Office of Financial Management/Financial Services Group

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Introduction to Section 111 Mandatory Medicare Secondary Payer Reporting

The Medicare Secondary Payer Mandatory Reporting Provisions in Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (See 42 U.S.C. 1395y(b)(7)&(b)(8))

This document addresses the following questions and issues for those who are not familiar with the legislation, or how the legislation may affect them:

- **What is Medicare...What is CMS…What does Medicare Secondary Payer Mean…When is Medicare Secondary…What is Section 111 mandatory MSP reporting?**
- **Why Do I Need to Know About This Legislation?**
- **Where do I go for more information…How do I navigate CMS' dedicated Web page?**

What is Medicare...What is CMS…What does "Medicare Secondary Payer" Mean…When is Medicare Secondary…What is Section 111 mandatory MSP reporting?

- **What is Medicare:**

  Medicare is a Federal program that pays for certain covered health care provided to enrolled individuals age 65 and older, certain disabled individuals, and individuals with permanent kidney failure.

- **What is CMS:**

  CMS – the Centers for Medicare & Medicaid Services – is an agency of the Federal government, part of the Department of Health and Human Services. The CMS is responsible for the oversight of the Medicare program, including implementing the Section 111 MSP reporting provisions.

- **What is Medicare Secondary Payer (MSP):**

  Medicare Secondary Payer ("MSP") refers to situations where another entity is required to pay for covered services before Medicare does, and must do so without regard to a patient's Medicare entitlement.

  Medicare has been a secondary payer to workers' compensation benefit payments since the inception of the Medicare program in 1965. Additions to Medicare law and regulations referred to as the "MSP provisions" were enacted in the early 1980s and have been modified several times sine then. These provisions were amended again by Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 – the MMSEA Section 111 mandatory reporting requirements. [See 42 U.S.C. 1395y(b) (Section 1862(b) of the Social Security Act) and 42 C.F.R. Part 411.]

- **When is Medicare the "secondary payer":**

  In general, Medicare is a secondary payer to Group Health Plans (GHPs) for Medicare beneficiaries who:
  - Are age 65 and older and who have GHP coverage on the basis of their own or their spouse's current employment with an employer that has at least 20 employees;
  - Are younger than 65 and disabled and who have GHP coverage on the basis of their own or a family member's current employment with an employer having at least 100 employees; or
  - Have End Stage Renal Disease (ESRD) and who have GHP coverage on any basis. (In this case, Medicare is secondary for a 30 month "coordination" period.)

  Medicare is also a secondary payer to certain types of "non-GHP" insurance coverage – liability insurance (including self-insurance), no-fault insurance and, as noted above, workers' compensation.

- **What is Section 111 Mandatory MSP Reporting:**

  - The 2007 amendments to the MSP provisions require certain enterprises, referred to as "Responsible Reporting Entities" or "RREs" to report specified information regarding GHP arrangements and "non-GHP" arrangements (liability insurance [including self-insurance], no-fault insurance, and workers' compensation) to CMS, beginning in 2009.

  - Data reported for purposes of Section 111 by RREs will be submitted electronically to CMS' Coordination of Benefits Contractor (COBC). RREs will register on-line through a secure web site. Once an RRE's registration application is submitted, the COBC will begin working with the RRE to set up the data reporting and response processes.

Why do I need to know about this legislation?

Unless you are a business entity which qualifies as an RRE for purposes of Section 111, you do not need to initiate any specific action in connection with Section 111.

However, as a subscriber to a GHP arrangement (or a spouse or family member of a subscriber), your Medicare Health Insurance Claim Number (HICN) will be requested in connection with Section 111 reporting. If a HICN is not available, the individual's Social Security Number (SSN) will likely be requested if this information is not already on file with the insurer.

Similarly, individuals who receive ongoing reimbursement for medical care through no-fault insurance or workers' compensation or who receive a settlement, judgment, award, or other payment from liability insurance (including self-insurance), no-fault insurance, or workers' compensation will also be asked to furnish a HICN or SSN, whether or not they (or the injured party if the settlement, judgment, award or other payment is based upon an injury to someone else) are Medicare beneficiaries.

Employers, insurers, and third party administrators will be asked for Employer Identification Numbers (EINs). Please refer to the CMS dedicated Web page: http://www.cms.hhs.gov/MandatoryInsRep/ for additional information on these subjects.

The new Section 111 requirements do not change or eliminate any existing obligations under the MSP statutory provisions or regulations. Section 111 reporting is an addition to existing MSP requirements.

If you are a RRE for purposes of Section 111, federal law requires that you report appropriately. Although CMS' focus is on obtaining complete and accurate data, there are penalties for non-compliance. Consequently, it is important that all business entities, including the self-employed, determine if they are an RRE for purposes of Section 111 reporting.

GHP RREs are generally insurers or third party administrators ("TPAs"). Employers are Section 111 RREs for GHP purposes under only very limited circumstances. For "non-GHP" purposes (liability insurance [including self-insurance], no-fault insurance, or workers' compensation), the RRE is the "applicable plan."