

News Bulletin



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New MSP Reporting Requirement for Group Health Plan Insurers, TPAs, Plan Administrators, and Fiduciaries

Congress has enacted a new Medicare secondary payer (MSP) reporting law, effective January 1, 2009, as part of the multi-faceted Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA). The Centers of Medicare and Medicaid Services (CMS) has since extended this deadline to July 1, 2009. This new reporting requirement, found in Section 111 of MMSEA, requires Plan Sponsors to cooperate with insurers and third party administrators (TPA) of group health plans (GHP) in gathering the information necessary to identify situations in which the group health plans are, or have been, primary to Medicare. Insurers and TPAs are required to submit this information to CMS.

EBS-RMSCO will be registering and reporting the required data on behalf of our clients. However, if you, as a Plan Administrator, would prefer to report this data directly to CMS, please notify your Client Services Representative as soon as possible but no later than May 1, 2009. The registration period runs from April 1, 2009 through April 30, 2009. Plan Sponsors who wish to report directly to CMS must register during this period. EBS-RMSCO will not be charging additional fees for reporting to CMS.

What Must be Reported

CMS requires us to report certain information on "Active Covered Individuals". An Active Covered Individual is defined as "someone who may be Medicare eligible and currently is employed, or the spouse or other family member of a worker who is covered by the employed individual's group health plan (GHP) and who may be eligible for Medicare and for whom Medicare would be a secondary payer for these individuals".

Active Covered Individuals are also defined to include:

1. Effective January 1, 2009 through December 31, 2010, all individuals covered in a GHP age 55 through age 64 who have coverage based on their own or a family member's current employment status. Effective January 1, 2011 and subsequent, all individuals covered in a GHP age 45 through 64 who have coverage based on their own or a family member's current employment status.
2. All individuals covered in a GHP age 65 and older who have coverage based upon their own or a spouse's current employment status.
3. All individuals covered in a GHP who have been receiving kidney dialysis or who have received a kidney transplant, regardless of their own or a family member's current employment status.
4. All individuals covered in a GHP who are under age 55 (age 45 effective January 1, 2011), are known to be entitled to Medicare, and have coverage in the plan based on their own or a family member's current employment status. When reporting on individuals under age 45, you must submit their Medical Health Insurance Claim Number (HICN).

At this time, EBS-RMSCO has chosen to report on individuals age 45 and older, as opposed to individuals age 55 and older as mentioned above. Also, for the first submission only, CMS has recommended that we submit data on all individuals over age 45, regardless of Medicare eligibility, so we will be asking for that data now. We will not ask for that data again unless CMS requests it.

What Are Your Responsibilities?

You may have already received a request to provide EBS-RMSCO with Social Security Numbers (SSN) and/or Health Insurance Claim Numbers (HICN) on the above categories of participants if this information is not already on file with us.

Penalties for Noncompliance

Entities that fail to comply with the Section 111 reporting requirements under the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) can be subject to a civil monetary penalty of \$1,000 for each day of noncompliance for each individual for which information should have been submitted.

Where to Get Additional Information

CMS has posted many documents on its website regarding implementation of the statutory requirements. This site can be located at: <http://www.cms.hhs.gov/mandatoryinsrep/>. The relevant information can be found under the tabs titled "Group Health Plan", "GHP Transcripts", and "What Not to do".

Application of the Law to Non-Group Health Plans

Section 111 of MMSEA also adds new mandatory reporting requirements for liability insurance no-fault insurance, and workers' compensation (collectively non-group health plans {NGHP}). The law also applies to self-insurers. The law requires that "[Self-insurers] report the identity of a Medicare beneficiary whose illness, injury, incident, or accident was at issue as well as such other information specified by the CMS to enable an appropriate determination concerning co-ordination of benefits, including any applicable recovery claim". In short, Medicare wants to be sure that NGHPs are following the MSP rules.

Self-insurers are Responsible Reporting Entities (RREs). **EBS-RMSCO can be your agent for reporting once you are registered as an RRE. We cannot register for you.** Registration as an RRE must occur during a two-month window from May 1st through June 30th of this year. There has not been an official notice yet of the specifics of how you will register.

When you register, you will be given an Electronic Data Interchange (EDI) representative that will be your contact for testing. EBS-RMSCO will work directly with this individual to test the exchange.

EDI testing takes place from July through September. If EBS-RMSCO is your designated agent, we will perform this testing. The initial report will be submitted from October through December. It must be submitted during a 7-day window provided by CMS (or the EDI contractor). Thereafter, the updates will be submitted on a quarterly basis.

Currently, information can only be submitted electronically; therefore, if you self-administer other casualty lines (e.g. property, liability or no-fault), you are subject to these same requirements. At this time, EBS-RMSCO will not become an agent for RREs for these other lines if we are not the claims administration company.