CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

COB&R
Coordination of Benefits and Recovery

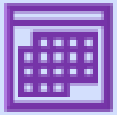
Section 111 Change to Workers' Compensation Reporting Webinar

November 13, 2023

Presentation Overview

Background

Technical Details



Timeframes

Questions & Answers

Background

- 2007 - Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) Section 111 legislation added mandatory reporting requirements for beneficiaries who have coverage under Group Health Plan (GHP) arrangements and those who receive settlements, judgments, awards, or other payment from liability insurance (including self-insurance), no-fault insurance, or workers' compensation (Non-Group Health Plan (NGHP) arrangements.
- The information submitted is used to allow the Centers' for Medicare & Medicaid Services (CMS) to determine primary versus secondary payer responsibility for the claims received.
- CMS can collect this data under 1395y(b)(8)(ii) which indicates that Medicare (via the Secretary) can specify information needed to make an appropriate determination concerning coordination of benefits.

Background Continued 1

- The S111 reporting process, along with various other systems, is just part of the MSP provisions that continue to protect Medicare Trust Funds.
- Protecting the Medicare Trust Funds means that CMS must make every effort to ensure that it does not pay for items and services that certain health insurance or coverage is primarily responsible for paying.
- 42 CFR 411.46 indicates that Medicare should not be a primary payer for future medical services related to a Workers' Compensation (WC) injury as specified in the WC settlement.

Background Continued 2

- CMS will be expanding the existing S111 reporting process to capture information on all WC claims involving Medicare beneficiaries that report settlement (i.e., TPOC) and include Workers' Compensation Medicare Set Asides (WCMSAs).
- Submission of the data should be done regardless of whether the WC settlement was reported to CMS under the voluntary WCMSA process, a non-approved MSA or evidence-based MSA, or if Ongoing Responsibility for Medicals (ORM) is ongoing for some injuries associated to the claim but not others.
- Data should be submitted for all WC TPOCs, regardless of the TPOC value.

How will information be used?

- A WCMSA “W” record will be posted to the Common Working File (CWF) preventing payment of medical services related to injuries described by the diagnosis codes.
- Notification of the WCMSA will be sent to the beneficiary indicating the process for attestation and exhaustion.
- In-process WCMSAs (those where settlement has not been reported) will be updated to reflect the voluntary WCMSA has been completed.

What is being collected?

Field Name	Description	Required
MSA Amount	Total MSA Amount	Yes, if WC and TPOC is reported
MSA Period	Period of coverage in years	Yes, if the MSA amount is greater than 0
Lump/Annuity Indicator	Is the settlement set up as a lump sum or a structured annuity?	Yes, if MSA amount is greater than 0
Initial Deposit Amount	Initial amount deposited	Yes, if specified as a structured annuity

What is being collected? Continued

Field Name	Description	Required
Anniversary (Annual) Deposit Amount	Amount deposited annually	Yes, if specified as a structured annuity
Case Control Number	ID from case that has been established with CMS	No
Professional Administrator EIN	Tax ID of the Professional Admin if one exists	No

Note: For reporting of WCMSAs only, does not include settlements (TPOCs) for no-fault and liability settlements.

Response File

- There will be no changes to the Response File Layout.
- Errors pertaining to the new WCMSA information submitted will be returned as new soft or hard edits on the S111 NGHP Claim Response File according to current processing standards.
- Additional details regarding these edits will be provided in future communications.

Testing

- No special testing process is planned.
- Testing can be done using the current S111 file testing process.
- Notification will be given when testing can begin.
- Always coordinate testing with your Electronic Data Interchange (EDI) Representative.

Timeframes

Updated File Layout/Error Codes - Early 2024

Testing Availability - Fall 2024

Implementation - January 2025

Additional Resources

- Please submit questions to S111WCMSA@cms.hhs.gov
- To sign up for notifications, use the email updates box at the bottom of any CMS.gov page.

Questions & Answers

Slide 0: Section 111 Changes to Workers' Compensation Reporting Webinar

Slide 1: Presentation Overview

During today's presentation we will be discussing the expansion of the Section 111 Non-Group Health Plan (NGHP) Total Payment Obligation to Claimant (TPOC) reporting process to include Workers' Compensation Medicare Set-Aside Arrangements (WCMSAs). We will cover the background of why this change is occurring, technical details of the changes, and general timeframes. Lastly, we will open the call up for questions and answers.

Slide 2: Background

We want to begin today with some background on the S111 reporting process and how we arrived at the upcoming change.

In 2007, Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) Section 111 legislation added mandatory reporting requirements with respect to Medicare beneficiaries who have coverage under group health plan (GHP) arrangements, and for Medicare beneficiaries who receive settlements, judgments, awards, or other payment from liability insurance (including self-insurance), no-fault insurance, or workers' compensation, collectively known a Non-Group Health Plan (NGHP) arrangements.

The information submitted is used to allow the Centers for Medicare & Medicaid Services (CMS) to determine primary versus secondary payer responsibility for the claims received.

CMS can collect this data under1395y(b)(8)(ii) which indicates that Medicare (via the Secretary) can specify information needed to make an appropriate determination concerning coordination of benefits.

Slide 3: Background Continued 1

The S111 reporting process, along with various other systems, is just part of the Medicare Secondary Payer (MSP) provisions that continue to protect Medicare Trust Funds.

Protecting the Medicare Trust Funds means that CMS needs to continue to make every effort to ensure that it does not pay for items and services that certain health insurance or other coverage is primarily responsible for paying.

42 CFR 411.46 indicates that Medicare should not be a primary payer for future medical services related to a Workers' Compensation (WC) injury as specified in the WC settlement.

Slide 4: Background Continued 2

With that in mind, CMS will be expanding the existing S111 reporting process to capture information on all WC claims involving Medicare beneficiaries that report settlement (i.e., TPOC) and include Workers' Compensation Medicare Set Aside Arrangements (WCMSAs).

Collection of the information will be done regardless of whether the WC settlement was reported to CMS under the voluntary WCMSA process, a non-approved MSA or evidence-based MSA, or if Ongoing Responsibility for Medicals (ORM) is ongoing for some injuries associated to the claim but not others.

Submission of the data should be done regardless of whether the WC settlement was reported to CMS under the voluntary WCMSA process or if ORM is ongoing for some injuries associated to the claim but not others.

Data should also be submitted for all WC TPOCs, regardless of the TPOC value.

Slide 5: How will information be used?

Before we get into the more technical details, we also want to mention what will be done with the collected information.

A WCMSA "W" record will be posted to the Common Working File (CWF) preventing payment of medical services related to injuries described by the diagnosis codes.

Notification of the WCMSA will be sent to the beneficiary indicating the process for attestation and exhaustion.

And any in-process WCMSAs (those where settlement has not been reported) will be updated to reflect that the voluntary WCMSA has been completed.

Slide 6: What is being collected?

Now that we have talked about how we arrived at making this change to the Section 111 reporting process and what the intended use of the information is, let's look at what information will be collected. Along with currently collected information, we will be using existing filler fields to collect the following new information.

MSA Amount – This is the total MSA amount which is required if it is a Workers' Compensation report and there is a TPOC submitted.

MSA Period – This should be the period, in years, that the beneficiary is being covered for. It is required if the MSA amount is greater than 0.

Initial Deposit Amount – This is the amount that was initially deposited for the MSA and is required if the MSA is indicated as a structured annuity. Note that this amount may be $0 depending on how the annuity has been structured.

Slide 7: What is being collected? Continued

Anniversary (Annual) Deposit Amount – This is the amount that is deposited in the MSA account on an annual basis. It is required if the MSA is indicated as a structured annuity.

Case Control Number – This is not a required field. However, if there is a WC case established with CMS and a Responsible Reporting Entity (RRE) has the Case Control Number, it should be entered here to assist with the matching criteria.

Professional Administration EIN – This field is not required but if there is a professional administrator for the MSA, their tax ID can be entered in this field. This will be used for attestation reporting purposes.

And it is important to reiterate that this is just for reporting of WCMSAs only and does not include settlements (TPOCs) for no-fault and liability settlements.

Slide 8: Response File

While there will be a change to the input file layout, we would like to note that there will be no change to the Claim Response File layout.

Any errors pertaining to the new WCMSA information will be returned as new soft or hard edits on the Claim Response File according to current processing standards.

Additional details regarding errors will be provided in future communications.

Slide 9: Testing

We know that many RREs will want to test these changes. At this time there will be no special testing process.

However, all RREs have the option to test via the usual testing process.

Additional information about the standard testing process is available in Section 9 of Chapter IV of the NGHP User Guide available on CMS.gov.

Notification will be given when testing can begin, and you should coordinate your testing with your EDI Representative when the time comes.

Slide 10: Timeframes

Now that we have looked at some of the details of this upcoming change, there are some important timeframes we want to make everyone aware of.

First, we are planning on publishing the file layout changes along with the new error codes in an alert early next year. This should allow RREs plenty of time to review and implement the changes.

Second, for those who will want to test, we expect that the EDI team will be ready to accept test files via the normal testing process in the fall of next year.

Last, and most importantly, we want you to know that the current planned implementation of this change will be in January of 2025.

It may seem early for us to be talking about a change that is more than a year away, but it was important to us that the information be provided to you as soon as possible.

Slide 11: Additional Resources

Before we end the presentation and start the Q&A section of the call, we want to let you know about some important resources available to you.

If you have additional questions, you can submit them to S111WCMSA@cms.hhs.gov. This email box was set up specifically for this topic so please utilize it for that.

We also encourage you to sign up for notifications by utilizing the email updates box at the bottom of any CMS.gov page. Enter your email address and then select the topics you wish to receive notifications about. This is the main method CMS uses to make people aware of updates so signing up, if you haven't already, will be critical to receiving notifications in a timely fashion.

Slide 12: Question & Answers