



## **Office of Financial Management/Financial Services Group**

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March 20, 2009

### **Implementation of 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) & (8))

#### **ALERT for Liability Insurance (Including Self-Insurance), No-Fault Insurance, and Workers' Compensation**

This alert addresses the following issues:

- Extended Permissible Testing Period
- Interim Reporting Threshold
- Registration Information
- Error in the Field Descriptions on the TIN Reference File in the MMSEA Section 111 User Guide for Liability Insurance (Including Self-Insurance), No-Fault Insurance and Workers' Compensation ("User Guide")
- HEW Software

#### **Extended Permissible Testing Period:**

Version 1.0 of the User Guide (and the MMSEA Section 111 Implementation Timeline document) reflect testing for liability insurance (including self-insurance), no-fault insurance, and workers' compensation Responsible Reporting Entities (RREs) during the July – September quarter of 2009 with live production files scheduled for the October – December quarter of 2009.

RREs must still register and start testing as scheduled; however, CMS is extending the permissible testing period through December 31, 2009. RREs are required to begin live production submission no later than their assigned submission window in the January – March quarter of 2010. However, if RREs complete testing before January 2010, they may begin submitting live production files in the October - December quarter of 2009.

#### **Interim Reporting Thresholds:**

Please refer to the User Guide, including but not limited to Fields 98-102 in the Claim Input File Detail Record, for a discussion of the terms of "Ongoing Responsibility for Medicals" (ORM) and "Total Payment Obligation to the Claimant (TPOC)".

1. For no-fault insurance, there is no de minimus dollar threshold for reporting the assumption/establishment of ORM or for reporting TPOC.
2. For liability insurance (including self-insurance), there is no de minimus dollar threshold for reporting the assumption/establishment of ORM.
3. For workers' compensation ORM, claims meeting the **all** of following criteria are excluded from reporting for file submissions due through December 31, 2010:
  - a. "Medicals only".
  - b. "Lost time" of no more than 7 calendar days.
  - c. All payment(s) has/have been made directly to the medical provider.
  - d. Total payment does not exceed \$600.00.
4. For liability insurance (including self-insurance) and workers' compensation TPOCs, the following dollar thresholds apply:
  - a. For TPOCs dates of July 1, 2009 through December 31, 2010, TPOC amounts of \$0.00 - \$5,000.00 are exempt from reporting except as specified in "d" below.
  - b. For TPOCs dates of January 1, 2011, through December 31, 2011, TPOC amounts of \$0.00 - \$2,000.00 are exempt from reporting except as specified in "d" below.
  - c. For TPOCs dates of January 1, 2012 through December 31, 2012, TPOC amounts of \$0.00 - \$600.00 are exempt from reporting except as specified in "d" below.
  - d. Where there are multiple TPOCs reported by the same RRE on the same record, the combined TPOC amounts must be considered in determining whether or not the reporting exception threshold is met. For TPOCs involving a deductible, where the RRE is responsible for reporting both any deductible and any amount above the deductible, the threshold applies to the total of these two figures.

*Notes/caveats:*

1. These thresholds are solely for purposes of the required reporting responsibilities for purposes of 42 U.S.C. 1395y(b)(8) (that is, the Section 111 MSP reporting requirements for liability insurance (including self-insurance), no-fault insurance, and workers' compensation). These thresholds are not exceptions/do not act as a "safe harbor" with respect to any other obligation or responsibility of any individual or entity with respect to the Medicare Secondary Payer provisions.
2. These thresholds are **interim** thresholds while CMS is implementing the Section 111 reporting process. CMS reserves the right to change these thresholds and will provide appropriate advance notification of any changes.
3. CMS is still actively soliciting data relevant to determining reporting thresholds, including for the purposes of a more liberal threshold for workers' compensation ORM.

### **Registration Information:**

Some user roles and procedures have been modified since the original publication of information on the registration process. Please refer to Section 8, Registration and Account Setup, in Version 1.0 of the User guide for the most up to date, accurate information on registration for Section 111 reporting using the Coordination of Benefits Secure Web site (COBSW).

### **Error in the Field Descriptions on the Tin Reference File:**

In Version 1.0 of the User Guide, the TIN Reference File Layout in Appendix B erroneously refers to the TIN and Office Code Fields on the Claim Input File Detail Record as Fields 50 and 51. They are now Fields 72 and 73 as new fields were added for diagnoses on the Claim Input File Detail Record. Note that the User Guide text where it explains the TIN Reference is correct.

### **HEW Software Availability:**

The User Guide, on pages 27 & 152 indicates that the HEW software is to be requested from the CMS Coordination of Benefits Contractor (COBC). Please note that this software is not available until registration has taken place. After registration, you may request a copy of this software from your COBC EDI representative.