

Service

Employee Benefits &
Executive
Compensation

Mandatory New Requirements for Self-Insured Companies

The Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) was signed into law on December 29, 2007. Section 111 adds 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)-(8). The implementation deadline date for liability insurance (including self-insurance), no-fault insurance and workers' compensation is April 1, 2010. **An identification number and an on-line account must be established with the Centers for Medicare and Medicaid Services (CMS) by September 30, 2009. Noncompliance with reporting requirements carries severe civil penalties.**

Section 111 requires all insurers as well as self-insured organizations (including those who carry any sort of co-pay, deductible or self-insured retention) to determine whether a claimant is eligible to receive Medicare benefits at the time the claim is settled or at any point during the organization's ongoing responsibility for medical payments and, if so, to file detailed electronic reports with CMS that include information about the claimant, injuries claimed, and amount of any payment, settlement or award, among other things. **If an organization, known as a Responsible Reporting Entity (RRE), fails to comply with the reporting requirements, it is subject to the imposition of a civil penalty of \$1,000 for each day of noncompliance with respect to each claimant.** Employers with fully insured Group Health Plans and employers who utilize TPAs for administration of their self-insured GHPs need not register, but should check with their insurers and Third Party Administrators (TPAs) if they have any concerns about whether registration has been completed by their insurer or TPA.

The new reporting rules apply to many different claims, not just traditional "personal injury claims." Accordingly, workers' compensation claims and auto/transportation claims, among others, will have to be reported if any personal injury is alleged - even if the claim is primarily for property loss. Additionally, the law applies to any open or pending claim, not just future claims. The cut-off date for liability insurance (including self-insurance) and no-fault insurance is December 5, 1980, which essentially requires RREs to report any and all payments on settlements, judgments or claims where the date of incident and/or exposure occurred after December 4, 1980, that are still pending or open as of January 1, 2010. RREs must report all workers' compensation claims on which ongoing responsibility for medical payments exist as of July 1, 2009, and subsequent *regardless of the date of an initial acceptance of responsibility*.

RREs are required to register with a government contractor responsible for coordinating Medicare benefits (COBC) in order to ensure that the required information is properly reported by September 30, 2009.

What This Means to You

If you have not already done so, it is imperative that you register your entity by September 30, 2009, if you will have any claims that must be reported after the implementation date. Husch Blackwell Sanders has assembled a team of attorneys with the knowledge and expertise necessary to ensure your organization's compliance. We recommend a thorough analysis of all current and future "open claims," as well as the methods in place for tracking these claims. We also recommend a review of all applicable insurance policies and agreements to ascertain whether indemnification agreements with each insurer are advisable to protect the organization, should the insurer fail to report any payments made by the insurer on the organization's behalf.

Contact Info

Husch Blackwell Sanders can provide materials specific to your organization's needs, including assisting in registering the organization and training its risk management, claims and legal personnel on reporting necessary data. Husch Blackwell Sanders is offering on-site training as well as in-house and web-based instructional sessions.

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