

SPECIAL REPORT

MEDICARE SECONDARY PAYER REPORTING REQUIREMENTS

(12-28-09)

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In 2007, the federal government passed the Mandatory Insurer Reporting Requirements of Medicare Extension Act. Insurers and self-insureds will now be required to first determine whether an injured worker is entitled to Medicare benefits, and if so, then submit a series of data elements about the claimant to the Department of Health & Human Services. Insurers and self-insureds who fail to comply are subject to **penalties of \$1,000 per day, per person**, for every claim not reported in a timely manner.

The Act specifically requires health insurers and third-party administrators (TPAs) to submit data to the Centers for Medicare and Medicaid Services ("CMS") identifying situations where the group health plan is secondary to Medicare. This mandatory reporting requirement is the latest attempt to ensure proper coordination of benefits between Medicare and group health plans.

Section 111 of the Act establishes separate mandatory reporting requirements for group health plans, liability insurance programs (including self-insurance), no-fault insurance, and Workers' Compensation programs. The effective date for reporting group health plan data is January 1, 2009; the effective date for all other programs is July 1, 2009. Going forward, all insurers and self-insureds will need to submit their claim data to CMS and provide quarterly updates thereafter.

On August 1, 2008, CMS published a Supporting Statement outlining the Medicare mandatory reporting data elements under the Medicare, Medicaid, and SCHIP Extension Act of 2007.

CMS' official position on the requirements of group self-insurers, TPA's and employers has not yet been released. It is expected that most TPA's will be responsible for reporting on behalf of our self-insured clients. Independent confirmation is necessary to ensure compliance. In the interim, all organizations should assume that their individual compliance is necessary.

All self-insured employers are required to register.

Beginning May 1, 2009, and before July 1, 2009, all insurers and self-insureds will be required to register with CMS. TPA's are unable to perform this function on behalf of their clients.

CMS expects that entities which do not currently send data to CMS voluntarily will register online with CMS beginning in April, 2009, engage in testing with CMS through June, and begin uploading their first data files in the third quarter of 2009. CMS expects that all plans will be submitting their data by October 1, 2009.

CMS will assign reporting entities a quarterly reporting cycle not necessarily related to a particular plan year. CMS expects to receive a considerable amount of data under this project, and wants to manage the data flow by spreading it evenly over the twelve months of each year.

Employers should contact their insurance carriers or TPAs to discuss the additional reporting requirements and determine if additional information such as dependant information and social security numbers must be obtained.

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