



Highlights of [GAO-12-333](#), a report to the Ranking Member, Subcommittee on Health, Committee on Ways and Means, House of Representatives

## Why GAO Did This Study

The Centers for Medicare & Medicaid Services (CMS) is responsible for protecting Medicare's fiscal integrity. Medicare Secondary Payer (MSP) situations exist when Medicare is a secondary payer to other insurers, including non-group health plans (NGHP), which include auto or other liability insurance, no-fault insurance, and workers' compensation plans. CMS attempts to recover Medicare payments made that were the responsibility of NGHPs, but CMS has not always been aware of these MSP situations. In 2007, legislation added mandatory reporting requirements for NGHPs that should enable CMS to be aware of these situations. NGHPs reported concerns about the MSP process, and CMS delayed the start of mandatory reporting by NGHPs, in part because of these concerns. This report examines (1) how the initial implementation of mandatory reporting for NGHPs has affected the workload of and payments to MSP contractors, and Medicare savings, and (2) key challenges within the process for MSP situations involving NGHPs and the steps CMS is taking to address those challenges. GAO reviewed relevant MSP-related documents and data on MSP costs, workload, Medicare savings, and contractor performance. GAO also interviewed CMS officials, MSP contractor officials, and NGHP stakeholders.

## What GAO Recommends

To improve the MSP program, GAO is making recommendations to improve the cost-effectiveness of recovery, decrease the reporting burden for NGHPs, and improve communications with NGHP stakeholders. CMS agreed with these recommendations.

View [GAO-12-333](#). For more information, contact Kathleen M. King at (202) 512-7114 or [kingk@gao.gov](mailto:kingk@gao.gov).

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# MEDICARE SECONDARY PAYER

## Additional Steps Are Needed to Improve Program Effectiveness for Non-Group Health Plans

### What GAO Found

During the initial implementation of mandatory reporting for non-group health plans (NGHP), the workloads of and Centers for Medicare & Medicaid Services (CMS) payments to Medicare Secondary Payer (MSP) contractors, and Medicare savings, all increased. From 2008 through 2011, the NGHP workloads of all three contractors CMS uses to implement the process for MSP situations—the Coordination of Benefits Contractor (COBC), the Medicare Secondary Payer Recovery Contractor (MSPRC), and the Workers' Compensation Review Contractor (WCRC)—increased to varying degrees. For example, from 2008 through 2011, the number of NGHP MSP situations voluntarily reported to the COBC increased from about 142,000 to about 392,000, the number of NGHP cases established by the MSPRC increased from about 238,000 to about 480,000, and the number of Medicare set-aside proposals submitted to the WCRC increased from about 20,000 to almost 29,000. From 2008 through 2011, the total CMS payments to the MSP contractors increased by about \$21 million, and Medicare savings from known NGHP situations that CMS is able to track—including savings from claims denials and conditional payment recoveries—increased by about \$124 million. The total impact of mandatory reporting on Medicare savings could take years to determine for various reasons, including that mandatory reporting is still being phased in.

Within the process for MSP situations involving NGHPs, GAO identified key challenges related to contractor performance, demand amounts, aspects of mandatory reporting, and CMS guidance and communication. CMS has addressed or is taking steps to address some, but not all, of these challenges.

- *Contractor performance.* Challenges related to the timeliness of the MSPRC and WCRC were identified, including significant increases in the time required to complete important tasks. CMS reported taking steps to address the challenges with each of these contractors' performance.
- *Demand and recovery issues.* Challenges were identified related to the timing of demand amounts, the cost-effectiveness of recovery efforts, and the amounts of Medicare demands from liability settlements. CMS reported taking steps to address some, but not all, of these challenges.
- *Mandatory reporting.* Key challenges were identified with certain aspects of mandatory reporting: determining whether individuals are Medicare beneficiaries, supplying diagnostic codes related to individuals' injuries, and reporting all liability settlement amounts. CMS reported taking steps to address some, but not all, of these challenges.
- *CMS guidance and communication.* Key challenges were identified related to CMS guidance and communication about the MSP process, guidance on Medicare set-aside arrangements, and beneficiary rights and responsibilities. CMS has taken few steps to address these challenges.

While CMS has taken, or reported it is in the process of taking, additional steps to address these key challenges, there are several areas related to the MSP program and process that still need improvement.