



Legislative Brief

Medicare Secondary Payer: Mandatory Reporting

Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA Section 111) adds mandatory reporting requirements with respect to Medicare beneficiaries who have coverage under group health plan (GHP) arrangements as well as Medicare beneficiaries who receive settlements, judgments, awards or other payment from liability insurance (including self-insurance), no-fault insurance, or workers' compensation. Liability insurance includes general liability, auto liability, products liability and any other liability insurance where bodily injury may be covered.

Implementation dates are **January 1, 2009** for GHP arrangement information, and **October 1, 2009** for information concerning liability insurance, no-fault insurance and workers' compensation.

INSURICA's Legislative Brief offers a high level overview of the mandatory reporting requirements for liability insurance, no-fault insurance, and workers' compensation. For more information on the GHP reporting requirements, please contact INSURICA's employee benefits department.

Background:

Medicare has been unable to consistently identify primary payers since the passage of the Medicare Secondary Payer Statute in 1980. To remedy this situation, MMSEA Section 111 was passed in late 2007. The Act adds mandatory reporting requirements for liability insurance (including self-insurance), no-fault insurance and workers' compensation. These requirements impose an obligation on primary payers to identify claimants entitled to Medicare and to electronically report those claims to Medicare. If you are considered a Responsible Reporting Entity (RRE) under the Act, this law affects you. You should take certain actions immediately to assure your compliance to avoid potential penalties.

Who is an RRE:

You are an RRE if you have (or had in the past) a self insured program; and/or a policy with a Self Insured Retention (SIR); and/or a deductible policy in which claims were administered by a party other than the insurance company (i.e. you or a third party administrator); and/or a self insured pool or captive where you were the claims funding source and controlled payment of claims. If you have any question or concern about whether you may be considered an RRE under the Act, please contact your INSURICA agent.

Responsibility of an RRE:

The RRE must register with CMS (Centers for Medicare and Medicaid Services) by **September 30, 2009**.

An RRE may then delegate reporting responsibility to an agent(s) (e. g. a third party administrator or vendor), but the RRE remains ultimately responsible for the reporting, and will be held liable for any penalties associated with non-compliance. **The Act imposes penalties of \$1,000 per day for each claim that is not reported.**

No other entity may register on behalf of an RRE.



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How to Register:

RRE's are responsible for registering on the Coordination of Benefits Secure Website (COBSW); at www.Section111.cms.hhs.gov.

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

- Authorized Representative – must be an employee of RRE and have the legal authority to bind the organization to a contract and terms of MMSEA Section 111 reporting.
- Account Manager – can be an employee of the RRE or an agent of the RRE (in the event reporting is outsourced to a third party).
- Account Designee – can be an employee of the RRE or an agent of the RRE

Step 2: Determine reporting structure

It is advised the RRE determine how files will be submitted and how many RRE ID's will be required in advance of registration. Each ID can submit only one claim input file per quarter. Multiple ID's may be needed based on claim structures and agents used for file submissions.

Step 3: RRE registration on the COBSW (performed by Authorized Representative).

Step 4: RRE account setup on the COBSW (performed by Account Manager).

At the completion of Step 4, a profile report will be emailed to the Authorized Representative. The Authorized Representative must review, sign and return the profile to complete Step 5.

Step 5: Return signed RRE profile report (performed by Authorized Representative).

NOTE: After completing Step 3, a PIN number and RRE ID will be mailed to the Authorized Representative who should provide it to the Account Manager(s) to complete Step 4 of the registration process. **So, allow ample time for this process to be completed before the registration deadline of September 30, 2009.**

Please contact [INSURICA](http://www.insurica.com) with any questions you may have.

Further information regarding the Act can be found at the Medicare Website:

<http://www.cms.hhs.gov/MandatoryInsRep/>.

The CMS User's Guide is located at

<http://www.cms.hhs.gov/MandatoryInsRep/Downloads/NGHPUserGuide031609.pdf>

This INSURICA Legislative Brief is intended to provide only a general overview of the selected issues related to the new Medicare, Medicaid, SCHIP Extension Act. They do not provide a complete analysis. The information provided is for general use and is not intended to provide specific advice or recommendations, legal or otherwise, for any individual or organization. The information provided herein is not intended to be and should not be construed as a legal opinion or advice. You should consult with your own attorney or other advisor relating to specific circumstances or those of any organization you advise. Images copyright © 2000-2004 Getty Images, Inc. All rights reserved.