



Government Affairs Alert

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Medicare Secondary Payer Mandatory Insurer Reporting Requirements

On August 1, 2008 the Centers for Medicare and Medicaid Services (CMS) issued the “[Supporting Statement for the Medicare Secondary Payer \(MSP\) Mandatory Insurer Reporting Requirements of Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 \(MMSEA\)](#)”. Within this statement, CMS released information regarding the data that will be collected, from whom the data can be collected, and the timing and process for such collection.

Background

Passed into law on December 29, 2007 by President Bush, Section 111 of the Medicare, Medicaid, SCHIP Extension Act of 2007 (S.2499) stipulates the required submission of claimant status “by or on behalf of liability insurance (including self-insurance), No-Fault insurance, and workers’ compensation laws and plans” if a claimant is determined to be Medicare entitled.

The law also states that Medicare’s interests must be protected in both group health and non-group health cases (as described above) in which the beneficiary is Medicare entitled. The 2007 regulation and the recent supporting statement issued by CMS provide such protection and make clear the penalties for noncompliance.

Penalties for Non-Compliance

Implementation of penalties will commence July 1, 2009 for non-group health plan information and the effective date for group health is January 1, 2009; however, the CMS states that these entities “*should already be collecting most of the information CMS will require...*” and they “*...have had and continue to have the responsibility for determining when they are primary to Medicare and to pay appropriately*”.

In order to enforce the law, the Secretary of Health and Human Services is authorized to charge penalties of \$1,000 per day, per claim for Medicare-entitled cases not reported in accordance with the Secretary’s instructions. These penalties will be assessed to the carrier or self-insured party.

Reporting Process and Data Elements

Mandatory Insurer Reporting will be an entirely paperless, electronic process handled by CMS and its contractors. An online process is currently under development. The use of agents for the purposes of reporting is permitted and the required data elements can be found in MMSEA – Attachment C for Group Health and Attachment D for Non-Group Health (liability insurance [including self-insurance], No-Fault insurance, and workers’ compensation).



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Contact your PMSI Sales Representative directly or by calling 877.ASK.PMSI or visit us online at www.pmsionline.com. To review the CMS published requirements go to the CMS webpage dedicated to Section 111 at www.cms.hhs.gov/MandatoryInsRep/.

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