

6. Third Party Liability Billing

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6.1 Third Party Liability Billing and Medicare Claims

The physician, who treats a Medicare beneficiary who has filed a liability claim, must bill the liability insurer as primary payer unless it is determined that the insurer will not pay promptly (i.e., within 120 days after the liability insurance claim is filed). In that instance, that physician may bill and accept payment of his full charges to the liability insurer and is not bound by Medicare's limiting charge or the approved amount.

If the payment by the insurer is less than the physician's full charge, the physician may file a claim for Medicare secondary payment. If 120 days have lapsed and the liability insurer has not made payment, a physician may file an assigned claim for conditional primary Medicare payment. If the physician does so, he/she must drop his/her claim against the liability insurer, except for applicable Medicare deductible and coinsurance amounts.

If a provider chooses not to bill Medicare during the Medicare filing period, they may not bill Medicare after this period has expired, even if they are unable to collect from the proceeds of the liability insurance settlement.

Special Circumstances:

- When a no-fault plan denies some or all of a claim on the basis of benefit exhaustion or specific no-fault policy coverage exclusion applicable to all policyholders, Medicare may pay for the services, subject to meeting normal Medicare guidelines. A copy of the denied Explanation of Benefits from the no-fault plan must accompany the claim to Medicare.
- Primary Medicare benefits may not be paid merely because the beneficiary wants to save his or her automobile insurance for future benefits.

For more information, see the Federal Medical Care Recovery Act (FMCRA) policy at this website:

http://www.ihs.gov/PublicInfo/Publications/IHSManual/Circulars/Circ06/Circ06_02/circ06_02.htm