

# Fix Our Broken & Outdated Medicare Secondary Payer System!

## Congress Should Repeal the Vague and Unnecessary “Private Cause of Action” Provision

### Typical Scenario

Driver A and Driver B, a Medicare beneficiary in a Medicare Advantage (MA) plan, have an accident. Driver A is at fault and Driver B sustains injuries resulting in a \$10,000 medical bill. The MA plan pays for Driver B’s medical bills. Driver A’s insurance company later reaches a settlement with Driver B covering the medical bill and other damages. Driver A’s insurance and Driver B (who received the settlement) try to reimburse the MA Plan for its payment but both are now at risk of a private cause of action “double damages” lawsuit under the currently broken MSP statute. This puts the settlement and all involved at risk, and makes it difficult for Medicare beneficiaries to settle their claims.

### Normal MSP Process Begins After An Accident

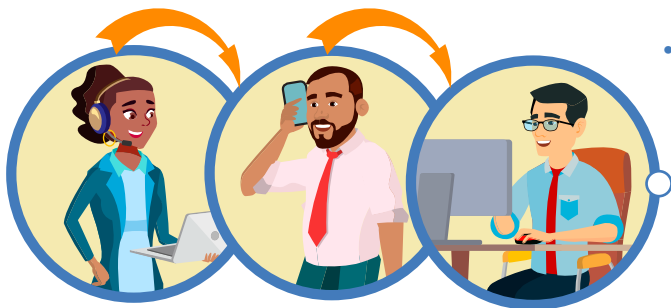
- An accident occurs between Driver A and Driver B.



- Driver B’s \$10,000 medical bill is paid by Driver B’s Medicare Advantage plan.



- Driver A settles with Driver B’s insurance, covering medical bill and other damages.



- Driver A’s insurance notifies Medicare of the settlement which Medicare reports to the MA plan.

## Where the Problem Occurs with the Current MSP Process

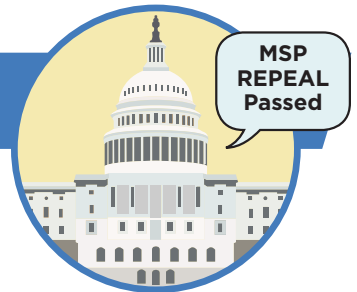
- MA plan doesn't respond to the notice of settlement.



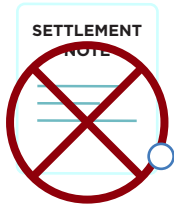
- MA plan sues Driver A's insurer and/or Driver B for double damages since it never received reimbursement.
- Driver B's doctor also sues Driver A's insurer or Driver B because it accepted MA Plan's lower fee.

## What Should Happen to the MSP Process

**Congress should REPEAL the MSP "Private Cause of Action" Provision.**



- Congress should repeal the private cause of action to allow parties to settle with finality.
- MA Plans and all others will retain their existing recovery rights, in the same way that they have them today for all other insurance claims.



- MA plan responds to settlement and sends notice to Driver A's insurance before filing lawsuit.



## How MSP Process Should Work



- Driver A's insurance reimburses MA plan for its payment.

- Case is closed for all parties involved.

