

CLIENT ADVISORY

Medicare, Medicaid, and SCHIP Extension Act – Section 111 Update

March 19, 2009

Reporting Requirements for Workers’ Compensation, Liability and No-Fault Plans

Applicable plans, including self-insured workers compensation plans and captive insurers, have until July 1, 2009 to comply.

ALERT:

Civil monetary penalties for non-compliance are \$1,000 per day for each claimant.

A recent amendment to the Medicare Secondary Payer statute (Section 111 of the Federal Medicare, Medicaid and SCHIP Extension Act) requires liability insurers (including self-insurance plans and captives), workers compensation insurers (and self-insurers) and no-fault insurers to submit claims payment information to CMS (Centers for Medicare & Medicaid Services) for the purpose of coordinating benefits with the Medicare program. Section 111 requires the applicable plan(s) to submit information concerning any potential Medicare beneficiaries that receive payments in the form and manner specified by the Secretary of the Department of Health and Human Services. All claims resolved through a settlement, judgment, award or other payment on or after July 1, 2009 and any claims resolved prior to that date for which the applicable plan has a continuing payment obligation must be submitted.

Employers with self-insured retention programs for liability risks (including captive insurance arrangements) as well as self-insured workers compensation programs are deemed “Responsible Reporting Entities” or “RREs” and can be held liable for failure to report required data, even if the reporting has been contracted to another agent or third-party administrator. Risk Retention Groups and Group Captives, along with traditional liability, workers compensation and no-fault insurers are deemed RREs under Section 111.

The RRE’s must register electronically with CMS between May 1, 2009 and June 30, 2009. The reporting system will be tested during the third quarter of 2009, beginning July 1, 2009 with actual data submissions beginning in the fourth quarter of 2009 pursuant to the schedule provided by CMS. Thereafter, the filing will be quarterly. The effective date for compliance with this legislation is July 1, 2009. Civil monetary penalties for non-compliance are \$1,000 per day of non-compliance for each individual for which the information should have been submitted.

Additional information can be found on the CMS Section 111 Web page at www.cms.hhs.gov/MandatoryInsRep. This notice is provided as information only and should not be considered a legal opinion. If you have questions about this Client Advisory, please contact Seacrest Partners at 912-544-1900.