

ALERT

Section 111 Bulletin: More Delays and New Query System Announced at First Town Hall of New Year

February 14, 2011

On February 9, the Centers for Medicare & Medicaid Services (CMS) held the first Section 111 Town Hall teleconference of 2011. This technical call provided insight into some new and some reworked guidance expected over the next few months with a little policy discussion thrown in. Highlights include:

Revised User Guide and Forthcoming Alerts: CMS announced that the next version of the Non-Group Health Plan (NGHP) User Guide will likely be released in early March. The revisions will incorporate and reflect Alerts issued since last July (when the current User Guide was issued) and the forthcoming Alerts CMS plans to post to the Section 111 website in the near future addressing:

- Workers' compensation and no-fault lump sum (indemnity) payments made on or after October 1, 2010
- Foreign insurer reporting
- Mass torts and longtail exposure claims
- Address validation update
- Direct Data Entry (DDE) update
- Beneficiary lookup action
- Valid ICD-9 codes

Revised Querying Process: CMS shared that a new system will be available for Responsible Reporting Entities (RREs) to determine Medicare eligibility and enrollment easily and more efficiently. Named "Beneficiary Lookup Action," it will allow RREs to query claimants and receive real-time results via the Section 111

Authors

Kathryn Bucher
Partner
202.719.7530
kbucher@wiley.law

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Coordination of Benefits (COB) Secure Web site. This tool will allow RREs to resolve claims quickly without waiting the usual two weeks before receiving querying results from the Coordination of Benefits Contractor (COBC) System. According to CMS, this capability is expected to be up and running in March.

Direct Data Entry Delay: CMS also announced that the roll out of the new DDE reporting system will be delayed to July 2011. CMS representatives emphasized, however, that an RRE using the DDE reporting method must at that time retroactively report claims paid or settled on or after October 1, 2010, excluding Total Payment Obligation to the Claimant (TPOC) liability payments.

ICD-9 Diagnosis Codes: CMS plans to publish on the Section 111 website a downloadable list of valid ICD-9 codes that CMS believes are most relevant for Section 111 reporting purposes. This may simplify the process for insurers on the NGHP side that are unfamiliar with the diagnosis codes and overwhelmed by the large number of code options.

Data Validation Teams: CMS reported that its "data validation teams" are reviewing RRE submissions and data entry errors, and may reach out to RREs with respect to particular issues. To date, a few of the common errors identified by the data validation teams are as follows:

- Although there are more liability claims payments being reported as Ongoing Responsibility for Medicals (ORM) than CMS expected, some of these transmissions involve reporting errors (e.g., TPOC amounts erroneously reported as ORM payments or workers' compensation payments are erroneously reported as liability payments).
- Some RREs are leaving the ICD-9 field empty.
- Some RREs are using erroneous or invalid ICD-9 codes (e.g., adding extra zeros to the code).
- Some RREs are leaving the "state of venue" field blank.
- Some RREs are committing errors in populating the field for the CMS date of incident, often by leaving the field empty.

Beneficiary Status on Day of Settlement: CMS reminded listeners that if a claimant becomes a Medicare beneficiary on the day of settlement, the settlement still needs to be reported. Even if an RRE checks a claimant's Medicare enrollment status when a claim arises, the RRE should query again as contemporaneously as possible with settlement execution. In most cases the insurer will be aware of a claimant's impending beneficiary status based on the claimant's birth date. Moreover, if the settlement is a TPOC payment rather than acceptance of an ORM, it will be unlikely that Medicare will have a reimbursement claim for conditional payments.

Mass Torts Call: CMS has not scheduled the next mass torts conference call.

The next NGHP town hall teleconference will be held on February 23, and will focus on policy developments and RRE questions.

Our Section 111 Team routinely covers the Section 111 NGHP teleconferences held monthly by CMS, and we send periodic Alerts to our clients addressing notable town hall discussions and other Section 111 developments. We also maintain a searchable electronic database of town hall transcripts back to October 2008. Please let us know if you would like more information about any of the Section 111 topics discussed in this Alert. You also may access our Section 111 webpage and other Section 111 Bulletins and articles we have published at www.wileyrein.com/section111.