

Highlights of [GAO-11-726T](#), a testimony before the Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives

Why GAO Did This Study

The Centers for Medicare & Medicaid Services (CMS) is responsible for protecting the Medicare program’s fiscal integrity and ensuring that it pays only for those services that are its responsibility. Medicare Secondary Payer (MSP) provisions make Medicare a secondary payer to certain group health plans (GHP) and non-group health plans (NGHP), which include auto or other liability insurance, no-fault insurance, and workers’ compensation plans. CMS has the right to recover Medicare payments made that should have been the responsibility of another payer, but CMS has not always been aware of these MSP situations. In 2007, Congress added mandatory reporting requirements for GHPs and NGHPs that should enable CMS to be aware of MSP situations. CMS reports that mandatory reporting was pushed back from 2009 to 2011 for some NGHPs and from 2009 to 2012 for others, in part due to concerns raised by the industry.

GAO was asked to present background information about the MSP process as it pertains to NGHPs. To do this work, GAO reviewed relevant CMS documentation, including MSP regulations, manuals, and user guides, and conducted an interview with CMS related to mandatory reporting and the MSP process. GAO shared the information in this statement with CMS. CMS provided technical comments, which GAO incorporated as appropriate. GAO has ongoing work examining challenges related to the MSP process for NGHPs.

View [GAO-11-726T](#) or key components. For more information, contact James C. Cosgrove at (202) 512-7114 or cosgrovej@gao.gov

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MEDICARE SECONDARY PAYER

Process for Situations Involving Non-Group Health Plans

What GAO Found

MSP situations involving NGHPs are triggered by unexpected incidents, such as car accidents or work-related injuries, that involve Medicare beneficiaries and result in medical expenses for which an NGHP—rather than Medicare—has primary responsibility for payment. In these situations, Medicare becomes a secondary payer.

Medicare payments for MSP situations involving NGHPs can vary. In most MSP situations involving NGHPs, Medicare will initially pay for related medical expenses in order to ensure that the beneficiary has timely access to needed care, and later seek to recover those payments. Once CMS is notified of an MSP situation involving an NGHP—by the insurer, the beneficiary, or another party—Medicare may start denying claims or may continue to make payments pending a resolution so the beneficiary has continued access to needed medical services. To help prevent Medicare from making future payments for MSP situations involving NGHPs, a Medicare set-aside arrangement may be created when an individual is expected to have future medical expenses related to an MSP situation. This is a voluntary arrangement where funds are set aside by the primary insurer to pay for related future medical expenses.

The MSP process for situations that involve NGHPs generally includes five basic components (see table 1). The process details, and CMS’s administrative tasks, can vary based on when in the process CMS is notified, the type of insurance involved, and the type of resolution reached. CMS contracts with three entities to perform most of its MSP activities.

Table 1: The Basic Components of the MSP Process for Situations Involving NGHPs

Component	Description
Notification	CMS is notified of the MSP situation by the insurer, the beneficiary, or another party. This can occur at any time from the time of the incident through mandatory reporting.
Negotiation	Negotiation takes place between the NGHP and the injured party or his attorney. CMS may provide information to involved parties during the negotiation process.
Resolution	A resolution is reached between the NGHP and the injured party or his attorney.
Mandatory reporting	As required by mandatory reporting requirements, the NGHP reports details of the final resolution to CMS.
Recovery	CMS seeks to recover any MSP payments made.

Source: GAO analysis of CMS documents.