

Managing Medicare - Untangling Compliance while Mitigating the Negative Impact on Cycle Times and Paid Costs

March 8, 2017 – Combined Claims Conference



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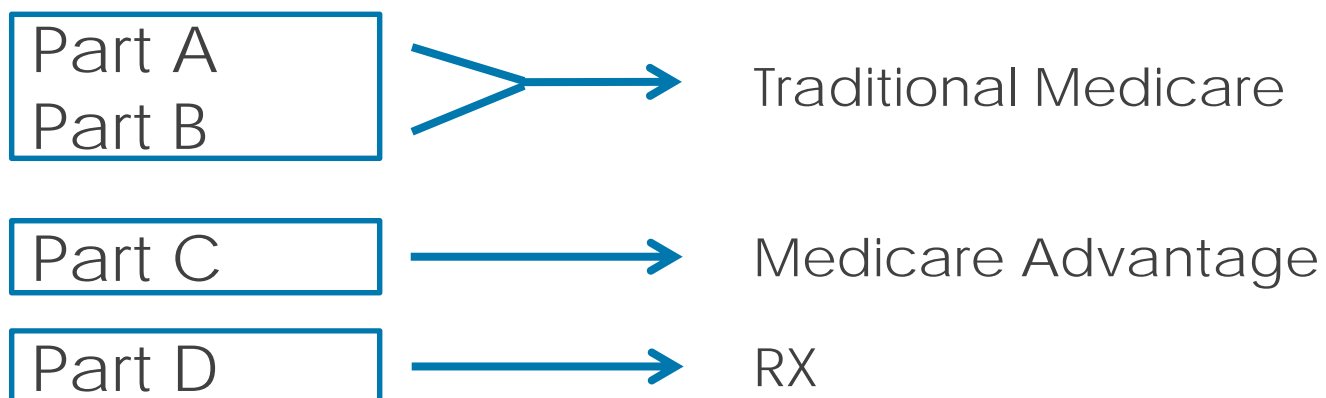
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Medicare Overview

- Federal health insurance program
- Provides medical benefits for certain people:
 - 65 years old or older*
 - *About 18% of people on Medicare are under age 65
 - People who are awarded SSD
 - People who have ESRD or ALS

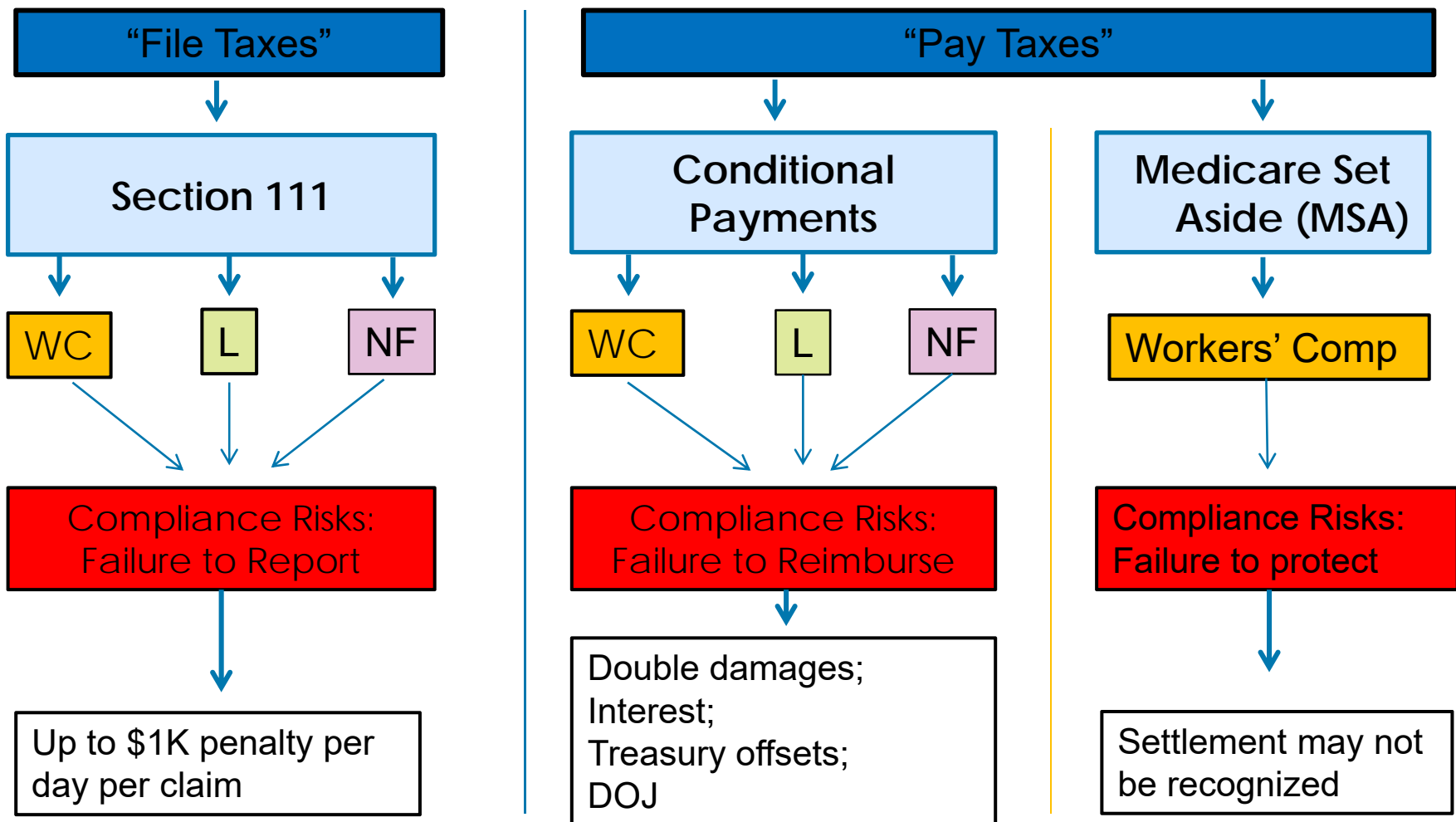
- Medicare has 4 parts:





RRE Obligations

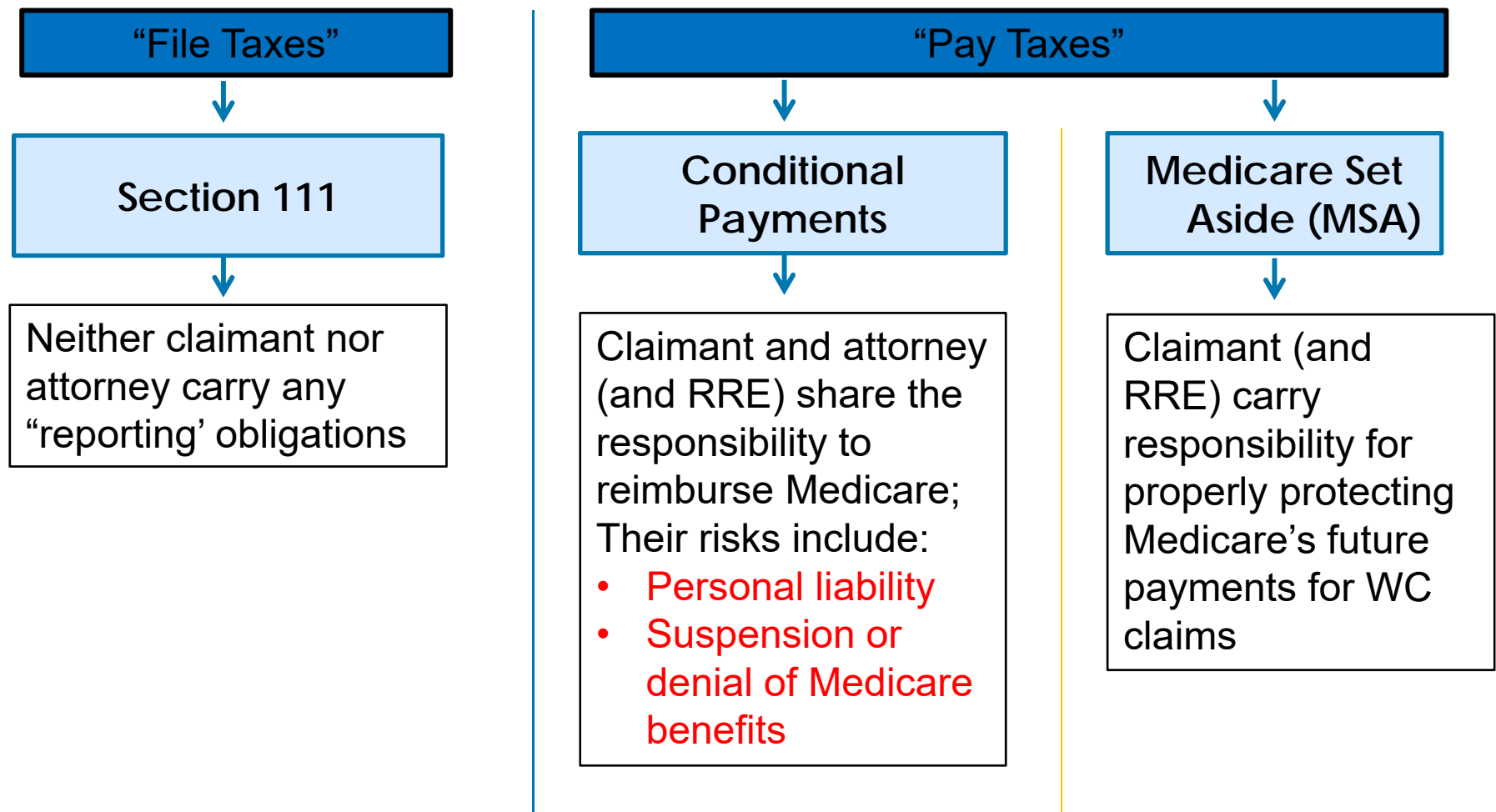
“File Taxes and Pay Taxes” concept ...





Claimant and/or Attorney Obligations

“File Taxes and Pay Taxes” concept ...





Common Challenges - Making it Through the Maze

- **CMS' contractors and their "targets:"**
 - CRC: WC and NF claims
 - BCRC: GL claims
 - WC MSA: WC claims
- **CMS' Use of Shared Data**
 - Section 111 reporting will trigger . . .
 - Conditional Payment issues
 - CPN turns into demand ("rolling recovery")
 - CPL becomes demand after settlement
- **Risks**
 - Cycle times increasing
 - Settlement valuations/settlement process issues
 - Statutory penalties



Medicare . . . Cautions

- Standard settlement release language, hold harmless, and indemnification provisions . . .
 - NOT a protection against Medicare
- Medicare can seek recovery directly from the carrier even if . . .
 - the carrier already paid the settlement money
 - has settlement release language
- Summary Judgment & Double Damages
 - *Humana vs. Western Heritage* (11th Cir., held summary judgment and mandated double damages against carrier)
 - Medicare has a statutory right of reimbursement



Liability MSA Issue . . . currently

- The LMSA issue has been a “ready, set . . . stop” process over the last few years
- Currently – no established or formal process for LMSAs like there is for WC MSAs
- What is currently known:
 - Expanding to liability, no-fault, and self-insurance
 - Not expected to go live before July 1, 2018
 - Reviews based on “proposed” settlement amounts
 - Two categories of reviews
 - “Full review” – up to 11,000 annual cases; similar to current WC MSA review process
 - “Cursory review” – up to 40,000 annual cases; unknown as to details
 - Re-review process anticipated
 - Industry response can/will shape the program



Best Practices Considerations

- Avoiding common mistakes
 - Not connecting compliance dots (file/pay taxes)
 - Waiting too long to start process
 - Following the wrong process
 - Relying on misinformation/outdated info
 - False sense of security with traditional settlement safety nets
- Best Practices
 - Understand and apply file/pay taxes concept
 - Start the right process early
 - Do not shift compliance burden to claimant or attorney
 - Set all parties' expectation correctly from the start
 - Quantify your risk: one-to-one ratio between Reporting and Recovery