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PRODUCT LIABILITY UPDATE**CMS Announces New Medicare Reporting Option for RREs:
Direct Data Entry**

We previously alerted businesses to new requirements under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007. These new requirements potentially impact every business or liability insurer that pays a settlement or judgment to a personal injury or wrongful death claimant. These paying entities are now required to determine whether the claimant is entitled to Medicare benefits and, if so, report information about the payment to Medicare. (For more information, see www.ThompsonHine.com/publications/publication1747.html, www.ThompsonHine.com/publications/publication1899.html and www.ThompsonHine.com/publications/publication2052.html).

Last week, the Centers for Medicare & Medicaid Services (CMS) posted an alert outlining a new reporting option for certain Responsible Reporting Entities (RREs). (*See CMS Alert: New Direct Data Entry (DDE) Option for Liability Insurance (Including Self-Insurance), No-Fault Insurance and Workers' Compensation, May 25, 2010.*) RREs who submit 500 or fewer non-group health plan (NGHP) claim reports each calendar year ("Small Reporters") will be permitted to use a new direct data entry (DDE) system to report claims to CMS. This option will allow Small Reporters to enter and submit their NGHP claim reports manually on a secure website, rather than submitting a cumbersome electronic file.

When registering as an RRE, Small Reporters may select the DDE option, which should become available on October 1, 2010. Small Reporters who have already registered using a different reporting option will be permitted to change their reporting method to the DDE option on or after October 4, 2010. Small Reporters may begin reporting using the DDE option on January 3, 2011.

In evaluating whether the DDE option would be suitable for a particular RRE, the recent CMS alert outlines the key differences between the DDE option and other reporting options. These differences include:

- The DDE option is limited to RREs who report no more than 500 claims per calendar year.
- The DDE option does not require any testing for RREs.
- The DDE option does not include an "assigned submission window."
- Claim record submission using the DDE option must be made within 45 calendar days of the Total Payment Obligation to the Claimant (TPOC) date, the date of assuming Ongoing Responsibility for Medical (ORM) or the date of termination of ORM.



- The DDE option requires claim information to be submitted one claim report at a time, and this manual data entry “may take a considerable amount of time.”
- There is no query function for the DDE option. Instead, the system will prompt the user for injured party information and attempt to match that information in real-time to a Medicare beneficiary. If no match is found and the user confirms that the information it entered was complete and accurate, no further reporting is required at that time. *Note:* a “non-match” counts toward the 500 claims per year limit.

The DDE option is intended for RREs who expect to make only occasional claim reports, and Small Reporters using the DDE option still have the same responsibility and accountability as any other RRE.

For additional information on the DDE process, go to www.cms.gov/MandatoryInsRep/Downloads/DDEOptionNGHP052510.pdf.

FOR MORE INFORMATION

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