

Responsible Reporting Entity (RRE) Overview and Instructions

Overview:

The Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) was signed into law in December of 2007. The legislation impacts the handling of Workers' Compensation, Liability, Auto No-Fault, and Self-Insurers claims, defined by CMS as Non-Group Health Plans (NGHP). Effective July 1, 2009, NGHP insurers will be required to report substantial data to the Centers for Medicare & Medicaid Services (CMS) or suffer substantial financial penalties.

Registration for Non-Group Health Plans (NGHP) Mandatory Insurer Reporting (MIR) begins on 5/1/09 and continues through 6/30/09. After registration insurers are required to test data feeds for MIR from 7/1/09 through 12/31/09, depending on assigned reporting dates from CMS. Initial live data feeds will begin on 1/1/10 through 3/31/10.

The primary goal of MIR is to identify and enforce Medicare's Secondary Payer (MSP) rights through recovery of conditional payments and ensure that settlements, judgments, and awards adequately protect Medicare's interests. Failure to report in the time and manner as specified by CMS carries a \$1000 per day per claim civil penalty.

The purpose of this document is to focus on one of the most critical aspects of MIR compliance, the Responsible Reporting Entity (RRE). Medicare has provided guidance on this topic in their most recent NGHP User Guide released on 3/16/09 and more recently by publishing testing extensions and reporting thresholds. A copy of the User Manual is available by clicking on the following link: <http://www.cms.hhs.gov/MandatoryInsRep/Downloads/NGHPUserGuide031609.pdf>.

Who is a Responsible Reporting Entity (RRE)?

It is important to review the statements from CMS to understand who CMS is defining as an RRE. The following is a collection of excerpts from the law, CMS memorandum, and the User Guide.

CMS NGHP USER GUIDE: March 16th, 2009:

42 U.S.C. 1395y(b)(8) provides that the “applicable plan” is the RRE and defines “applicable plan” as follows: “APPLICABLE PLAN- In this paragraph, the term “applicable plan” means the following laws, plans, or other arrangements, including the fiduciary or administrator for such law, plan, or arrangement:

- (i) Liability insurance (including self-insurance).*
- (ii) No fault insurance.*
- (iii) Workers' compensation laws or plans*

CMS is aware that the industry generally does not use the term “plan” or some other CMS definitions such as the definitions for “no-fault insurance” or “self-insurance”. However, CMS is constrained by the language of the applicable statute and CMS’ regulations. It is critical that you understand and utilize CMS’ definitions for purposes of Section 111 when reviewing and implementing Section 111 instructions.

Third party administrators (TPAs) as defined by CMS for purposes for 42 U.S.C. 1395y(b)(7) & (8) are never RREs for purposes of 42 U.S.C. 1395y(b)(8) [liability (including self-insurance), no-fault, and workers' compensation reporting] based solely upon their status as this type of TPA.

Discussion:

If you are an insurer, (self-insured or otherwise) for liability, workers' compensation, or no fault, you are an RRE. Third Party Administrators may never be an RRE therefore they can not register your company for you. They can act as an Account Manager or Account Designee for you in the process. We will discuss these roles in a later section.

The discussions can become more involved as we explore Deductible programs, Self-Insured Retention, Excess or Stop Loss Policies, Reinsurance, and Umbrella policies, but the answer is generally quite simple: **the funding source responsible for payment to the Medicare beneficiary is the RRE.** CMS provides numerous examples on this topic in the User Manual.

- CMS Example: Deductible Program (Carrier Funded & Paid)

Where an entity is self-insured for a deductible but the payment of that deductible is done through the insurer, then the insurer is responsible for including the deductible amount in the amount it reports as a settlement, judgment, award or other payment.

Discussion:

When the deductible portion is paid by the insurer and the employer reimburses the insurer for the deductible payment at some later date, the insurer is the RRE because the insurer is the funding source for payment to the Medicare beneficiary.

- CMS Example: Re-insurance, etc... (Self-Insurer Funded & Insurer Reimbursed)

For re-insurance, stop loss insurance, excess insurance, umbrella insurance, guaranty funds, patient compensation funds, etc. which have responsibility beyond a certain limit, the key in determining whether or not reporting for 42 U.S.C. 1395y(b)(8) is required for these situations is whether or not the payment is to the injured claimant/representative of the injured claimant vs. payment being made to self-insured entity to reimburse the self-insured entity. Where payment is being made to reimburse the self-insured entity, the self-insured entity is the RRE for purposes of the payment made to the injured individual and no reporting is required by the insurer reimbursing the self-insured entity.

Discussion:

In the example the self insurer is making payments below and above the excess amount and seeking reimbursement from the re-insurer/excess carrier. In this case the self-insurer is the RRE, because the self-insurer is the funding source.

- CMS Example: Self-Insurance Pools

RRE for liability self-insurance pools -- Entities self-insured in whole or in part with respect to liability may elect, where permitted by law, to join with other similarly situated entities in a self-insurance pool (e.g., joint powers authority). If the self-insurance pool (1) is a separate legal entity (2) with full responsibility to resolve and pay claims using pool funds (3) without involvement of the participating entity, the self-

insurance pool is the responsible reporting entity. If all three aforementioned characteristics are not applicable to the self-insurance pool, the participating self-insured entity is the responsible reporting entity.

Discussion:

In this example the pool is the funding source and has full control of payment and resolution of the claim. If the self-insurance pool meets the three criteria above, the pool is the RRE, otherwise; it's the self-insured responsibility to be the RRE. This example is applicable to captives as well.

- CMS Example: Assigned Claims Fund, State Agencies

RRE for a State established "assigned claims fund" which provides benefits for individuals injured in an automobile accident that do not qualify for personal injury protection/medical payments protection from an automobile insurance carrier.

- 1) *Where there is a State agency which resolves and pays the claims using State funds or funds obtained from others for this purpose, the established agency is the RRE.*
- 2) *Where there is a State agency which designates an authorized insurance carrier to resolve and pay the claims using State-provided funds without State agency review and/or approval, the designated carrier is the RRE.*
- 3) *Where there is a State agency which designates an authorized insurance carrier to resolve and pay the claims using State-provided funds but the State agency retains review or approval authority, the State agency is the RRE.*

Discussion:

This example introduces a concept for State Agencies and Claim Funds where the RRE is based on who the funding source is and who has control of payment and resolution of the claim. In item #2 and #3, CMS delineates that if the state agency has no authority in the use of their funds, then the insurer is the RRE. If the agency has review and approval authority, then the agency is the RRE. The entity controlling the funding to the Medicare beneficiary is the RRE.

In addition to the discussion above, the NGHP User Manual furthers discussions around the RRE registration process and discusses Workers' Compensation programs specifically:

Attachment A – "Definitions and Reporting Responsibilities" for the Revised Supporting Statement to the Paperwork Reduction Act Notice published in the Federal Register on February 12, 2009" provides, in part: "For purposes of the reporting requirements at 42 U.S.C. 1395y(b)(8), a workers' compensation law or plan means a law or program administered by a State (defined to include commonwealths, territories and possessions of the United States) or the United States to provide compensation to workers for work-related injuries and/or illnesses.

*The term includes a similar compensation plan established by an employer that is funded by such employer directly or indirectly through an insurer to provide compensation to a worker of such employer for a work-related injury or illness. **Where such a plan is directly funded by the employer, the employer has the responsibility for the reporting requirements at 42 U.S.C. 1395y(b)(8). Where such a plan is indirectly***

funded by the employer, the insurer has the responsibility for the reporting requirements at 42 U.S.C. 1395y(b)(8).” The following bullets provide more specific guidance regarding who is the RRE for workers’ compensation laws or plans.

Where the applicable law or plan authorizes an employer to purchase insurance from an insurance carrier and the employer does so, the insurance carrier is the RRE.

Where the applicable law or plan authorizes an employer to self-insure and the employer does so independently of other employers, the self-insuring employer is the RRE.

Discussion:

There are two very important statements in the User Manual that should be understood by any Workers’ Compensation program. The first states that the insurer is the RRE if the plan is indirectly funded by the employer. When the plan is directly funded by the employer they are the RRE. The second states when an employer purchases insurance from an insurance carrier, the insurance carrier is the RRE. This discussion addresses a long standing question about deductible clients of WC insurance companies. The insurer is the RRE for WC deductible clients because the employer has purchased a plan of insurance from the insurer and they are not directly funding the Workers’ Compensation plan. If the employer is directly funding the WC deductible plan, they are the RRE.

Important Note:

In excess cases where the party who controls the release of the money changes when the excess level is reached, the claim is reported by both the self-insurer and the excess carrier with the self-insurer noting, via a new CMS MIR required data field, the change in Ongoing Responsibility for Medicals (ORM) termination date when the excess level was met.

In the final analysis, the determination of who the RRE is simply comes down to who the funding source is for the payments to the injured party.

How many RRE IDs should I have?

For each RRE ID there is one Mandatory Insurer Reporting (MIR) file transmitted per quarter and one Medicare Query Function (MQF) file transmitted per month. There is only one Account Manager and one entity reporting per RRE ID. The MIR file is the file CMS requires on your claims involving a Medicare Beneficiary and the MQF file is the file you send to CMS to determine which cases involved a Medicare beneficiary. Remember, it’s all a one-to-one ratio: 1 RRE ID, 1 MIR file/quarter, 1 MQF file/month, 1 Account Manager and 1 entity reporting.

If you have an unbundled program for insurance or self-insurance, (multiple TPAs or have multiple entities handling your claims) you have to make a decision about how you are going to report all of these various sources’ claims. Also consider how you will handle legacy claims left behind from changes made in your insurance program over the years. There are a few options when considering the number of RRE IDs you select.

- 1) **Use one RRE ID.** In this case you must have a repository to take in all of the data and compile it into a single report to CMS for the MIR file and MQF file. The benefit of this method is that it is very easy to manage once implemented and it provides great flexibility in moving claims from one TPA to another without impacting the reporting processes. The downside is that you must have an IT system or a reporting partner that can take all these varying input sources and roll them up, manage the reporting, and separate the data to send to the various parties when response files return from CMS.
- 2) Use multiple RRE IDs for each line of business, each TPA, and so on. In this scenario you don't have to have a repository for your data, you just tell each entity that they are responsible for reporting the claims they handle for you and you set them each up with an RRE ID when registration begins. The downside is that you now have to setup and manage each reporting entity to ensure compliance, and should you ever decide to move claims from one TPA to another, you will have RRE ID conflicts because one TPA can't report on another TPA's RRE ID. When claims move in the future, a system to reassign RRE ID and delete the previously reported RRE ID must be in place to accurately report data and ensure CMS correspondence is sent to the correct TPA in the future.

The Gould & Lamb OneSource software is designed to handle unbundled insurance programs, varying input files from multiple sources, roll-up of data, and separation of data post-MIR/MQF response files. OneSource software with the iService web-portal is designed to help your partners who can't modify their claims systems to meet the CMS specifications. When you have a robust solution like this, a one RRE ID solution is always the better choice. The only reason to choose a multi-RRE ID program is the lack of ability to consolidate your claims in a OneSource solution.

In the end, you must know how many different entities currently handle your claims. You must determine how each of those entities will comply with MIR requirements. You must decide the way you want to handle your claims now and in the future. Based on these answers, you must decide how many RRE IDs you will need and you must instruct the entities who are handling your claims on the plan you intend to implement for reporting.

How do I register to be an RRE?

CMS has released easy to follow, detailed instructions on registration as an RRE in the NGHP User Manual. Below is the information from the User Manual for registration. There is one point that can not be emphasized enough; you must register as soon as possible.

Registration Overview

The registration process requires RREs to provide notification to the COBC of their intent to report data to comply with the requirements of Section 111 of the MMSEA. Registration by the RRE is required and must be completed before testing between the RRE (or its agent) and the COBC can begin.

Section 111 Liability, No-Fault and Workers' Compensation RREs will register on the COB Secure Web site

(COBSW) from May 1, 2009 through June 30, 2009 using a new, interactive, Web portal designed for this purpose. The website URL will be www.Section111.cms.hhs.gov.

The website is not yet available but you may review the requirements for registration at: www.cms.hhs.gov/MandatoryInsRep/Downloads/RegistrationOverview.pdf.

*NOTE: Entities who are RREs for purposes of the Section 111 liability insurance (including self-insurance), no-fault insurance, or workers' compensation are not required to register if they will have nothing to report. For example, if an entity is self-insured (as defined by CMS) solely for the deductible portion of a liability insurance policy but it always pays any such deductible to its insurer, who then pays the claim, it may not have anything to report. However, those who do not register initially because they have no expectation of having claims to report, **must** register in time to allow a full quarter for testing if they have future situations where they have a reasonable expectation of having to report.*

Registration and Account Setup Process

Section 111 registration and account setup is a five step process.

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

Each RRE must assign or name an Authorized Representative. This is the individual in the RRE organization who has the legal authority to bind the organization to a contract and the terms of MMSEA Section 111 requirements and processing. The Authorized Representative has ultimate accountability for the RRE's compliance with Section 111 reporting requirements.

The Authorized Representative:

- Cannot be a user of the COBSW.
- Cannot be an agent of the RRE.
- May perform the initial registration on the COBSW, but will not be provided with a Login ID.
- Will designate the Account Manager.
- Must approve the account setup, sign the profile report and return it to the COBC.
- Receive notifications related to non-compliance with Section 111 reporting requirements.

Each RRE must assign or name an Account Manager. Each RRE ID can have only one Account Manager. This is the individual who controls the administration of an RRE's account and manages the overall reporting process. The Account Manager may be an RRE employee or agent. The Account Manager may choose to manage the entire account and data file exchange, or may invite other company employees or data processing agents to assist.

The Account Manager:

- Must register on the COBSW, obtain a Login ID and complete the account setup tasks.
- Can manage the RRE's profile including selection of a file transfer method.
- Can upload and download files to the COBSW if the RRE has specified HTTPS as the file transfer method.
- Can transmit files if the RRE has specified SFTP as the file transfer method.
- Can review file transmission history.
- Can review file-processing status and file statistics.
- Can remove an Account Designee's association to an account.
- Can change account contact information (e.g. address, phone, etc.)
- Cannot be an Authorized Representative or Account Designee for the same RRE ID.

At the RRE's discretion, the Account Manager may designate other individuals to register as users of the COBSW associated with the RRE's account known as Account Designees. Account Designees assist the Account Manager with the reporting process. Account Designees may be RRE employees or agents. There is no limit to the number of Account Designees associated with one RRE ID.

Note: *Each user of the Section 111 application on the COBSW will have only one Login ID and password. With that Login ID and password, you may be associated with multiple RRE IDs (RRE accounts). With one Login ID, you may be an Account Manager for one RRE ID and an Account Designee for another. In other words, the role you play on the COBSW is by RRE ID.*

Discussion: The Authorized Representative has the legal authority to bind the organization to a contract. It is critical that the Authorized Representative goes to the CMS web-site (www.Section111.cms.hhs.gov) as soon as it is available on 5/1/09 and begins the registration process. This registration can be done by some designated person so that the CEO of the company isn't punching data into a web-interface, but the registration will need to be in their name and they will need to sign the agreement binding the organization to the rules and legal obligations established by CMS in the MMSEA process.

The Account Manager is the party you want to manage everything for you in the MIR process. This could be someone in your organization, your TPA or your Reporting Agent. This person will setup other users for the COBSW as well. If you are not the Reporting Agent, we recommend that you designate your Reporting Agent as the Account Manager. **If Gould & Lamb will be your Reporting Agent, designate Gould & Lamb as your Account Manager. Scott Huber is the individual at G&L coordinating these accounts.**

The Account Designee(s) are the other parties that you want to have access to your COBSW to view information, manage file transfers, etc. The Account Designee has no authority to add additional users, like the Account Manager does. An Account Designee can be some one in your organization, your TPA or your Reporting Agent. If you are going to designate your Reporting Agent as an Account Designee, you must decide who will be the Account Manager responsible for oversight of your account and communications to your agent.

Step 2: Determine Reporting Structure

Before beginning the registration process, an RRE must also determine how the RRE will submit its Section 111 files to the COBC and how many Section 111 Reporter IDs (RRE IDs) will be needed. Only one Claim Input File may be submitted on a quarterly basis for each RRE ID. Due to corporate organization, claim system structures and agents that may be used for file submission, you may want to submit more than one Claim Input File to the COBC on a quarterly basis and therefore will need more than one RRE ID in order to do so.

For example, if an RRE will use one agent to submit workers' compensation claims and another agent to submit liability and no-fault claims, the RRE must register on the COBSW twice to obtain two RRE IDs that will be used by each agent respectively. You may name the same Authorized Representative and Account Manager for both accounts or use different individuals. Likewise, if you have two or more subsidiary companies that process workers' compensation claims using different claims systems and you will not combine the claim files for Section 111 reporting, you must register for each claim file submission to obtain

*separate RRE IDs in order to submit multiple claim files in one quarter. You may **not** set up a separate RRE ID for submission of the Query Input File only. You **must** submit a quarterly Claim Input File for every RRE ID you establish.*

Discussion:

We have already discussed the selection of RRE IDs in great detail. See the previous discussion on the topic and decide how many RRE IDs you will have. You will need to register once for each RRE ID.

Step 3: RRE Registration on the COBSW

A company representative for the RRE must go to the Section 111 COBSW URL (www.Section111.cms.hhs.gov), click on the “New Registration” button, complete and submit the registration for the RRE. This step must be completed by the RRE, not an agent for the RRE.

The application will require that you submit:

- A Federal Tax Identification Number (TIN) for the RRE
- Company name and address
- Company authorized representative contact information
- National Association of Insurance Commissioners (NAIC) company codes, if applicable
- Reporter Type - Select the Liability Insurance/No-Fault Insurance/Worker’s Compensation option
- Subsidiary company information to be included in the file submission for the registration.

When a registration application is submitted, the information provided will be validated by the COBC. Once this is completed, the COBC will send a letter via the US Postal Service to the named Authorized Representative with a personal identification number (PIN) and the COBC-assigned RRE ID (Section 111 Reporter ID) associated with the registration.

The Authorized Representative must give this PIN and RRE ID to their Account Manager to use to complete the account setup step. If you need more than one RRE ID for Section 111 reporting, this step must be repeated for each.

Discussion:

During Registration CMS will require some basic information on the registering party as outlined above. CMS’ process for registration is a two step validation procedure where they forward credentials to the Authorized Representative via US Mail following the initiation of the Registration Process. The credentials that are sent via US Mail are critical in order for your Account Manager to setup your interface with CMS. As soon as you receive these credentials, they should immediately be scanned and emailed to your Account Manager. **If Gould & Lamb is your Reporting Agent, scan and email these credentials (PIN and RRE ID) to Scott Huber at scott.huber@gouldandlamb.com.**

For each registration you perform, you must closely monitor and ensure that you receive the credential via US Mail. Failure to provide these to your Account Manager or closely monitor receipt will result in a failure to complete registration, test timely, and report in accordance with the law.

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

In order to perform the RRE account setup tasks, the RRE's Account Manager, on or after May 1, 2009, must go to the Section 111 COBSW URL (www.Section111.cms.hhs.gov) with the PIN and RRE ID and click on the "Account Setup" button.

The Account Manager will:

- Enter the RRE ID and associated PIN
- Enter personal information including name, job title, address, phone and e-mail address
- Create a Login ID for the COBSW
- Enter account information related to expected volume of data to be exchanged under this RRE ID
- Enter reporting agent name, address, contact e-mail and TIN
- Select a file transmission method

Once the Account Manager has successfully obtained a COBSW Login ID, he/she may log into the application and invite Account Designees to register for Login IDs. In addition, after completing account setup for his/her first RRE ID, since only one Login ID is required per user, the Account Manager will bypass the steps for creating another Login ID and password when setting up subsequent RRE IDs.

Discussion:

Once registration is completed and you have forwarded your credentials to your Account Manager (AM), the majority of the setup responsibilities lie with the AM. **If Gould & Lamb is your Reporting Agent, please provide the estimated number of open claims for the RRE ID when you email the credentials in Step 3.** CMS will use this information to determine which cycle will be best for reporting to balance workloads.

Step 5: Return Signed RRE Profile Report – Authorized Representative

Once account setup has been completed on the COBSW and processed by the COBC, a profile report will be sent to the RRE's Authorized Representative via e-mail.

The Profile Report contains:

- A summary of the information you provided on your registration and account setup
- Important information you will need for your data file transmission
- Your RRE ID that you will need to include on all files transmitted to the COBC
- Your assigned production live date and ongoing quarterly file submission timeframe for the MSP Input File
- Contact information for your COBC EDI Representative who will support you

The RRE's authorized representative must review, sign and return the profile report to the COBC. At that point, you may begin testing your Section 111 files. The COBC will send an email to your Authorized Representative and Account Manager indicating that testing can begin.

Discussion:

After the Account Manager completes the setup on the COBSW a profile report will be sent to the Authorized Representative via email. Forward a copy of this email to your Account Manager immediately. **If Gould & Lamb is your Reporting Agent, email the profile report email to Scott Huber at scott.huber@gouldandlamb.com.**



You must also sign and return the profile report to the COBC. When the COBC receives the signed profile report, they will notify your Account Manager that testing can begin. At this point, the RRE is done with the registration process and the work of reporting and managing the data transmission shifts to your Account Manager/Reporting Agent.

To recap, in order to register the Authorized Representative must:

- 1) **Beginning on May 1st, 2009; go to www.Section111.cms.hhs.gov to register.**
- 2) **Keep an eye out for your PIN and credential to come in the mail from CMS.**
- 3) **Immediately scan and email credentials to you Account Manager (Gould & Lamb) along with an estimated number of open claims per RRE ID.**
- 4) **Keep an eye out for your profile report to come via email from CMS.**
- 5) **Return the signed profile report to CMS. Email your Account Manager a copy.**

Congratulations, you are done.

The preceding document gives a comprehensive overview of the RRE in the CMS MIR process. Should you have any questions, comments or feedback about the information contained in this document, please do not hesitate to contact us directly at 866-672-3453 x 1307 or via email at john.williams@gouldandlamb.com. We appreciate your attention to this matter and look forward to serving you in the near future.

Acronym Definitions

AD:	Account Designee, assigned by the Account Manager
AM:	Account Manager, assigned by the Authorized Representative
AR:	Account Representative, can contractually bind the insurer
COBC:	Coordination of Benefits Center, responsible for receiving MQF and MIR files
COBSW:	Coordination of Benefits Secure Web-Site, for RRE registration processing
CP:	Conditional Payment
CPR:	Conditional Payment Research
CMS:	Centers for Medicare & Medicaid Services
CSA:	Claim Settlement Allocation
EDI:	Electronic Data Interface
LC:	Lead Contractor, see MSPRC
MIR:	Mandatory Insurer Reporting
MMSEA:	Medicare & Medicaid State Children's Health Insurance Program Extension Act
MQF:	Medicare Query Function, used to determine Medicare eligibility and reporting requirements
MSA:	Medicare Set Aside allocation
MSP:	Medicare Secondary Payer
MSPRC:	Medicare Secondary Payer Recovery Contractor, responsible for recovery of CP
NAIC:	National Association of Insurance Commissioners
NGHP:	Non-Group Health Plans, workers' compensation, liability, auto NF
PIN:	Personal Identification Number, for COBSW
RRE:	Responsible Reporting Entity
RRE ID:	Responsible Reporting Entity Identification
SCHIP:	State Children's Health Insurance Program
SFTP:	Secure File Transfer Protocol
TIN:	Tax Identification Number
TPA:	Third Party Administrator