

Benefit Brief



SUBJECT: Medicare Secondary Payer Mandatory Reporting Requirements Update

DATE: June 29, 2009

This Benefit Brief applies to employers who administer and fund their group health plans, including Health Reimbursement Arrangements (HRAs). It also applies to brokers who administer group health plans for their clients, or who have clients who self-fund and self-administer their group health plans.

This reporting requirement applies to employers with 20 or more employees that have plan participants that are enrolled in Medicare.

Group health plans (GHPs) must comply with Medicare Secondary Payer (MSP) reporting requirements under the Medicare, Medicaid, and SCHIP Extension Act of 2007 by submitting data to CMS identifying situations where the plan is (or has been) primary to Medicare. The reporting requirements are designed to ensure the correct coordination of benefits between GHPs and Medicare.

What is MSP?

When an individual has coverage under a group health plan and Medicare, MSP rules determine whether the group health plan or Medicare is primary. Generally, the group health plan pays primary for current employees when the employer has 20 or more employees, and Medicare pays primary for current employees when the employer has fewer than 20 employees and for retirees. There are special MSP rules for individuals who have end stage renal disease or are disabled.

Who Must Report?

For self-insured, self-administered group health plans, the plan administrator (usually the employer) is responsible for reporting the information to CMS. For fully insured plans and self-funded plans with a contracted administrator, the insurer or third-party administrator (TPA) is responsible for reporting. The information must be reported quarterly through a secure website.

What Group Health Plans are Affected?

A group health plan includes health, dental, and vision plans and HRAs. Stand-alone dental and vision care coverage does not need to be reported. Health FSAs are not group health plans for MSP purposes so they don't need to be reported. HSAs do not need to be reported as long as Medicare beneficiaries may not make a current year contribution to the HSA.

What Do Brokers and Employers Need to Do?

Brokers and employers who administer a health plan will submit files beginning July 1 through October 1, 2009 during an assigned submission timeframe. Submission timeframe information is included in the profile report you should have received after your registration was complete. HRA data should not be reported at this time. See below for more information on HRA registration and reporting.

HRA Reporting

CMS provided an extension on reporting HRA information until the 4th quarter of 2010 to give plans time to gather the necessary information. Registration for HRA reporting will begin in May 2010 to allow enough time for testing to be completed before data files are due. The schedule for reporting HRA data is below:

5/1/10 – 6/30/10	Brokers and employers who administer HRAs must register with CMS. The website address for registration will be www.Section111.cms.hhs.gov . You may review the requirements for registration at www.cms.hhs.gov/MandatoryInsRep/Downloads/RegistrationOverview.pdf . After registration is completed, CMS will begin to set up the data reporting and response process with the reporting entity.
7/1/10 – 9/30/10	Testing period.
10/1/10 – 12/31/10	HRAs submit their data on a predetermined schedule.

Note: if you are reporting only HRA information and you have already registered with CMS, you should withdraw your registration and wait until next May to register again. Contact the EDI representative assigned to you during the registration process for advice on how to withdraw your registration.

Liability Insurance (including Self-Insurance), No-Fault Insurance, and Workers' Compensation

There are separate mandatory reporting requirements for liability insurance programs (including self-insurance), no-fault insurance, and workers' compensation programs. Registration for these programs will continue until September 30, 2009. Data file submission will begin on April 1, 2010.

Penalties for Non-compliance

Group health plans that do not comply with the reporting requirement are subject to a civil penalty of \$1,000 for each day of noncompliance for each individual for whom information should have been submitted. This fine is in addition to any penalties for potential claims under MSP regulations.

A detailed user guide on the registration and reporting process is available on the CMS website: www.cms.hhs.gov/MandatoryInsRep.

If you have questions about the MSP Mandatory Reporting Requirement, please contact Danielle Omans at The Benecon Group at domans@benecon.com or the number below.

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