



February 2011

## PRODUCT LIABILITY UPDATE

### CMS Delays Direct Data Entry Implementation Date Until July 2011

We previously alerted businesses to new requirements under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA), which include the obligation to report to the Centers for Medicare & Medicaid Service (CMS) certain settlements and judgments to personal injury or wrongful death claimants. In our **June 2010 bulletin**, we advised that CMS created a new reporting option for certain Responsible Reporting Entities (RREs). Under that option, “Small Reporters,” defined as RREs who submit 500 or fewer Non-Group Health Plan (NGHP) claim reports each calendar year, will be permitted to use a 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 cumbersome electronic Claim Input Files.

The implementation date for the DDE reporting option had been scheduled for March 1, 2011. After experiencing “technical issues” during the testing phase of the DDE system, CMS recently pushed back the DDE implementation date to **July 11, 2011**. (See *ALERT: Revised Implementation Date of Direct Data Entry (DDE) Option for Liability Insurance (Including Self-Insurance), No-Fault Insurance, and Workers’ Compensation*, February 14, 2011.) As a result, RREs that intend to use the DDE system must wait until the new July 11, 2011 implementation date to begin reporting claims. Nonetheless, CMS clarified that “moving the DDE implementation date does not change the retroactive reporting requirements of January 1, 2010 associated with claim reporting of ongoing responsibility for medicals (ORM) and October 1, 2010 associated with no-fault insurance and workers’ compensation Total Payment Obligation to the Claimant (TPOC) amounts.”

Thus, to the extent an RRE is required to report a claim, the trigger dates for those obligations (January 1, 2010 for ORM and October 1, 2010 for TPOC) do not change as a result of the decision to delay the DDE system implementation; however, an RRE that intends to utilize the DDE system may wait until July 11, 2011 to satisfy its retroactive reporting obligation for any such claim. It is worth noting that the new DDE system implementation date does not apply to or have any impact on NGHP RREs submitting claim reports via the traditional Claim Input Files.

For additional information on the DDE process and whether it may be an appropriate mechanism for your company, see our **June 2010 bulletin** or the **CMS website**.

#### FOR MORE INFORMATION

For more information, contact:

Harold W. Henderson	216.566.5779	<a href="mailto:Hal.Henderson@ThompsonHine.com">Hal.Henderson@ThompsonHine.com</a>
Joshua A. Klarfeld	216.566.5902	<a href="mailto:Joshua.Klarfeld@ThompsonHine.com">Joshua.Klarfeld@ThompsonHine.com</a>

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