

Section 111 Change to Workers' Compensation Reporting Webinar #2



April 16, 2024

Presentation Overview



Background Recap



Technical Details



Updated Timeframes



Civil Money Penalties Impact



Questions & Answers

Background Recap

- The S111 reporting process 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 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 Recap (Continued 1)

- CMS is looking to begin capturing Medicare Set-Aside (MSA) information via the S111 reporting process for workers' compensation settlements.
- CMS historically has had limited or incomplete information on MSAs.
- While it might be possible to tie a voluntary Workers' Compensation Medicare Set-Aside (WCMSA) submission to a S111 Total Payment Obligation to Claimant (TPOC) report based on the beneficiary and Date of Incident (DOI), CMS cannot guarantee that the entities are using the voluntary WCMSA amounts.
- Entities may have decided to use an Evidence-Based MSA (EBMSA) or non-CMS-approved MSA.
- CMS is authorized to 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 Recap (Continued 2)

- CMS will be expanding the existing S111 reporting process to capture information on all WC claims involving Medicare beneficiaries who receive a settlement (i.e., TPOC) that includes an MSA.
- Submission of the data should be done regardless of whether the WC settlement was reported to CMS under the voluntary WCMSA process, a non-CMS-approved MSA or EBMSA, 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.
- Change will be prospective for TPOCs on or after the implementation date of April 4, 2025.

Background Recap (Continued 3)

- 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.
- Receipt of an MSA report for a WC settlement will allow CMS to send the beneficiary information on the attestation and exhaustion process.
- In-process voluntary WCMSAs (those where settlement has not yet been reported) will be updated to reflect that the voluntary WCMSA has been completed.

Technical Details

Field	Name	Size	Start Pos.	End Pos.	Data Type	Required	Additional Information
37	MSA Amount	11	302	312	Numeric	Y	For WC settlements without an MSA, enter all zeros.
38	MSA Period	2	313	314	Numeric	Y (when MSA amount is >0)	Enter the amount of time in years that the MSA is expected to cover the beneficiary.
39	Lump Sum or Structured/Annuity Payout Indicator	1	315	315	Alphabetic	Y	Valid values: S = Structured /Annuity L = Lump Sum

Technical Details (Continued 1)

Field	Name	Size	Start Pos.	End Pos.	Data Type	Required	Additional Information
40	Initial Deposit Amount	11	316	326	Numeric	Y	If Lump/ Structured Payout Indicator (Field 39) is L or blank, enter all 0s.
41	Anniversary (Annual) Deposit Amount	11	327	337	Numeric	Y (when MSA is Structured Annuity)	If Lump/ Structured Payout Indicator (Field 39) is S, enter an amount greater than 0. If Lump/ Structured Payout Indicator (Field 39) is L or blank, enter all 0s.

Technical Details (Continued 2)

Field	Name	Size	Start Pos.	End Pos.	Data Type	Required	Additional Information
42	Case Control Number	15	338	352	Alpha-Numeric	N (may assist with matching if available)	If unknown, enter spaces.
43	Professional Administrator EIN	9	353	361	Numeric	N	If unknown, enter all 0s.

New Response File Error Codes

Error Code	Error Description	Relates to Field	Error Type
CW01	Non-Numeric MSA Amount	37	Hard
CW02	Non-Numeric MSA Period	38	Hard
CW03	MSA Period is required when MSA Amount is > \$0	38	Hard
CW04	Invalid WCMSA Payout Indicator	39	Hard
CW05	Non-Numeric Initial Deposit Amount	40	Hard
CW06	Non-Numeric Anniversary Deposit	41	Hard
CW07	Zero Anniversary Deposit Invalid when Structured/Annuity Indicated	41	Hard
CW08	CCN Not Found	42	Hard
CW09	EIN Not Found	43	Soft
CW10	MSA Amount = \$0 but WCMSA Detail Information provided	38-41	Hard
CW11	MSA Amount Provided but TPOC Amount 1 Not Provided	37, current Field 81	Hard
CW12	Deposit Amounts are invalid when WCMSA Payout Indicator = 'L'	39-41	Hard

Testing

- Testing will be available using the current S111 file testing process.
- Your EDI Representative is your point of contact for testing.
- Test files must be transmitted to the BCRC using the same transmission method that was chosen for production files (HTTPS, SFTP, or Connect:Direct).
- Test Medicare beneficiary data may be downloaded from the Section 111 COBSW for RREs to use in testing.
- Testing available beginning **October 7, 2024**.
- Full details on testing are available in Chapter IV of the [NGHP User Guide](#).

Updated Timeframe



**New
Implementation:
April 4, 2025**

What about CMPs?

What are the potential implications for CMPs if an error prevents a TPOC from being reported timely?

- TPOCs that are not reported timely, including where the record is rejected due to the new “hard” errors noted previously, are potentially subject to a CMP.
- CMS will not impose a CMP for two reporting periods after implementation of this change. This change applies to those records with a TPOC date on or after 4/4/2025, so records with a TPOC date on or after 10/4/2025 and a reportable MSA are subject to a CMP.

What if an RRE fails to report an MSA?

- Failure of an RRE to comply with its reporting obligations may result in CMS utilizing all available statutory and regulatory options to recover mistakenly made payments, including bringing an action against the RRE under the False Claims Act.

Other Reminders

- The intent of this change is to obtain additional information about TPOCs. If a TPOC is reportable under existing requirements, it continues to be reportable. Guidance about what is reportable is not changing.
- Per current WC reporting thresholds, all WC Settlements of \$750 or more must be reported.
- There is no change to the voluntary WCMSA submission process and parties should continue to send in settlement agreements to finalize those MSAs that have been voluntarily reported.

Other Reminders (Continued)

- CMS will continue the workload threshold for review of voluntary WCMSA submissions at \$25K. This is not a limitation for reporting MSAs. MSA values must be submitted for all WC TPOC reports.
- Consistent with CMS's longstanding direction where multiple defendants that are party to a single settlement are required to report the total TPOC amount (and not their "share"), RREs are required to report the total MSA value.
- The S111 submission is not intended to be a replacement for submitting the settlement documents to finalize the WCMSA.
- Submitters using the voluntary WCMSA review process should continue to submit settlement documents following the existing process.

Additional Resources

- Please submit questions to S111WCMSA@cms.hhs.gov.
- Refer to the [NGHP User Guide](#).
- To sign up for notifications use the email updates box at the bottom of any CMS.gov page.



The image shows a sign-up form for email updates. It features a light gray background. At the top left, the word "Email" is written in a bold, black font. Below this is a white input field with rounded corners containing the placeholder text "you@example.com". To the right of the input field is a dark blue button with rounded corners, containing the text "Sign up" in white, followed by a white icon of an arrow pointing out of a square.

Questions & Answers



Slide 0: Section 111 Change to Workers' Compensation Reporting Webinar #2

Welcome to the second Section 111 Change to Workers' Compensation Reporting Webinar. After the previous webinar held back in November, CMS received a lot of questions and feedback. We hope that hosting this additional webinar will help ensure that Responsible Reporting Entities (RREs) will be ready when the changes go into effect.

Slide 1: Presentation Overview

During today's presentation, we will be reminding everyone about the upcoming 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 recap the change including background and technical details and will provide updated timeframes. We will also touch on how this change relates to Civil Money Penalties (CMPs). Lastly, we will open the call up for questions and answers.

Slide 2: Background Recap

Since we first met back in November, the technical alert was posted in February and the updated NGHP User Guide was posted earlier this month. We know many of you joined us on the last webinar, and we hope that you have all had time to review the Alert and User Guide update. We want to start off today with a recap of some of the background around this coming change.

The S111 reporting process is just part of the Medicare Secondary Payer (MSP) provisions that continue to protect the 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 3: Background Recap (Continued 1)

CMS is looking to begin capturing Medicare Set Aside (MSA) information via the S111 reporting process. CMS historically has had limited or often incomplete information on MSAs.

While it might be possible to tie a voluntary Workers' Compensation Medicare Set-Aside (WCMSA) submission to a S111 TPOC (settlement) based on the beneficiary and Date of Incident (DOI), CMS cannot guarantee that the entities are using the voluntary WCMSA amounts.

Entities may have decided to use an Evidence-Based Medicare Set-Aside (EBMSA) or non-CMS-approved MSA.

We also want to remind everyone that CMS is authorized to 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.

Slide 4: Background Recap (Continued 2)

As you all know, the existing S111 reporting process is being expanded to capture information on all Workers' Compensation (WC) claims involving Medicare beneficiaries who receive a settlement (i.e., TPOC) which includes 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-CMS-approved MSA or Evidence-Based MSA, or if Ongoing Responsibility for Medicals (ORM) is ongoing for some injuries associated with 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 still 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.

It is important to note that this change will be prospective for TPOCs on or after the implementation date of April 4, 2025.

Slide 5: Background Recap (Continued 3)

We also want to remind everyone 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.

Receipt of an MSA report for a WC settlement will allow CMS to send the beneficiary information on the attestation and exhaustion process.

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

Slide 6: Technical Details

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 and remind you that the new fields will be using current filler fields. Please refer to the NGHP User Guide for specific reporting requirements, such as proper formatting related to these fields:

- **Field 37, MSA Amount** – This is the total MSA amount, which is required if it is a Workers' Compensation report and there is a TPOC submitted. For WC settlements without an MSA, enter all zeros.
- **Field 38, 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.
- **Field 39, Lump Sum or Structured/Annuity Payout Indicator** – This indicates if the MSA is a lump sum, structured annuity, or a combination of both. Valid values are S for Structured/Annuity or L for Lump Sum.

Slide 7: Technical Details (Continued 1)

- **Field 40, 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 and if so, enter all zeros. If the Lump/Structured Payout Indicator (Field 39) is L or blank, enter all zeros.
- **Field 41, 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. If the Lump/Structured Payout Indicator (Field 39) is S, enter an amount greater than 0. If the Lump/Structured Payout Indicator (Field 39) is L or blank, enter all 0s.

Slide 8: Technical Details (Continued 2)

- **Field 42, Case Control Number** – This is not a required field. However, if there is a WC case established with CMS and an RRE has the Case Control number, it should be entered here to assist with the matching criteria. If unknown, enter spaces.
- **Field 43, Professional Administration EIN** – This field is not required, but if there is a professional administrator for the MSA, that individual's tax ID can be entered in this field. This will be used for attestation reporting purposes. If unknown, enter all 0s.

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. And while some fields may not be required, it is best practice to provide all information if it is available.

Full details on the formatting of these fields can be found in Chapter V of the April version of the NGHP User Guide on CMS.gov.

Slide 9: New Response File Error Codes

While there will be a change to the Claim Input File layout, there will be no change to the Claim Response File layout.

Errors pertaining to the new WCMSA information will be returned as new "CW" errors on the Claim Response File according to current processing standards.

The new error codes will be as follows:

- CW01 - Non-Numeric MSA Amount
- CW02 - Non-Numeric MSA Period
- CW03 - MSA Period is required when MSA Amount is > \$0
- CW04 - Invalid WCMSA Payout Indicator
- CW05 - Non-Numeric Initial Deposit Amount
- CW06 - Non-Numeric Anniversary Deposit
- CW07 - Zero Anniversary Deposit Invalid when Structured/Annuity Indicated
- CW08 - CCN Not Found
- CW09 - EIN Not Found
- CW10 - MSA Amount = \$0 but WCMSA Detail Information provided

- CW11 - MSA Amount Provided but TPOC Amount 1 Not Provided
- CW12 - Deposit Amounts are invalid when WCMSA Payout Indicator = 'L'

It is important to remember that hard errors will cause a record to reject while soft errors will not, although they should still be corrected on the next file submission. All the new errors with the exception of CW09 will be hard errors, which means they will cause records to be rejected.

Slide 10: Testing

We know that many RREs will want to test these changes.

All RREs have the option to test via the usual testing process. You must coordinate testing with your EDI representative. RREs must transmit test files to the BCRC using the same transmission method that was chosen for production files (HTTPS, SFTP, or Connect:Direct). And test Medicare beneficiary data may be downloaded from the Section 111 COBSW for RREs to use in testing. These files can be found under the Reference Materials section after Login.

Testing of the new fields will be made available for RREs beginning October 7, 2024. Records submitted on a test file with a TPOC date on or after October 7, 2024, will be subject to the new edits in the test environment.

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

Slide 11: Updated Timeframe

After feedback and discussion with the industry and a concern that implementation in January of 2025 might be difficult for many RREs, CMS has pushed out the implementation date to April 4, 2025. We hope that this will give RREs the time they need to make the needed changes to their reporting processes. So, mark your calendars.

Slide 12: What about CMPs?

Now that we know the details of the change, we know there have been a lot of questions about how this change relates to CMPs, so let's go over a few key points.

The first question is, what are the potential implications for CMPs if an error prevents a TPOC from being reported in a timely manner?

TPOCs that are not reported in time, including where the record is rejected due to the new hard errors noted previously, are potentially subject to a CMP.

CMS will not impose a CMP for two reporting periods after implementation of this change. This change applies to those records with a TPOC date on or after 4/4/2025, so records with a TPOC date on or after 10/4/2025 and a reportable MSA are subject to a CMP.

The second common question is what if an RRE fails to report an MSA?

Failure of an RRE to comply with its reporting obligations may result in CMS utilizing all available statutory and regulatory options to recover mistakenly made payments, including bringing an action against the RRE under the False Claims Act.

Slide 13: Other Reminders

We also want to offer a few other important reminders.

The intention with this process is to obtain additional information about TPOCs. If a TPOC is reportable under existing requirements, it continues to be reportable. Guidance about what is reportable is not changing.

There is no change to the voluntary reporting process and parties should continue to send in settlement agreements to finalize those MSAs that have been voluntarily reported.

Per current WC reporting thresholds, all WC settlements of \$750 or more must be reported.

Slide 14: Other Reminders (Continued)

CMS will continue the workload threshold for reviewing voluntary WCMSA submissions at \$25K. This is not a limitation for reporting MSAs. MSA values must be submitted for all WC TPOC reports.

Consistent with CMS's longstanding direction where multiple defendants that are party to a single settlement are required to report the total TPOC amount (and not their "share"), RREs are required to report the total MSA value. It will be important for RREs to coordinate their reporting to ensure consistency in their TPOC reporting to avoid downstream complications for themselves and beneficiaries.

The S111 submission is not intended to be a replacement for submitting the settlement docs to finalize the WCMSA. Submitters using the voluntary WCMSA review process should continue to submit settlement documents following the existing process.

Slide 15: Additional Resources

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

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

The NGHP User Guide is always available for you to reference on CMS.gov.

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 16: Questions & Answers

That concludes the presentation portion of the webinar. We hope that you found this information helpful. We will now begin the question-and-answer portion of the call.