

ALERT

Section 111 Bulletin: NGHP Reporting Pushed Back to First Quarter 2011

February 18, 2010

In an announcement dated February 16, 2010, but published yesterday on the Centers for Medicare & Medicaid Services (CMS) website, CMS extended the implementation of Non-Group Health Plan (NGHP) reporting under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 from the second quarter of 2010 to the first quarter of 2011. This delay of the mandatory insurer reporting requirements was requested earlier this month by the American Insurance Association, the National Association of Mutual Insurance Companies, and the Self-Insurance Institute of America because "the agency has yet to demonstrate that the new reporting system will properly function."

Despite its statement that "all" Responsible Reporting Entities (RREs) "should now be registered", CMS recently extended the registration period for overseas insurers to April 1, 2010. See CMS, Alert: *Registration Guidance for NGHP RREs Who Are Foreign Entities* (Dec. 29, 2009).

CMS also announced that it will release the long-anticipated updated NGHP User Guide during the week of February 22, 2010. The extent to which CMS will be as responsive to industry requests for revisions and clarification of agency guidance remains to be seen.

What The Delay Does Not Do:

- Does not alter the "TPOC" requirement that, once reporting begins, NGHPs must report all claims where the date of the settlement, judgment, award, or other lump sum payment was on or after January 1, 2010

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- Does not alter the "ORM" requirement that, once reporting begins, NGHPs must report all claims for which they accepted ongoing responsibility for the payment of medical expenses on or after July 1, 2009

Accordingly, although initial reporting will be delayed, RREs should assume that all settlements, judgments and claims payments this year will need to be assessed for inclusion in their initial reporting in the first quarter of 2011.

Our Section 111 Team routinely monitors agency action regarding the mandatory insurer reporting requirements. You may access our Section 111 webpage and the other Section 111 Bulletins and articles we have published at www.wileyrein.com/section111