

PRODUCT LIABILITY UPDATE
Medicare Revises Implementation Timeline and Monetary Thresholds for Reporting Certain Personal Injury Settlements and Payments to Medicare Beneficiaries

In previous Updates, we addressed reporting requirements for liability insurance (including self-insurance) plans under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, including the timing of required reports and the monetary thresholds that trigger those requirements. On November 9, 2010, the Centers for Medicare and Medicaid Services (CMS) issued a new Alert affecting the reporting obligations of Responsible Reporting Entities (RREs).

The new CMS Alert modifies and extends the timeline for reporting certain TPOC obligations by liability insurers (including self-insurers):

- The previous rule requiring reporting of settlements and other payments to Medicare beneficiaries (called Total Payment Obligation to Claimant, or TPOC) occurring on or after October 1, 2010, has been changed. Now, reports are required for TPOC dates on and after **October 1, 2011**.
- The period for initial live reporting of TPOC events has been delayed from the first calendar quarter of 2011 until the **first calendar quarter of 2012**. However, if they are prepared to do so, RREs are permitted to report TPOC information prior to the first quarter of 2012 as long as the reports satisfy the monetary threshold (discussed below).
- These changes in the reporting timeline apply **only** to TPOC for liability insurance and self-insurance where there is no Ongoing Responsibility for Medicals (ORM) involvement. For no-fault insurance and workers' compensation claims, reports are still required for TPOC dates of October 1, 2010 and thereafter. Reports are still required on claims for which the RRE has ORM as of January 1, 2010 and subsequent, even if the assumption of responsibility occurred prior to January 1, 2010. Initial reports for ORM (with or without TPOC involvement), no-fault insurance, and workers' compensation claims are still required in the first calendar quarter of 2011.

The current CMS Alert also modifies the monetary threshold for required reporting. Under the new CMS Alert:

- Where the most recent TPOC date is prior to January 1, 2013, claims reports are required only if the TPOC amount exceeds \$5,000.



- For TPOC dates from January 1, 2013 through December 31, 2013, claims reports are required only if the TPOC amount exceeds \$2,000.
- For TPOC dates from January 1, 2014 through December 31, 2014, claims reports are required only if the TPOC amount exceeds \$600.
- For TPOC dates beginning January 1, 2015, there is no monetary threshold; TPOC reports are required regardless of the TPOC amount.

FOR MORE INFORMATION

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