3-3491.13.G			Contractor Recovery Case Files (Audit Trails)
7	10.5	A3-3491.13	B3-3329.13			Employer Letter
7	10.5.1		B3-3491.17, B3-3329.13			Important Information for Employers
7	10.6	A3-3491.17	B3-3329.13			Insurer Letter
7	10.7	A3-3491	B3-3329.13			Accountability Worksheet
7	10.8					MSP Summary Data Sheet
7	10.8.1				Draft B3-dated 4/14/94	Field Descriptions on the MSP Summary Data Sheet
7	10.9	A3-3491	B3-3329.13			Payment Record Summary

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7	10.10			AB-03-120		MSP Demand Letters to Insurers/Third Party Administrators (TPAs) of Employees
7	10.10.1			AB-03-120		Insurer/TPA Letter
7	20	A3-3407.9, A3-3492.F, A3-3489.3.B, A3-3492.G	B3-2370.9, B3-3328.11		HH-253.12, HH 250.9, HO-263.13, HO-289.9, SNF-336.13, SNF-326.3	Medicare Right of Recovery
7	20.1	A3-3407.11, A3-3414, A3-3490.3G5, A3-3491.13C, A3-3489.3	B3-2370.11, B3-3331.5, B3-3338.3, B3-3340			Conflicting Claims by Medicare and Medicaid
7	20.2	A3-3489.5, A3-3489.3G				State Law or Contract Provides That No-Fault Insurance Is Secondary to Other Insurance
7	20.3	A3-3491.6C, B3-3328.10B				Coordination of Benefits Arrangements Between Private Plans
7	20.4	A3-3418.3				Procedures for Actions With Legal Implications in MSP Situations (Section heading only)
7	20.4.1	A3-3418.3A				Handling Subpoenas Under Routine Use Rules
7	20.4.2	A3-3418.3B				Referral of Cases to Regional Office for Possible Government Intervention and/or Legal Action

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7	20.4.3	A3-3490.3G6, A3-3491.10				Other Referrals to CMS
7	20.4.3.1	A3-3417.2 3rd paragraph				Refer Nonresponsive Worker's Compensation Cases to the CMS
7	20.5	A3-3491.15	B3-3328.16, B3-3329.11			Mistaken GHP Primary Payments
7	20.5.1					Third Party Payer Refund Requests Served on Medicare
7	30					Mistaken Payment Report Activities and Record Layouts (Section heading only)
7	30.1	A3-3490.3.G, A3-3491.13			Memo dated 2/5/93 to: All Regional MSP Coordinators re: IRS/SSA/CMS Data Match issues	Contractor Actions Upon Receipt of the Mistaken Payment Report Records or Other Notice of Mistaken Payment
7	30.1.1	A3-3490.2, A3-3492.J, A3-3491.5			Memo From Office of Issuances of MSP Draft transmittal dated 4/14/94	COBC Responsibility to Obtain Missing MSP Information
7	30.1.1.2		B3-3375.4		Memo from Office of Issuance of MSP Draft transmittal dated 4/14/94	When Time Limitation for Non-Data Match Recovery Begins
7	30.1.1.2.1				Memo from Office of Issuance of MSP Draft transmittal dated 4/14/94	Actual Notice
7	30.1.2	A3-3491.5	B3-3375.14C, Draft dated 4/14/94 as modified with Bill Zavoina			Contractor History Search

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7	30.1.2.1					Aggregate Claims for Recovery Memo dated 8/29/97 to All Associate Regional Administrators for Medicare From Chief MSP Operations on Group Health Recovery Demand Letter to Employer Language
7	30.1.3					Contractor Recovery Case Files B3-3375.14.F - Draft dated 4/14/94, References made to recover from the insurer were changed to recover from the employer to comply with the 98 BPRs
7	30.1.3.2					Recovery Attempt Audit Trails
7	30.1.4					Documentation of Deb B3-3375.6 - Draft dated 4/14/94, References made to recover from the insurer were changed to recover from the employer to comply with the 98 BPRs
7	30.1.4.1					Summary of Medicare Reimbursement
7	30.1.4.2					Claim Facsimiles for Each Claim Mistakenly Paid
7	30.1.5					Calculate Interest on Overpayments B3-7130.H
7	30.2					Mistaken Payment Report Record Layouts (Section heading only)
7	30.2.1					Inpatient, Skilled Nursing Facility and Religious Nonmedical Health Care (RNHC) AB-99-24 (CR815)
7	30.2.2					Outpatient Mistaken Payment Report Record Layout CMS Letter to Secondary Payer Coordinators dated 4-30-1992 from Barbara J. Gagel

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7	30.2.3				CMS Letter to Secondary Payer Coordinators dated 4-30-1992 from Barbara J. Gagel	Home Health Agency (HHA) Mistaken Payment Report Record Layout
7	30.2.4				CMS Letter to Secondary Payer Coordinators dated 4-30-1992 from Barbara J. Gagel	Hospice Mistaken Payment Report Record Layout
7	30.2.5				CMS Letter to Secondary Payer Coordinators dated 4-30-1992 from Barbara J. Gagel	Part B Payment Record Mistaken Payment Report Record Layout
7	30.3			B3-3375.14.B, Draft dated 4/14/94, Appendix D of the MPaRTS User Guide dated November 23,1993 for the Status Codes		IRS/SSA/CMS Mistaken Payment Recovery Tracking System (MPaRTS)
7	30.4	A3-3490, A3-3491				Communications Received in Response to Recovery Actions
7	30.5	A3-3490.3G3 A3-3491.B				Recovery From the Provider (Reworded based on comments from RO 6-30-02)
7	30.6	A3-3490.3G34, A3-3491.13.C				Recovery From the Beneficiary
7	40	A3-3407B, A3-3417	B3-2370.2		HO-289.24, HH-250.23, SNF-330.3	Overpayment Due to Workers' Compensation Coverage
7	40.1	A3-3415.B	B3-3333.B, B3-3334.2			Action Subsequent to Conditional Payment
7	40.1.1	A3-3412	B3-3331.3			Time Limit for Filing Workers' Compensation (WC) Claim Has Expired

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7	40.2					Recover Medicare Payments When Worker's Compensation is Responsible (Section heading only)
7	40.2.1	A3-3410.1	B3-3331.1			COBC Determines Lead Contractor for Recovery in WC Cases
7	40.2.2	A3-3417.1, A3-IM-3497.9	B3-3334.1			Duplicate Payment Received by Provider
7	40.2.3	A3-3417.2	B3-3334.2, B3-3334			Medicare Paid for Services Which Should Have Been Paid for by Workers' Compensation
7	40.3					Settlement Issues (Section heading only)
7	40.3.1	A3-3411	B3-3331.2			Medicare Made Party to WC Hearing
7	40.3.2	A3-3410	B3-3331			Party Requests That Medicare Accept Less Than Its Claim
7	40.3.3	A3-3407.12	B3-2370.12			Authorities for Agreeing to Compromise or Waive Medicare's Claim
7	40.3.4	A3-3416, A3-3407.7, A3-3413, A3-3407.8, A3-3416.1	B3-3333.1, B3-2370.7, B3-3331.4, B3-2370.8, B3-3333.2		HH-250.21, HH-250.7, HH-250.8, HO-289.22, HO-289.7, HO-289.8, SNF-330.1, SNF-326.1, SNF-326.2	Effect of Lump Sum Compromise Settlement

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7	40.3.4.1	A3-3416.2	B3-3333.3		HH-250.22, HO-289.23, SNF-330.2	Apportionment of a Lump Sum Compromise Settlement of Contested WC Claim
7	40.3.5				Memorandum to All Associate Regional Office Administrators dated July 23, 2001 inserted based on CMS comments	Workers' Compensation: Commutation of Future Benefits
7	40.3.5.1				Memorandum to All Associate Regional Office Administrators dated July 23, 2001 inserted based on CMS comments	Questions and Answers Concerning WC Commutation of Future Benefits
7	50					Recoveries From Liability Insurance Including No-Fault Insurance, Uninsured, or Under-Insured Motorist Insurance (Section heading only)
7	50.1	A3-3418	B3-3340.6			General Operational Instructions
7	50.2	A3-3489.8				Provider's and Beneficiary's Responsibility With Respect to No-Fault Insurance
7	50.2.1	A3-3489.9, A3-3491.16	B3-3329.12			Claimant's Right to Take Legal Action Against a GHP
7	50.2.2	A3-3489.3.F	B3-3338.3			Conditional Primary Medicare Benefits
7	50.2.3	A3-3489.6	B3-3340.7			Services Covered Under No-Fault Insurance and Liability Claim Also Filed
7	50.3	A3-3489.3C1, A3-3489.3B2, A3- 3489.3C2(a)	B3-3338.2.C, B3-3338.2C2(a)			Action if a Liability Insurance Payment Has Been Made to the Provider or Physician Who Accepted Medicare Assignment
7	50.3.1	A3-3489.3E1				Insurance Pays Service Benefits

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7	50.3.2	A3-3489.4				No-Fault Insurance Does Not Pay All Charges Because of Deductible or Coinsurance Provision in Policy
7	50.3.3	A3-3489.3E2				Other Situations
7	50.4					Pre-Settlement Issues (Section heading only)
7	50.4.1	A3-3418.6A				Existence of Overpayment
7	50.4.2	A3-3418.6E				Pre-Settlement Negotiations, Compromises, and Discussions With Beneficiaries/Attorneys
7	50.4.3	A3-3418.6F				Pre-Settlement Communications
7	50.4.4	A3-3418.7				Designations in Settlements
7	50.4.5	A3-3418.8A				Allegation of Preexisting Conditions
7	50.5	A3-3489.3B2, A3-3418.6B, A3-3418.6C	B3-3340.5, B3-3340.6.A, B3-3340.6.A	1998 Budget and Performance Requirements (BPRs)		Contractor Action if a Liability Claim Is Pending and Medicare Benefits Were Paid
7	50.5.1	A3-3489.3B4	B3-3338.2B4			Contractor Coordination Responsibilities
7	50.5.1.1	A3-3418.22, A3-3418.22A, A3-3418.23, A3-3418.22B, A3-3418.27, A3-3418.30				Lead Contractor Responsibilities
7	50.5.1.2	A3-3418.24				Non-Lead Contractor Responsibilities



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7	50.5.2	A3-3418.9				Contractor Settlement Communications/Correspondence
7	50.5.2.1	A3-3418.9A				Issuance of Recovery Letter
7	50.5.2.2	A3-3418.8B, A3-3489.3D	B3-3338.2, B3-3338.3, B3-3340.7, B3-3328.13		42 CFR 411.37	Exhibit 1 - Calculating Medicare's Share of Procurement Costs
7	50.5.2.3	A3-3418.28				Collecting Interest on the Liability Claim
7	50.5.2.4	A3-3418.10				Release Agreement Form
7	50.5.2.4.1	A3-3418.30				Release Agreement Form (Exhibit 7)
7	50.5.3	A3-3418.21	B3-3340.6B			Recovery From Liability Insurers
7	50.5.4	A3-3489.3C2b	B3-3338.2C.2b, B3-3340.6.C			Recovery From the Beneficiary
7	50.5.4.1	A3-3418.20				Recovery From Estate of Deceased Beneficiary
7	50.5.4.1.1	A3-3418.20B				Wrongful Death Statutes
7	50.5.4.2	A3-3418.19				Beneficiary Fails to Respond to Requests for Payment
7	50.5.4.3	A3-3418.10				Beneficiary Refunds to Medicare
7	50.5.4.4	A3-3418.11				Beneficiary Requests Reduction or Waiver of Medicare's Claim
7	50.5.4.4.1	A3-3418.12A				Beneficiary Must Submit Waiver Request

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7	50.5.4.4.2	A3-3418.30				Standard Letter Acknowledging Waiver Request (Exhibit 11)
7	50.5.4.4.3	A3-3418.18				Timely Processing of Waiver Determinations
7	50.6	A3-3418.11				Contractor Criteria for Waiver Determinations
7	50.6.1	A3-3418.12				Waiver Determination Under §1870(c): Step 1 Collect All Pertinent Data
7	50.6.2	A3-3418.13				Waiver Determination Under §1870(c): Step 2 - Apply Waiver Criteria
7	50.6.3	A3-3418.14				Factors to Consider in Determining if a Full or Partial Waiver is Warranted: Step 3
7	50.6.3.1					Allowing Out-of-Pocket Expenses in Waiver Determinations
7	50.6.3.2	A3-3418.14.B				Other factual data in Determining if a Full or Partial Waiver is Warranted
7	50.6.4	A3-3418.13.A				Determining Beneficiary Fault
7	50.6.5	A3-3418.13.B				When Recovery Would Defeat the Purpose of Title II or Title XVIII
7	50.6.5.1	A3-3418.13.B				Examples of Financial Hardship
7	50.6.5.2	A3-3418.13.C				Recovery Would Be Against Equity and Good Conscience

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7	50.6.5.3	A3-3418.13.D				When the Beneficiary Fails to Meet Either Waiver Criterion Under §1870(c)
7	50.6.5.4	A3-3418.13E				Waiver Indicators
7	50.6.5.4.1	A3-3418.12D				Letter for Granting a Full Waiver (Exhibit 4)
7	50.6.5.4.2	A3-3418.12D				Letter for Granting A Partial Waiver (Exhibit 5)
7	50.6.5.4.3	A3-3418.12E				Letter if Waiver Criteria Are Not Met (Exhibit 6)
7	50.7					Waiver and/or Compromise Exercised Only by CMS (Section heading only)
7	50.7.1	A3-3418.15				Waiver Under §1862(b) of the Social Security Act
7	50.7.2	A3-3418.16				Compromise of Claim, or Suspension or Termination of Collection, Under the Federal Claims Collection Act (31 U.S.C. 3711)
7	50.7.3			Regional Medicare Letter Part A 92-168/Part B 92-350 sent via Profs 12/15/92		Documentation Necessary for Liability Cases Forwarded to CMS Where Waiver or Compromise is Requested
7	50.8	A3-3418.17, A3-3419				Appeals Procedures for MSP Liability Overpayments
7	50.8.1	A3-3419.1				Initial Determinations
7	50.8.2	A3-3419.2				Notification of the Right to Appeal

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7	50.8.3	A3-3419.3, A3-3419.3.A, A3-3419.3.B, A3-3419.3.C, A3-3419.3.D				Part A and Part B Appeals of MSP Liability Overpayments
7	50.8.3.1	A3-3419.3.D				Standard Reconsideration of Overpayment Determination/ Computation (Exhibit 13) (Section heading only)
7	50.8.3.2	A3-3419.3.D				Standard Reconsideration of Waiver Determination (Exhibit 14)
7	50.8.3.3	A3-3419.4				Role of Carriers in MSP Liability Appeals Process
7	50.9	A3-3418.26, A3-3418.30				MSP Liability Case Tracking Report For Waiver Cases (Exhibit 8)
7	50.10	A3-3489.7				Allocation of Recovered Medicare Payments
7	60			AB-02-102 (CR2145), AB-03-103 (2749)		Medicare Secondary Payer (MSP) Debt Referral, “Write-Off Closed” Instructions and Debt Collection Improvement Act of 1996 (DCIA) Activities
7	60.1					Background
7	60.2					Debt Selection, Verification of Debt, and Updating of Interest
7	60.3					“Intent to Refer” Letter and Inquiries/Replies Related to DCIA Activities

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7	60.4					DCS System, DCS Input, Debt Transmission, Documentation to PSC
7	60.5			AB-03-103		Actions Subsequent to DCS Inpu
7	60.6					MSP DCIA Tracking Report for Referral/Collection
7	60.6.1					Monitoring Debts Excluded From the DCIA Referral Process
7	60.7					Financial Reporting
7	60.8					Compromise Requests and Extended Repayment Agreement Requests, and Waiver of Interest Requests
7	60.9					Miscellaneous Questions and Answers
7	60.10					Exhibits (Section heading only)
7	60.10.1					Exhibit 1 - DCIA "Intent to Refer" Letter
7	60.10.1.1					Exhibit 1A - Cover Instruction Sheet When Contractor Sends Multiple "Intent to Refer" Letters to the Same Debtor in One Package
7	60.10.1.2					Exhibit 1B - Valid Documented Defense for All Claims Included In the Intent to Refer Letter-- Reply
7	60.10.1.3					Exhibit 1C - Unacceptable Defense for All Claims in the Intent to Refer Letter - Reply

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7	60.10.1.4					Exhibit 1D - Payment and/or Acceptable Defense for One or More But Not All Claims in the Intent to Refer Letter--Reply
7	60.10.1.5					Exhibit 1E - Enclosure for "Intent to Refer" Letter to Employer, Insurer, Third Party Administrator, Group Health Plan (GHP), or Other Plan Sponsor
7	60.10.2					Exhibit 2 - Instructions for the Required Format and Content of the Monthly MSP DCIA Status Report for Referral/Collection
7	60.10.3					Exhibit 3 - Treasury Address
7	70			AB-01-024, AB-02-102		MSP Accounts Receivable (AR) Procedures (Section heading only)
7	70.1					General
7	70.2					"Write-Off" - CNC for MSP AR
7	70.3					"Write-Off - Closed" for MSP AR
7	70.4					RO Responsibilities
7	70.5					Elimination of Automated/Systems "Write-off - Closed" Actions for MSP AR; Reminder Regarding Zero "Backend Tolerance" for MSP AR
7	70.6					Date for Establishment of MSP AR
7	70.7					Additional Instructions for "Write-Off - Closed" for Debts of Less Than \$25.00

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7	70.8					Exhibit 1 - MSP Accounts Receivable: Contractor Recommendation for "Write-Off - Closed"
7	80			AB-03-107		Federal Bankruptcy/State Insurer Liquidation Actions and Medicare Secondary Payer (MSP) Debt
7	80.1					Notice of Bankruptcy/Liquidation
7	80.2					Recovery Efforts
7	80.3					When Office of General Counsel (OGC) Pursues a Medicare Claim on CMS' Behalf