

**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))**

"GHP RRE Compliance"

Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) (P.L. 110-173) has added new mandatory reporting requirements for group health plan (GHP) arrangements and for liability insurance (including self-insurance), no-fault insurance, and workers' compensation. See 42 U.S.C. 1395y(b)(7) & (b)(8).

This document provides information on how Responsible Reporting Entities, or RREs, can work within the Section 111 GHP reporting requirements and remain in compliance with those requirements. Guidance is also provided on the steps RREs can take to avoid the possibility of finding themselves in situations that may not be compliant with Section 111 requirements.

As we carry on the implementation of the Section 111 reporting process, CMS will continue working with all Section 111 RREs to help make the management and operations of Section 111 reporting as smooth as possible.

Disclaimer - The following discussion includes information and examples for RREs to follow in order to remain in compliance with the Section 111 Reporting Requirements. *However, the information in this document is not all-inclusive; these guidelines alone do not ensure or confer an RRE's general Section 111 compliance.* RREs are expected to exercise due diligence in compiling the data required to be fully compliant with the Section 111 Reporting Requirements. This includes but is not limited to maintaining a record or case file of all data development activities. RREs are encouraged to maintain ongoing communication with their assigned COBC EDI Representatives and CMS, particularly when any questions, concerns, or difficulties arise during the implementation or operation of the Section 111 reporting process. RREs should also regularly monitor the Mandatory Insurer Reporting Website for notifications on the Section 111 Reporting Requirements.

Compliance Discussion

In general, a Responsible Reporting Entity (RRE) for purposes of the reporting requirements in Section 111 will be found compliant if it participates in the Section 111 process, in the manner prescribed by CMS. Now that the Section 111 implementation period has started, we would like to illustrate good compliance practices by discussing six related, actual, compliance scenarios and areas of concern that have been brought to our attention by the insurance industry.

RRE Registration: A Responsible Reporting Entity (RRE) generally will be considered compliant with Section 111 process requirements as part of the registration process if:

- At its designated time, it completes the registration process (which includes submission of a signed profile report) with the Coordination of Benefits Contractor (COBC) in order to begin working toward reporting data in accordance with Section 111; **or**
- It notifies the COBC of its inability to register during its initial designated timeframe; **and**
- It subsequently registers during an alternative timeframe arranged with the COBC.

Testing Data Exchange: An RRE generally will be considered compliant with Section 111 process requirements as part of the data exchange testing process with the COBC if:

- It begins testing with the COBC on schedule (or provides an explanation for its failure to begin testing); **and**
- It successfully completes its scheduled testing cycles (or its alternative assigned testing cycles where testing is delayed); **and**
- It informs the COBC about system or other problems that will lengthen the testing process beyond the scheduled process, arranging with the COBC for any necessary accommodations; **and**
- It otherwise completes the data exchange testing process to the satisfaction of CMS and the COBC.

Ordinary "Production" Data Exchange: An RRE generally will be considered compliant with Section 111 process requirements as part of the regular production data exchange process with the COBC if:

- It establishes routine, punctual production file submissions for processing. If the COBC finds that Input Files are routinely submitted late, the RRE must communicate and establish how it is working toward establishing regular filing on its designated schedule; **and**
- After an initial reporting cycle, its new Input Files are of a quality that enable the COBC to successfully process the data; **and**
- The RRE consistently follows CMS data submission protocols, resulting in quality file submissions and data that can be adequately processed.

Reporting of Active Covered Individuals Age Threshold: An RRE generally will be considered compliant with Section 111 process requirements as part of the reporting of Active Covered Individuals with the COBC if it reports:

- All Active Covered Individuals, including spouses and dependents, age **55** and over; **and**
- Effective 1/1/2011, it reports all Active Covered Individuals, including spouses and dependents, age **45** and over; **and**

- All Active Covered 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; **and**
- All Active Covered Individuals covered in a GHP who are under age 55, 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; **and**
- Effective 1/1/2011, it reports all Active Covered Individuals covered in a GHP who are under age 45, 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, the RRE must submit the individual's Medicare Health Insurance Claim Number (HICN).

How to Comply with the Reporting Age Threshold: An RRE generally will be considered compliant with the Section 111 Age Threshold requirements if:

- It includes all of the individuals covered by their GHP for whom, if they had Medicare, Medicare would be a secondary payer of their GHP benefits. From this file, CMS shall identify those Active Covered Individuals who are Medicare beneficiaries for whom Medicare assumes secondary payment responsibility, based on coverage enrollment information received from the RRE; **or**
- It utilizes a "Finder File" tool to query the Medicare database (providing accurate data for the CMS' fields used as matching criteria for determining whether or not an individual is a Medicare beneficiary) prior to submitting scheduled Input Files and then reports all identified Medicare beneficiaries. (The "Finder File" tool is a preliminary and non-precise manner in which RREs can determine possible Medicare-eligibility of an individual.)

Collection of SSNs and HICNs: An RRE generally will be considered compliant with Section 111 process requirements as part of collecting SSNs and HICNs for Active, Covered Individuals, including spouses and dependents, if:

- It reports SSNs or HICNs for all Active Covered Individuals, including spouses and other family members, for covered lives with an effective date on or after 1/1/09; **and**
- It reports SSNs or HICNs for all subscribers who are Active Covered Individuals for covered lives with an effective date prior to 1/1/09; **and**
- As of 1/1/2011, it reports SSNs or HICNs for all spouses and other family members who are Active Covered Individuals for covered lives with an effective date prior to 1/1/09.

CMS has provided an "ALERT" regarding the need for collection of SSNs/HICNs and TINs to assist RREs in the collection of this information. This "ALERT" is available as a download at CMS' dedicated Webpage (www.cms.hhs.gov/MandatoryInsRep).

Reporting of TINs/EINs: An RRE generally will be considered compliant with Section 111 process requirements for the reporting of TINs/EINs if:

- It reports valid TINs/EINs for itself starting 1/1/2009; **and**
- It reports valid TINs/EINs for any business partners it enters into agreements with effective on or after 1/1/2009; **and**
- Beginning 1/1/2010, it reports valid TINs/EINs to replace all "Pseudo-TINs" it had previously been using and reporting.

CMS again affirms that we are focused on working together with RREs and their business partners so that we all produce and exchange Section 111 data that will enable us to respond to and meet our MSP obligations correctly, thoroughly and smoothly. Our objective is not to make compliance with the Section 111 requirements more difficult than it already is – and we know it will be difficult. Our primary objective is to build a data management system that will be useful to all of us.

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