

# PUBLICATION

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## Changes to Medicare Secondary Payer Conditional Payment Rules [Ober|Kaler]

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Health care providers routinely treat Medicare beneficiaries who are injured from an accident or an employment injury. If another payment source like a personal injury no fault policy, workers' compensation insurance policy, or other funds are available, then Medicare is the secondary payer. Although providers are generally required to bill other payers first, in some circumstances the provider can bill Medicare conditionally for the treatment. When Medicare makes a conditional payment, the primary policy or provider must reimburse Medicare for the conditional Medicare payment once the primary payer pays. This often gives administrative headaches to beneficiaries and policy administrators alike as Medicare seeks reimbursement for the conditional payment as the secondary payer.

The [Strengthening Medicare Secondary Payer Rules law](#) was signed by the President on January 10, 2013, and should make the reimbursement to Medicare for the conditional payments more efficient. These new rules allow for the following:

1. The beneficiary and their designees, including an applicable plan-, (e.g. workers' compensation insurance, no fault insurance or liability insurance plan) will be able to notify Medicare as early as 120 days before the expected date of settlement, judgment, award or other payment to obtain the amount that will be owed to Medicare to repay the conditional payment. Medicare will have 65 days to respond to the request; however, Medicare can take an additional 30 days if it needs additional information.
2. Medicare beneficiaries and their designees will have access to a password-protected Medicare website that will be updated not later than 15 days after a claim or payment is made. The website will provide a secure communication medium with Medicare and will allow the beneficiaries or their designees to download an official "statement of reimbursement amount" that can be used to settle the Medicare secondary payer reimbursement.
3. Medicare will provide an appeal process by regulation to allow applicable plans to appeal the Medicare secondary payer amount.
4. Medicare will develop a process that will allow applicable plans to access Medicare information and report data to Medicare without the use of the beneficiary's social security number or health identification claim number.
5. Medicare's ability to recover unpaid amounts will be subject to a new limitations provision of 3 years from the date of receipt of notice of the settlement, judgment, award or payment. Medicare's receipt of the pre-settlement notification starts the 3 year limitation period. Previously, Medicare had a 3 year limitation to file a claim based only on the date of service.

## Comments

The new provisions should allow for a more transparent and more efficient Medicare Secondary Payer system when conditional payments are made. However, the new law will need new regulations and policies before Medicare can implement them.