

ALERT

Section 111 Bulletin: November 3, 2009 Section 111 Teleconference Summary

November 4, 2009

In the November 3, 2009 Section 111 "town hall" teleconference focusing on Section 111 technical testing and reporting issues for non-group health plans, the Centers for Medicare & Medicaid Services (CMS) discussed the moving registration deadline, Med-Pay reporting, Freedom of Information Act (FOIA) requests and testing problems experienced by those who have registered and have sent or attempted to send in test data. Highlights are below.

- CMS made it clear that it expects all insurers and self-insured entities to be registered by December 31, 2009. They are contemplating whether to put a directive in writing on the CMS website.
- In a discussion of insurance policies containing elements of both no-fault and liability coverage, the agency stated that it considers Med-Pay to be no-fault insurance and that insurers who pay on claims arising under these types of combined policies should report the no-fault and liability payments separately, indicating their respective "Plan Insurance Types" in Field 71.
- A caller into the teleconference inquired whether claims files, in particular the product liability data included in those files, would be discoverable through FOIA requests. CMS responded that because these files contain confidential information about beneficiaries, they most likely could not be produced under such a request due to prohibitions and protections of the Health Insurance Portability and Accountability Act (HIPAA).
- Finally, several callers reported experiencing technical problems during testing. For example, submission of the correct

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HICN alone is generating a match with Medicare eligibility files, but submission of the correct HICN *and* the incorrect SSN is generating a "No Match." In addition, "No-Match" response files are being returned to the RRE with new and sometimes incorrect data field information substituting the original information provided with the original file submission. CMS replied that the agency would look into these errors as they were certainly not intended.

Our Section 111 Team routinely covers the Section 111 teleconferences typically held twice a month by CMS, and we send timely detailed summaries of teleconference highlights to our clients. We also maintain a searchable electronic database of the transcripts back to October 2008.

Please contact Kathryn Bucher at kbucher@wiley.law (or 202.719.7530), or any member of our Section 111 Team, if we can be of assistance to you.