

ALERT

Section 111 Bulletin: CMS Delays Issuance Of Revised NGHP User Guide; New Entities To Replace COBC And MSPRC

June 21, 2012

The last-minute cancellation of May's Town Hall Teleconference for Non-Group Health Plans (NGHPs) by the Centers for Medicare & Medicaid Services (CMS) left many wondering about the status of the next version of the NGHP User Guide for insurer reporting under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Section 111), previously slated for release by Memorial Day with guidance anticipated in a number of long outstanding areas, such as mass torts settlements, foreign insurer reporting, the use of broad general releases, and possibly a reporting exception for specialty lines.

During the most recent Town Hall call held on June 19th, Responsible Reporting Entities (RREs) learned that the Agency now plans to release the next NGHP User Guide and possibly several Alerts no later than July 4th, although CMS representatives stated they are aiming for publication before the end of June. CMS announced that, among other things, it would be providing additional examples to help insurers and policyholders determine which entity (or entities) have the responsibility for reporting claims in insurance relationships that involve self-insured retentions (SIRs) or deductibles, as these terms are defined by the User Guide.

CMS also answered a number of technical questions (many asked and answered on earlier calls) about Section 111 reporting, such as:

- The new process for multiple quarterly claim input file submissions;

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- Selecting the correct date of termination or exhaustion of an insurer's ongoing responsibility to pay medicals (ORM obligations), typically in no-fault settlement situations;
- Proper use of ICD-9 codes when reporting deceased beneficiary claims; and
- An RRE's use of multiple RRE ID numbers.

As it has on prior calls, CMS fielded a number of questions and complaints about Medicare's continued improper denial of beneficiary claims that many RREs believe is due to errors made by the Medicare Administrative Contractors that process Medicare claims or the Medicare Secondary Payer Recovery Contractor (MSPRC). This issue has been a source of constant frustration for the industry, and some RREs complained about CMS contractors handing out Authorized Account Representative phone numbers to disgruntled beneficiaries whose claims have been denied, implying that RRE action is the cause of the denial. CMS representatives stated that they would need specific information about these denied claims to determine the true cause of the denials, and suggested that RREs obtain the beneficiaries' Medicare Summary Notices (MSNs), which state Medicare's reason for any denial. The Agency explained that denied beneficiaries often have other, primary, coverage (such as under a group health plan), and that such coverage may be the reason for a denial. Some callers appeared skeptical of the Agency's assertions.

CMS briefly addressed the Advance Notice of Proposed Rulemaking released last week regarding a beneficiary's Medicare Secondary Payer (MSP) obligations arising out of insurer settlements that address future medical expenses, but stated that the Agency would not be taking any questions about this notice during the teleconference. Representatives did add that although the Section 111 Town Hall Teleconferences would continue to focus solely on Section 111 issues for now, this practice of separating interrelated MSP and Section 111 issues may change. They envision the calls will continue in some capacity after full implementation of the Section 111 program, but that the focus of the calls may broaden to permit a discussion of at least some MSP issues. The Agency solicited feedback from callers on this proposal. Such a development would be consistent with CMS's reorganization of the procurement system by which it contracts with entities for both MSP and Section 111 related services. Indeed, during the call, CMS reminded listeners that as of the end of the year, the Coordination of Benefits Contractor (COBC) and MSPRC, as we know them, will cease to exist, to be replaced by potentially five new contractor types (some with a mix of MSP and Section 111 responsibilities) that will operate under one unified Coordination of Benefits and Recovery (COB&R) program. Whether this reorganization will prove beneficial to RREs, and the Section 111 reporting process as a whole, remains to be seen.

CMS has not yet announced a date for the next NGHP Town Hall Teleconference.

Our Section 111 Team routinely covers the Section 111 NGHP Teleconferences held most months by CMS, and we send periodic Alerts to our clients addressing notable Town Hall discussions and other Section 111 developments. We also maintain a searchable electronic database of Town Hall transcripts back to October 2008. Please let us know if you would like more information about any Section 111 topic. You also may access our Section 111 webpage and other Section 111 Bulletins and articles we have published at www.wileyrein.com/section111.