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ALERT

Section 111 Bulletin: Revised NGHP User Guide Mandates Technical Reporting Revisions But Announces No Policy Changes

May 20, 2013

On April 22, 2013, the Centers for Medicare & Medicaid Services (CMS) released the first update in almost a year of its User Guide for non-group health plan insurers (NGHPs) that must report under Section 111 of the Medicare, Medicaid & SCHIP Extension Act of 2007 (MMSEA). Version 3.5 of the "MMSEA Section 111 Medicare Secondary Payer (MSP) Mandatory Reporting - User Guide for Liability Insurance (Including Self-Insurance), No-Fault Insurance, and Workers' Compensation User Guide" (NGHP User Guide) was quickly replaced on May 6, 2013 with version 3.6, which corrected a few errors in the prior version. This round of revisions to the NGHP User Guide includes a number of changes to the technical reporting process but no changes to Chapter 3, which contains most of the policy guidance for Section 111 reporting.

Consistent with CMS's March 24, 2013 Alert and its announcement during the April 9, 2013 NGHP Town Hall Teleconference discussed in our April 15, 2013 Section 111 Bulletin, Chapter V of the revised User Guide confirms that Field 15 (Alleged Cause of Injury, Incident or Illness, or the "E-code") in the Claim Input File Detail Record is "no longer a required field." This change also is reflected in Section 6.3 of Chapter III. CMS's March Alert advised Responsible Reporting Entities (RREs) to enter spaces in Field 15 if they elect not to enter an E-code. Although Chapter V of the User Guide at A-1 states that "Error Code CI03 will no longer be returned if Field 15 is left blank," an RRE may still need to enter spaces in the field as directed by Chapter V at 3-3.

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RREs must still submit at least one valid ICD-9 Diagnosis Code on all Claim Input Files in Field 19. CMS has updated Chapter 4 of the revised User Guide to include information on the validation of ICD-9 codes.

Sections 6.2.2 and 6.2.3 of Chapter 4 of the NGHP User Guide correct an error in version 3.5, clarifying that the Claimant and Claimant Representative information we list below is now "optional" in all cases in which the injured party is deceased, and regardless of whether the RRE reports via ASCII file or by direct data entry. If such information is not to be submitted, pages A-2 and A-3 of Chapter V of the User Guide require the RRE to fill these fields with either the appropriate default value or spaces.

- On the Claim Input File Detail Record:
  - Claimant 1 Information (Fields 104-118); and
  - Claimant 1 Attorney/Other Representative Information (Fields 119 - 132)
- On the Claim Input File Auxiliary Record:
  - Claimant [2, 3, and 4] Information (Fields 7-21, 36-53, and 65-79); and
  - Claimant [2, 3, and 4] Attorney/Other Representative Information (Fields 22-35, 51-64, and 80-92)
- For DDE submitters:
  - On the Claimant and Claimant Representative Listing page

Instructions in Field 104 of the Claim Input File Detail Record and in the introductory paragraphs for the Claim Input File Auxiliary Record at A-47 of Chapter V clarify that these newly classified optional fields are "only" to be filled in with information "if the injured party/Medicare beneficiary is deceased." Stated another way, although the fields are now optional, they should *not* be populated with claimant information if the injured party is alive, assumedly because the information would be duplicative of information required to be entered elsewhere.

In addition to the Error Code CI03 revision discussed above, CMS has revised the error codes listed in the Summary section of Appendix F to Chapter V of the User Guide. Error Code CJ07 (TPOC Threshold) will now be returned on a Claim Input File Detail Update Record that is submitted without TPOC (total payment obligation to claimant) *or* ORM (ongoing responsibility for medicals) payment information. The CI25 Error Code will only be returned if the NOINJ (no injury) default code is not used properly in the following situations:

- If the value "NOINJ" is submitted in the Alleged Cause of Injury Field and something other than "NOINJ" is submitted in the ICD-9 Diagnosis Code 1 Field; or
- If the value "NOINJ" is submitted in the ICD-9 Diagnosis Code 1 Field and another diagnosis code is also supplied. (Note: When the value "NOINJ" is submitted, it must be the only diagnosis code supplied); or
- If the value "NOINJ" is submitted in the ICD-9 Diagnosis Code 1 Field and something other than "NOINJ" (or spaces) is submitted in the Alleged Cause of Injury field.

CMS also modified Error Codes CC02, CC22, CC42, and CC62 because the Claimant Taxpayer Identification Number (TIN) is no longer required. Finally, revised Section 6.6 of Chapter 4, which addresses the reporting of multiple TPOCs, instructs an RRE to submit a delete record instead of an update record to remove all previously reported TPOCs submitted in error. As noted above, if an RRE submits an update record without ORM or TPOC information, the record will receive a CJ07 error.

Our Section 111 Team routinely covers the Section 111 NGHP Town Hall Teleconferences held 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 of the Section 111 topics discussed in this Alert. You also may access our Section 111 webpage and other Section 111 Bulletins and articles we have published at www.wileyrein.com/section111.