



## **CMS Announces Policy Changes Regarding Obtaining Conditional Payment Information**

The Centers for Medicare and Medicaid Services (CMS) recently announced major changes to its policies and procedures for parties to follow with regard to obtaining conditional payment information and dealing with the Medicare Secondary Payer Recovery Contractor (MSPRC) on matters related to conditional payment claims.

The following provides a general summary of these new changes and information related thereto:

### **1. What Are CMS' New Policy Changes?**

CMS' new policy changes relate to the process for primary payers, claimants and attorneys to obtain conditional payment information and to deal with the MSPRC regarding conditional payment claims.

### **2. When Do The New Changes Go Into Effect?**

The new changes are effective as of October 1, 2009.

### **3. What Documents Has CMS Released Regarding These New Changes & Where Can I Find This Information?**

Information and documents regarding these new changes can be found at MSPRC's website: [www.msprc.info](http://www.msprc.info).

The documents related to these new changes are as follows and can be obtained by clicking on the referenced link. It is recommended that these documents be reviewed in conjunction with this summary.

- **“Rights and Responsibilities” Letter**  
<http://www.msprc.info/forms/RightsAndResponsibilitiesLetter.pdf>
- **“Rights and Responsibilities” Brochure**  
[http://www.msprc.info/forms/RR\\_Brochure.pdf](http://www.msprc.info/forms/RR_Brochure.pdf)

- **ALERT -“Rights and Responsibilities”**  
<http://www.msprc.info/index.cfm?content=includes/messages/messages>

This Alert states as follows:

Effective for cases established on or after October 1, 2009, the “Right to Recovery Letter” issued when a claim for liability insurance (including self-insurance), no-fault insurance, or workers’ compensation is reported to CMS’ Coordination of Benefits Contractor (COBC) will no longer be issued by the COBC. The letter has been revised, renamed (it is now the “Medicare Secondary Payer Rights and Responsibilities” letter) and will be issued by the MSPRC.

Note: If you received a “Right to Recovery Letter” issued by the COBC and dated on or before September 30, 2009, you may follow the instruction in that letter regarding submitting a “Consent to Release” document.

- **ALERT – Proof of Representation**  
<http://www.msprc.info/index.cfm?content=includes/messages/messages>

This Alert states as follows:

New information is available on this site regarding “proof of representation” and “consent to release” documentation. Please refer to the PowerPoint presentation titled: “Rules and Model Language for ‘Proof of Representation’ vs. ‘Consent to Release’ for Medicare Secondary Payer Liability Insurance (Including Self-Insurance), No-Fault Insurance, or Workers’ Compensation” as well as the pdf documents with model language. See under the “Proof of Representation” section below.

- **Proof of Representation (Model Language)**  
<http://www.msprc.info/forms/ProofofRepresentation.pdf>
- **Consent to Release (Model Language)**  
<http://www.msprc.info/forms/ConsenttoRelease.pdf>
- **Proof of Representation vs. Consent to Release Power Point (prepared by CMS)**  
<http://www.msprc.info/forms/POR%20Powerpoint.pdf>

#### **4. How CMS’ New Policy Changes Will Work – In General**

To obtain conditional payment information, the first has always been contacting Medicare’s *Coordination of Benefits Contractor (COBC)*. Contacting the COBC remains the first step under the new process.

Per CMS, under the new process once COBC is notified the following will occur:

- The claimant and other authorized parties on record will receive a “*Rights and Responsibilities*” letter from the MSPRC.

- Within 65 days from the date of the “*Rights and Responsibilities*” letter, the claimant and other authorized parties on record will receive a *Conditional Payment Letter (CPL)* from the MSPRC. (Under the previous process, once COBC was notified of a claim they issued a Right of Recovery letter. Under the new process, this initial acknowledgment letter is now the Rights and Responsibilities letter.)

The CPL will contain an initial listing of Medicare’s claimed conditional payment amount. CMS stresses that “separate” requests for the initial CPL will NOT make conditional payment information available any sooner.

## **5. Under the New Process, How Can I Obtain Conditional Payment Information?**

Under the new process, obtaining conditional payment information involves making a request to the MSPRC and also submitting one of the following documents as applicable under the circumstances:

- Proof of Representation;
- Consent to Release; or
- Carrier Letter of Authorization

### **What are these documents?**

#### ***Proof of Representation***

CMS indicates that through the Proof of Representation the beneficiary authorizes the individual or entity (including an attorney) to act on the beneficiaries behalf. CMS notes the following with regard to the Proof of Representation:

- The representative has no independent standing, but may receive or submit information and requests on behalf of the beneficiary, including:
  - Responding to requests from the MSPRC;
  - Receiving a copy of Medicare’s recovery demand letter (if applicable);
  - Filing an appeal (if appropriate) when that beneficiary is involved in a liability, WC, or auto/no-fault case.
- CMS views the exchange of information obtained through the Proof of Representation as a “two way street” – that is, the individual or entity may provide necessary information to and/or interact with the MSPRC (on his/her behalf) in order to resolve the conditional payment claim.
- MSPRC documents, including the agency’s power point, should be consulted with regard to specific circumstances regarding the Proof of Representation and what information may be submitted in connection therewith, beneficiary non-attorney representatives vs. attorney representatives; guardians, conservators, power of attorney issues, conservatorship, and deceased beneficiaries.

- See CMS' *Proof of Representation (Model Language)* for an overview of the includable information.

### ***Consent to Release***

Through the Consent to Release, CMS states that the beneficiary authorizes an individual or entity to receive certain information from the MSPRC for a limited period of time. This release does NOT authorize the individual or entity to act on or behalf of the beneficiary.

CMS views the Consent to Release as a “one way street” – that is, the exchange of information is limited in that the authorization only allows the MSPRC to provide privacy protected information to the specified individual/entity, but does NOT authorize that individual/entity to act on behalf of the beneficiary and/or make decisions on his/her behalf. Furthermore, the specified individual/entity is not permitted to provide other parties with the information obtained from the MSPRC.

See CMS' *Consent to Release (Model Language)* for an overview of the includable information.

### ***Carrier Letter of Authorization***

Workers' Compensation and No-Fault carriers may retain a third party (such as NuQuest) to obtain conditional information for them and to deal with the MSPRC regarding conditional payment claims.

In these situations, the WC or No-Fault carrier will need to provide the MSPRC with a *Carrier Letter of Authorization* advising the MSPRC that the designated third party (such as NuQuest) is authorized to obtain this information for them and to interact with the MSPRC in relation thereto.

CMS has not released a model *Carrier Letter of Authorization*. In general, the *Carrier Letter of Authorization* should:

- Be on carrier letterhead;
- Indicate that the designated entity has been retained as an agent to obtain conditional payment information and to interact with the MSPRC;
- Include the claimant's name, date of accident/injury and HICN (if known); and
- Indicate the nature of the services for which the third party was obtained (i.e. obtaining conditional payment information, interacting with the MSPRC to request removal of inappropriate claims)

**NuQuest/Bridge Pointe has prepared a *Carrier Letter of Authorization* for use which can be obtained by contacting our office, 866-858-7161, option 2 or sending an e-mail to [info@nqbp.com](mailto:info@nqbp.com).**

## 6. **How Do I Know When to Use the Proof of Representation, Consent to Release, or the Carrier Letter of Authorization?**

When to use the Proof of Representation, Consent to Release or Carrier Letter of Authorization depends on the circumstances as follows:

### **Workers' Compensation & No-Fault Carrier**

- The MSPRC will provide conditional payment information to a workers' compensation entity/carrier or no-fault carrier *without* a consent to release document.
- As noted in the preceding section, the workers' compensation or no-fault carrier may retain a third party (such as NuQuest) to obtain conditional information for them and to deal with the MSPRC regarding conditional payment claims. In these situations, the *Carrier Letter of Authorization* should be used.

### **Liability Insurance (Including Self-Insurance)**

- The MSPRC will NOT provide conditional payment information to a liability insurer (including self-insurance) without a proper *Consent to Release* form.
- A liability carrier may retain a third party (such as NuQuest) to obtain conditional information for them and to deal with the MSPRC regarding conditional payment claims. In this situation, CMS has advised as follows:
  - The carrier needs to obtain a *Consent to Release* form from the claimant ; AND
  - Provide the MSPRC with a *Carrier Letter of Authorization* authorizing the designated entity to obtain conditional payment information and to interact with the MSPRC.

### **Proof of Representation**

The Proof of Representation will be used in the specific contexts in relation to the nature of the document as outlined above. In general, this document will be used by the beneficiary's lawyer; another individual/entity retained by the beneficiary, or may be applicable in specific situations as noted in Question #5 above.

## 7. **How Does the Death of the Claimant Affect the Process?**

How CMS' new process operates in situations where the claimant deceases before resolution of the conditional payment claim depends on the specific circumstances as follows:

- In situations where information is being sought pursuant to a Proof of Representation, a new Proof of Representation or the appropriate legal document as may be required under state law must be obtained (see slide 11 of the MSPRC power point).

- In situations where the WC or no-fault carrier has retained a third party (such as NuQuest) to obtain conditional payment information via a *Carrier Letter of Authorization* as outlined above, CMS has indicated that the claimant's death will have NO affect on the third party's ability to continue to obtain conditional payment information and interact with the MSPRC.

## **8. To What Addresses Should the Proof of Representation, Consent to Release or Carrier Letter of Authorization be Sent?**

The addresses are as follows:

### **For Workers' Compensation**

MSPRC-WC  
P.O. Box 33831  
Detroit, MI 48232-5831  
Fax: (734) 957-0998

### **For Liability (Including Self-Insurance) & No-Fault**

MSPRC Auto/Liability  
P.O. Box 33238  
Detroit, MI 48232-5828  
Fax: (734) 957-0998

## **9. Resources**

You may wish to review MSPRC's website regarding these changes and to obtain other information related to conditional payments. The website is: [www.msprc.info](http://www.msprc.info).

In addition, you may contact NuQuest with any questions you may have and to identify how NuQuest can be of assistance in addressing conditional payments. Please contact Lisa Rainey, Service Coordination Manager at 866-858-7161, ext. 4808 or email [info@nqbp.com](mailto:info@nqbp.com).

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