

Industry News Bulletin

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In a continuing effort to keep our clients and the Industry advised of current developments related to Medicare and the need to protect Medicare's interests, we offer our summary of a recent U.S. Court decision.

Mandatory Insurer Reporting (MIR) News:

NGHP User Manual Released:

On March 16th, 2009 the Centers for Medicare & Medicaid Services (CMS) released the much anticipated Non-Group Health Plan (NGHP) User Guide. A copy of the User Guide is available by clicking on the following [link](#). The release of the NGHP User Guide addresses some long standing matters:

- Final Record layout for MIR Compliance
- Final Record layout for the Medicare Query Function (MQF)
- Medicare Secondary Payer (MSP) Enforcement Workflow
- Expanded definitions of "Who is an RRE?"
- Registration Process for Responsible Reporting Entities (RREs)
- Details regarding the new application through the COBC Secure Web-Site (COBSW)
- Examples and information on testing, file input, and response files
- Resolution on inactive files with Ongoing Responsibility for Medicals (ORM)
- Final decision on body part coding (removed from file specs, replaced with 19 fields for ICD-9 codes)

While the User Guide does address these matters, it does not close the loop on some other items, which CMS indicates they may address in the future, including:

- Interim dollar reporting thresholds for TPOC (settled) and ORM (open) cases. At this time, there is no threshold for reporting.
- Mass tort reporting. At this time, no additional clarification can be provided.
- Who is the RRE questions related to SIR and high-deductible clients. At this time, previous discussions and examples remain unchanged.

*****Clients should expect these issues to remain unchanged as we are just 42 days from initial implementation *****

MSP Enforcement:

Contained within the User Manual on page 15, Medicare makes it clear that "The purpose of the Section 111 MSP reporting process is to enable CMS to pay appropriately for Medicare covered items and services furnished to Medicare beneficiaries by determining primary versus secondary payer responsibility." Reporting the data required is simply the first step in what will be extensive recovery efforts involving past conditional payments, the cessation of ongoing benefits to the claimant, and the future demand for repayment against settlements, judgments, and awards. You and your attorneys should review the MSP fully to understand Medicare's rights of recovery and plan to alter your claims handling and settlement procedures accordingly on claims involving Medicare beneficiaries. Medicare's process is to share the MIR input file with the Medicare Secondary Payer Recovery Contractor immediately to allow them to begin recovery efforts. Fines from reporting penalties are expected to exceed \$1.1 billion over 5 years but recovery from MSP enforcement is expected to exceed \$10 billion per year. Clearly MSP is the larger exposure for insurers.

RRE Registration Overview:

In Section 8, Registration and Account Setup (pg 22-26), CMS reviews the RRE process in great detail. Separate instructions for registration will be provided to Gould & Lamb clients contracted for MIR Services, but in general, there are 5 steps for each RRE to follow:

Step 1: Identify an Authorized Representative, Account Manager, and other COBSW Users:

The Authorized Representative has the legal authority to bind the organization to a contract. Each RRE can have only one Account Manager and this individual controls the administration of an RRE's account and manages the reporting process. Other users are assigned by the Account Manager and can assist in the management of the reporting process. This is an oversimplified description of the roles and great care must be taken in selecting what role each party will play in the process as it affects reporting rights, account setup, file transmission, and MQF functionality later in the process.

Step 2: Determine Reporting Structure:

An RRE must determine how it will submit its Section 111 files to the COBC and how many Section 111 RRE IDs will be needed. If you need to submit more than one Claim Input File each quarter or more than 1 MQF per month, you must have more than one RRE ID. If you are using multiple TPAs, have multiple lines of business, multiple reporting agents or any other variance that would require you to submit more than 1 MIR or MQF report to capture your entire claim set, you will need one RRE ID per report you intend to submit. Take the time to assess your needs now; if you are self-insured and have 3 TPAs, how are you going to get this data submitted? You may use three separate RRE IDs with each TPA reporting or 1 RRE ID with an agent acting as a repository for all of your claims data from these TPAs. Think about how you will manage this process internally and how you will move claims from TPA to TPA in the future. Once it is reported under one RRE ID, it doesn't move very easily to another RRE ID. It is not simple and what seems easy today can be very hard in a few years, particularly if you like the flexibility to change who handles your program over the life of any given claim.

Step 3: RRE Registration on the COBSW:

The Authorized Representative will go to the COBSW page (section111.cms.hhs.gov) and click on the "new registration" button to start the process of registration. Don't bother trying to click on the link today, it is not available at this time. Check back periodically to see if this changes. The

application will require you to submit some basic information. After registering, CMS will send the Authorized Representative a letter via the US Postal Service containing a PIN and the COBC assigned RRE ID. This information must be given to the Account Manager to complete the account setup. This is a huge part of the process. Since CMS is using such a time consumptive method to deliver the PIN and RRE ID (USPS), you must stay on top of the follow up to ensure that you obtain this information in a timely manner from COBSW.

Step 4: RRE Account Setup on the COBSW - Account Manager:

The Account Manager will return to the COBSW URL above and click on the "account setup" button. There is some basic information the Account Manager will enter. The Account Manager will get a LogIn ID and can setup other accounts they are responsible for and add Account Designees as needed.

Step 5: Return Signed RRE Profile Report - Authorized Representative:

Once the account setup is complete, a profile report will be sent to the RRE's Authorized Representative via email. The authorized representative must review the profile report, sign and return the profile report to the COBC. Upon completion, COBC will send an email to the Authorized Representative and the Account Manager indicating that testing may begin (mandatory as of 7/1/09).

Inactive Files with Ongoing Responsibility For Future Medical:

Many in the industry had hoped that they would not need to report on cases where ORM exists but the claimant had not treated in many years. CMS has fulfilled their promise to address this concern in two ways. The first is noted on pg 51 under the "Special Exception regarding reporting termination of ORM". RREs must report these cases initially, but may terminate their ORM in the future in a subsequent report if they can obtain a statement in writing from the treating physician that no further medical items or services are associated with the claim, even in jurisdictions with lifetime medical benefits.

The second is more useful from a data standpoint and is on pg 52 under the QUALIFIED EXCEPTION portion of section 11.7:

"The general rule is that aside from the "Special Exception regarding reporting termination of ORM discussed above, a report terminating the ORM should not be submitted as long as the ORM is subject to reopening or otherwise subject to an additional request for payment. HOWEVER, for ORM assumed prior to July 1, 2009, if the claim was actively closed or removed from the current claims record prior to January 1, 2009, the RRE is not required to identify and report that ORM under the requirement for reporting ORM assumed prior to July 1, 2009. If said claim is subject to reopening with further ORM, it must be reported with the full information, including the original DOI (as defined by CMS)."

Inactive files closed in your claims system prior to 1/1/09 are not reportable even if ORM exists, unless they reopen at a future date. This is a very big give on CMS' part and makes the data reporting on inactive cases much easier to address. Those interested in this should take the time to review pages 51-52 of the User Manual.

Conclusion:

The User Guide has finally been released and there are **just 42 calendar days** until registration begins for RREs. For those awaiting the final user guide to see how much effort would be needed to comply, those questions have clearly been answered. There is much to do in the way of system integration, field training, client instruction, and project management to ensure you are ready when data transmission testing begins in **105 days**.

Gould & Lamb has completed development of its OneSource software. Whether you can or can't modify your existing claims system to meet CMS reporting requirements, we can help. Our solution is robust enough to take data from "green-screen" systems to the latest ASP models on the market. We will manage the system integration with your IT folks, field training with your claims adjusters, client instructions, and the project timeline. Our solution is a wholly-owned proprietary solution that easily meets the requirements of Mandatory Insurer Reporting while also ensuring MSP compliance on your claims. Contact our special SCHIP hotline today at 866-672-3453 x 1332 if you have questions or concerns about avoiding the \$1000 per claim per day fine.

As always, we at Gould & Lamb appreciate your business and welcome your feedback and comments. Should you have any questions, please contact us directly at: 866-MSA-FILE (672-3453) or at clientservices@gouldandlamb.com.

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