TRANSCRIPT
TOWN HALL TELECONFERENCE

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DATE OF CALL: January 29, 2009

SUGGESTED AUDIENCE: Group Health Plan Responsible Reporting Entities – Question and Answer Session.

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FTS-HHS HCFA

Moderator: John Albert
January 29, 2009
12:00 pm CT

Coordinator: Welcome and thank you for standing by. At this time, all participants are in a listen only mode. During the question and answer session, please press star 1 on your touchtone phone.

Today's conference is being recorded. If you have any objections, you may disconnect at this time.

Now I will turn the meeting over to Bill Decker. Thank you Bill, you may begin.

Bill Decker: Thank you very much. Hi. My name is Bill Decker and I am with CMS in Baltimore, Maryland. I have with me this afternoon or this morning depending upon where you are a couple of other people at the table. One of whom is Pat Ambrose who will be giving a short presentation and then be available to you to answer questions that you may have.

Another is Barbara Wright who will be available to answer questions that you may have. We also have some technical experts in the room that may chip in from time to time.

Let me remind everyone who is on this call that this is a Group Health Plan Section 111 call. This is not for people that are not Group Health Plans. That is this is not a non-Group Health Plan call. If you are a non-Group Health Plan Section 111 reporter or about to be, this is call will not be particularly useful for you.

I am going to start off with a couple of general comments based on the questions that we have been receiving regarding the Section 111 process. I do want to remind everybody out there that we do get questions. A lot of you send questions to us.

We do actually read the questions and we try to respond to them either with new documentation on our Web site or in the course of these calls which we have from time to time.

If I recall correctly, there will be another Group Health Plan conference call next week. Is that correct? Yes, everybody is saying yes. That is good.

So if you have questions after this call, please get them to us right away. We can review them before the call next week.

Just let me say a few things before we get started. There are some items that keep coming up in the questions and I want to go over them at this point quickly, just so to refresh everyone's memory or to give new information to people who may be relatively new to the process.

If you are a COBRA partner, C-O-B-A partner and you are wondering whether or not you were going to have to report under Section 111 and how that will affect you. If you are a Section 111 reporter, you will report under Section 111.

If you discover you are an RRE you will report. It does not alter your COBRA, your C-O-B-A agreement in any way. For COBRA coverage, that is coverage for employees who are continuing after active employment, is COBRA coverage reportable?

It is not generally reportable. The exception is when employee, former employer, employee is a Medicare beneficiary on account of the fact that the employee has ESRD. And if the employee does, then COBRA coverage is reportable.

On the options that are listed in the compliance documents and in some of the other documents on the Web sites, we, for example, we say in our main user guide that you are to supply us with information about people who are 45 years of age and older.

We give you an option for a limited period of time, a couple of years, but a limited period of time from our perspective to report people who are 55 and older before you go back to 45 and older.

We just want to make it clear that if you choose to report people starting from the age of 45, you are absolutely free to do that, and in fact we encourage that.

Any options that are discussed in the compliance documents are options, they are not requirements. The requirements are in the main body of the user guide.

When we are - we are going to talk a little bit about today about what have become known as behavioral health situations and whether they should be reported to us such as employee assistance plans, mental health coverage, substance abuse coverage, etcetera.

I just want you to know that we will touch on this subject area as we go through with our discussion today. Those of you who have questions about this, may want to hold them until after we have had the time to actually go into this in a little bit more detail.

Another item, those of you who may be out there thinking about what it is you can use to send to us, we just want to remind everyone that you may not use anything that was associated with the Voluntary Data Sharing Agreement Program or the Voluntary Data Exchange Agreement Program that you may be familiar with.

The voluntary programs are no longer in effect. They do not apply to Section 111 reporting. Anyone who is considering using a VDSA or a VDEA document for Section 111 reporting should not consider that anymore.

We have had a lot of questions about when to use the delete function in file exchanges, and once again we will explain it as simply as we can, do not use the delete function in a file exchange with us unless the person that you wish to delete was submitted in error to CMS originally.

If you have any questions as all about when to use the delete function, please check with your EDI rep first.

Finally, not finally, the last three items, social security numbers versus HICN. We keep getting questions saying if I do not have a social security number should I submit a HICN, a Health Insurance Claim Number. The answer is absolutely.

This is the Medicare program. We deal with health insurance claim numbers. That is the Medicare ID number. That is in fact the preferred ID number for reporting to us. You use an SSN only if you do not have a HICN or if you are searching for someone who may be a Medicare beneficiary.

We have had a couple of questions, at least a couple of questions about PBM and PBM VDSAs. If you are a Pharmacy Benefit Management entity and you are using a VDSA currently to report to us, you still can do that. You still have that option open to you.

We encourage all PBMs to report to us using a Voluntary Data Sharing Agreement that is specific to the PBM community. It does not - Section 111 reporting is a different animal for PBMs and, as most of you know, PBMs are generally speaking not going to be considered RREs in their, at least in pure form PBM. You may have interaction with RREs but you yourselves probably will not be an RRE.

Finally, we encourage everyone before these calls and after these calls to go and visit the Web site and review the documents that are up there. As we have said often, please take a look at all the documents on the Web site that may pertain to you, particularly those of you who are asking if you should be or may be or will consider to be an RRE under Section 111 reporting.

The information that will tell you whether you are is on the Web site. The information that will tell you how you should report is on the Web site. All the information that we can think of that would be useful to you or we are putting on the Web site. And once again, that Web site is www/cms.hhs.gov/mandatoryins I-N-S reporting R-E-P, spelled M-A-N-D-A-T-O-R-Y-I-N-S-R-E-P.

Please go to the Web site if you have not already been there. Most of you I am sure have. We just want to remind everyone of that.

That covers the material that I wanted to get out to at the beginning of the call this afternoon. And I will now turn it over to Pat Ambrose.

Pat Ambrose: Thanks Bill. I just wanted to cover some of the upcoming changes, updates to the GHP user guide that we are currently working on. Most of these are more or less corrections to information that was previously in the guide.

The first is it was noted that on the MSP response file layout in Appendix A, we are missing the record layout for the trailer of that record. So at the end of each MSP response file, the (COBC) will place a trailer record very similar to all the rest of the trailer records that you see. So we are adding the actual file layout for that trailer record.

It contains a two byte record ID which is T, capital T zero. The nine digit RRE ID, a four byte file type which matches that on the header record of MSPR, the file date which again would be the same as that found on the header record, a record county which is a nine digit number, and the remaining part of the record is space filled just filler. So it is 800 bytes just like the other records associated or other records on that MSP response file.

There will be some information about an expansion CMS is determining for the reporting of health reimbursement accounts. I think Barbara will address that issue later in the call.

We also are updating the query only file format to allow RREs to provide their RRE ID. When we initially implemented Section 111 with our former VDSA and VDEA partners, we were unable to make that change to this file format in

time. So they were using their old VDSA or VDEA plan numbers in there and a contractor number instead.

So basically the only change is that on the (flat) file header record that goes into the HEW or Hew software, we are changing the VDSA plan ID and the contractor number which are four and five bytes respectively to a nine byte RRE ID.

This file layout will be available in test starting April 2009. So new GHPs that are signing up beginning in April 2009 will be able to send test files using the new format and it will go to production - we will accept this file format in production in July 1, 2009.

This change is also effective for a current Section 111 RREs who were VDSA or VDEA plans. They are currently sending the query file again with their VDSA ID. They will need to make a change to their system.

Any test files sent after April will have to have their RRE ID and production files sent after July 1 will have to have the RRE ID.

There also will be some new information regarding an alert that is already out on the Web site regarding the small employer exceptions. So we will add some additional information for that.

And then finally, there will be instructions on how to register on the COB secure Web site. All GHP RREs will register on the COB secure Web site.

Former VDSA and VDEA plans who registered via paper will have a slightly different process where the information you supplied at registration will be

preloaded to the Web site, but you will still come and set up users associated with your account as I will describe later.

For new GHPs obviously you are starting the registration from scratch and you will do that all on the COB secure Web site. So instructions and the Web site URL will be provided in the updated user guide. And by the way, we are hoping that the user guide update will be out there within a couple of weeks.

I wanted to go through the basic steps to get you thinking right now about your registration on the COB secure Web site. It is basically a five step process.

The first step is to decide what your reporting structure is going to be. How many MSP input files do you need to submit per quarter. You may set up multiple RRE IDs and submit multiple - and therefore submit multiple claim files, more than one per quarter.

However, under one RRE ID we will only accept one MSP input file per quarter. And the same goes with the query and the non-MSP file. So you have to consider where you are pulling your files from, whether you are going to roll them all up into one file and submit one single set of files or whether you are going to submit separately.

And the separation may be due to different claim systems, different regions of the countries, different subsidiaries, possibly you have different agents that you are working with that will dictate or necessitate you sending two different MSP input files per quarter.

And once you have determined your reporting structure and how many RRE IDs you will need to perform that reporting, you will go back and consider who will be the people associated with your reporting responsibilities.

The first person is your authorized representative. This is the individual in the RRE organization who has the legal authority to bind the organizations to the terms of Section 111 requirements and processing.

The authorized rep has ultimate accountability for the RRE's compliance with Section 111 reporting requirements. However, your authorized rep is not a user of the COB secure Web site. It will be an individual who the profile report will be sent to after registration, and this individual must sign that profile report and return it.

By signing that profile report, on that will be the account information that was submitted on the COB's secure Web site which I will reference in a minute. But by virtue of signing that profile report, the authorized representative is approving the account setup and the account manager.

Your account manager is usually a technical contact who is responsible for the overall day to day administration of your file's processing. Most of the emails sent out by the COBC regarding file processing will go to the Account Manager.

The Account Manager can be an employee of the RRE. It actually could be an employee of your agents if you so choose.

After the Account Manager has registered on the Web site, then they will invite other users which are known as Account Designees. Account Designees may perform many of the same functions as the Account Manager. They must

be invited by an Account Manager. And an Account Designee could be an employee of the RRE or an agent.

The next step, once you have defined who will play the role of Authorized Rep, Account Manager and Account Designee, the next step is to have - the RRE will come to the COB secure Web site to the Section 111 URL that you will be provided and perform step 1 which is RRE registration.

This step involves supplying basic RRE company information like the TIN, Task Identification Number, the company name and address and information about who the authorized representative is.

The COBC will then validate this information, and once validated send an actual letter, paper letter via US Post with a Personal Identification Number or PIN to that authorized representative.

The authorized representative then may give this PIN to the individual they have identified as their Account Manager. The Account Manager will then come to the site with the - during that first step also, the RRE ID will be assigned.

The Account Manager then will bring this PIN with them to the COB secure Web site and finish the account setup step and also obtain their personal user ID and login ID.

Once that information has been completed, the registration and account setup information has been completed on the Web site and processed by the COBC, a profile report will be sent to the authorized representative via email as an attachment to email.

The authorized representative is sent to sign that profile report, the last page of it and return it to the COBC.

After the - even prior to signing of that profile report, the Account Manager may go about the business of inviting accounting designees, other users to be associated with that RRE's account.

If you need more than one RRE ID in order to do your reporting, you will have to go through this process more than one time. For each RRE ID, you will perform the registration and account setup process.

For the former VDSA and VDEA partners who have already registered, the process will be slightly different. As I mentioned, the information you provided in your Section 111 registration will be preloaded to the COBC secure Web site.

You have already named an authorized representative, so the letter with the PIN will go to that authorized representative prior to the Web site being available in April.

Your authorized representative will then provide that PIN to the designated account manager who will come and perform the second step. So the first step is not necessary. You will basically pick it up at the second step.

Now when your account manager comes, they will still be setting up their login ID and password and providing personal information. However, they do not have to re-enter all of your account information. That will already be there for you.

The account manager will then subsequently be able to make some updates to account information. However, if you want to change your file transmission method, that particular change will have to go through your EDI rep.

Now all of these steps for all RREs will be documented in the updated user guide within a couple of weeks.

That is all I have, so now I am going to turn this over to Barbara Wright.

Barbara Wright: All right, thank you Pat. A couple of quick things, some of these we have said before.

I want to reemphasize that when your testing date comes up or your scheduled to register under the timeline, you need to register and begin testing even if you do not have complete data for all fields at that point. Dummy data can be used for testing purposes.

It is important for CMS that everyone perform their registration and testing along the timelines so that we can move everything along in an orderly manner and have everyone up and running by the dates necessary.

As far as HRAs, we wanted you to know that these are under discussion right now. We have received issues in terms of whether or not there should be some type of delay or extension for reporting with respect to HRAs and whether or not there is any difference in exactly what needs to be reported for them.

We hope to have decisions on that in no more than two more weeks. So we will be providing an update as soon as we have additional data.

Pat mentioned new information about the small employer exception request. It was an alert that is dated January 8. It is already on the Web site and the language will be picked up in the updated user guide, but we are allowing essentially a delay or an exception to reporting certain C information if there is a pending request for a small employer exception.

This is allowed for a set period of time, basically through 2009, but if you have got information about small employer exceptions that you are required to report, you need to make sure that you have seen this alert and that you are taking actions to take this into account.

As far as when we get to the questions and answers here, I wanted to ask that anyone who asks a question, if you are referring to yourself as a TPA or you are referring to yourself as an insurer etcetera, for purposes of this call if you would make sure that your telling us under what definition you are doing that.

If you are saying you are a TPA as we have defined it, so that you are a TPA, a claims processor that makes a difference to us. Do not use the terms generically, or the information we give you might not be correct.

So last thing was we have had - some people question whether or not multiple RRE IDs whether they can have them which Pat explained that you can have, but we just wanted to emphasize that along with that goes reporting responsibilities.

So if you have multiple RRE IDs, you will have a quarterly submission schedule for each RRE ID.

Pat Ambrose: Yes, let me just add another clarification. For each RRE ID you must submit an MSP input file. In other words, you cannot set up a separate RRE ID and only use the query file processing for that.

Bill Decker: Thank you. I think we are ready to open it up for questions now.

Pat Ambrose: Actually I wanted to make one more comment if I could.

Bill Decker: Oh no I...

Pat Ambrose: I am sorry. I just wanted to remind everyone that there are computer based training courses available for GHP and information out on the Web site on how to sign up for those.

At a later date, we will also provide computer based training or CDTs for the COB secure Web site that will show screen prints and step by step processes that you will take to perform various tasks on the Web site such as registration that I just covered and account setup inviting designees, viewing information, performing file submission.

And one last other thing that I forgot to mention about an update to the guide that I am making, and that is for the file transmission methods. The connector (rack to via Agnes) file transmission method will stay as it is. However, we will be changing the methods that you will use for HTTPS and secure FTP.

The HTTPS is really through the user interface on the COB secure Web site. It will be as of April. And secure FTP will be done via the mailboxes on the COB secure Web site as of April.

VDSA partners who are already using CMS data center mailboxes for their file transfer for HTTPS or secure FTP may continue to do so, however we are going to encourage that eventually you switch over and do your file transfer through the COB secure Web site since obviously having everything consolidated in one place, all your file process specifics and user IDs and everything consolidated on the COB secure Web site will be a lot easier for you to work with. So that is another update that is coming to the user guide in a couple of weeks.

Bill Decker: Thanks Pat, and one more short announcement from me. We have been joined by John Albert who is also now sitting at the table and will be available to answer some of your questions. And Operator we are ready to take the questions now. Thank you.

Coordinator: We will now begin the question and answer session. If you would like to ask a question, please press star 1. Please un-mute your phone and record your name clearly when prompted. Your name is required to introduce our question. To withdraw your request, press star 2. One moment please for your first question.

Your first question comes from (Mary Ann Bowers). Your line is open (MaryAnn).

(Mary Ann Bowers): Yes. We just have a question, two questions if we could. First of all, this is regarding - we are an RRE Harbor Pilgrim Healthcare and the first question is in regards to Medicare Advantage. As you know, members must be entitled to Part A and Part B when enrolled in that plan. And when these two requirements are met, Harbor Pilgrim will enroll the members under the GHP under the following conditions with the working aged with less than 20

employees, the disabled for groups with fewer than 100, and the EFRD for groups once they have exhausted the 30 month COB period.

Our question with this is, do these members need to be reported under MIR since they must be, by definition, entitled to Part A and enrolled in Part B? And again we are speaking of the Medicare Advantage Plan.

Our second question is in regards to the Group (RAP) scenario. As you know, members must be enrolled in Part A and Part B to be eligible. And our question is in regards to whether or not these members must be reported under MIR since again they must be enrolled in Part A and Part B and Medicare's primary for Medicare covered services. Those are our two questions. Thank you.

Bill Decker: Thank you. Do you want to...

Barbara Wright: Could you hold for just a minute please.

Bill Decker: We are going to put you on mute just for a second.

(Mary Ann Bowers): Sure.

Bill Decker: We are back.

Barbara Wright: For your first question, to sort of take it down to its lowest elements is if you have any reporting responsibilities with respect to an MA plan, those - complying with those does not eliminate the requirements for Section 111. And similarly any - if you are an RRE for someone with respect to 111, the fact that you have them in an MA plan does not eliminate any associated reporting requirements for Section 111.

Is there some other point that you were trying to get to with that first question?

(Mary Ann Bowers): No I think we just wanted clarification on whether or not we need to report these members. So it sounds like we do.

Bill Decker: Right.

(Mary Ann Bowers): And would that apply to question two as well with these Medicare - with the Group (RAP) scenario?

Barbara Wright: Could you repeat that question?

(Mary Ann Bowers): Sure. With the Group (RAP) scenario that we offer, Medicare is always primary for Medicare coverage services. In this case, Harbor Pilgrim, the insurer, picks up the cost sharing difference such as co-pays and co-insurance. So our question is, do these members need to be reported under MIR?

Barbara Wright: We are going to ask you to hold on just a second again.

(Mary Ann Bowers): Thank you.

Barbara Wright: If you have issues on a specific circumstance about whether or Medicare is primary, then you might need to contact us separately about that. The basic point is, yes indeed. You have got a group of people, no matter who they are, whether they are in an MA plan or not, for which Medicare which is in fact primary, no they do not need reported.

But if you have it - that is part of it. The second part is if you have reporting obligations under any situations, they do not eliminate the 111 nor does the 111 eliminate some other reporting requirement that you may have, for example, under the MA.

Without getting into all the technical scenarios of when someone could be in a situation where Medicare is primary and where they are not, that is the best we can do for an answer right now.

(Mary Ann Bowers): So bottom line is, it sounds like definitely the first one we are going to have to report. The second one, where Medicare is prime and we know that, at this point can we make the assumption that we do not...

Barbara Wright: Yes, if you know that Medicare is primary, no we do not want them reported because...

(Mary Ann Bowers): Sure.

Barbara Wright: ...we do not want to build a record.

(Mary Ann Bowers): Absolutely. Okay. That makes perfect sense. Thank you.

Coordinator: Your next question comes from (Bob Gerkin). (Bob) your line is open.

(Bob Gerkin): Thank you. One question and confirm an item. We are a TPA. We have one group. They are a multiple employer welfare arrangement. It is not a Taft-Hartley group, but they are processed based on an hour bank.

In that situation, same as exception for the Taft-Hartley groups, can we use the funds taxed ID number in lieu of the employer tax ID number for the employees on record.

Bill Decker: Yes.

Barbara Wright: Yes you can.

(Bob Gerkin): Thank you.

Barbara Wright: However, I just want to make sure you said you are a TPA. Remember that you are not the RRE if you are not a claims processing TPA as we defined it in the attachments to the supporting statement.

(Bob Gerkin): We are the claims payer for this group.

Barbara Wright: Okay.

((Crosstalk))

Man: Verify the (unintelligible).

(Bob Gerkin): Okay second question. Early on we were talking about for those whom should be - who should be reported if we do not receive a social security number it was advisable to remove their coverage.

In speaking with your help line, I was advised that when the auditing comes around, if our compliance plan and our records of letters requesting social security numbers, if we can show due diligence that we have attempted to get

this information, that that person would not be subject to the fines and penalties...

Barbara Wright: What...

(Bob Gerkin): ...that the consensus at this point...

Barbara Wright: Well two things. I do not think we ever exactly said, and we did not intend, we are not in a position to give you legal advice to say if you cannot get the number that you should drop coverage from them. What we said is that you have responsibility for supplying that information.

(Bob Gerkin): Yes.

Barbara Wright: Now, in terms of have we created a safe harbor at this point, no we have not.

(Bob Gerkin): So is there the potential then that if this - let us have a hypothetical individual, that if we did not receive a social security and therefore did not report them, in the situation that they did turn out to be MSP, there is a potential where fines could apply.

Barbara Wright: There is technically a potential under the statutory provisions. As we have said, we are looking for ways to get complete and accurate data and we will at a subsequent point in time we will have to flush out the compliance process and when we will actually apply penalties.

But it is not fair to say at this point that we have defined due diligence or even said that we will provide a safe harbor.

(Bob Gerkin): Okay. Okay. Very good, thank you.

Coordinator: Your next question comes from (Bill Monroe). Your line is open (Bill).

(Bill Monroe): Yes hi. Our question has to do with the relationship type field. And we have a situation where we have a - the insured has a spouse only. And which category would that go under in the current layout?

Barbara Wright: When you are reporting - you are talking about field 12 on the MSP file?

(Bill Monroe): That is correct.

Barbara Wright: And so your reporting of record - are you reporting the record for the policyholder or for the spouse?

(Bill Monroe): For the policyholder.

Barbara Wright: Then on the policyholder's record, you would report an 01 for self. Now if the spouse is an active covered individual, you must also report the spouse on a separate record and on that one you would use the relation code of 02.

(Bill Monroe): Okay, self or (unintelligible).

((Crosstalk))

Barbara Wright: And basically, you know, you need to look at the age of each and, you know, the other requirements related to due date fall into the definition of an active covered individual. Alternatively you may also use the query process to determine Medicare entitlement.

(Bill Monroe): Okay. I have a similar question for employee coverage election. And that is if the policyholder has a spouse only, in other words which does not necessarily fit any of the three here, which one should we report it as?

Barbara Wright: So the options are policyholder only, policyholder and family, and policyholder and dependents but not spouse is number 3.

(Bill Monroe): Right.

Barbara Wright: So in that case, you would report number 2.

(Bill Monroe): Okay, thank you.

Barbara Wright: But that is a good - I will see if I could clarify that possibly in the user guide.

(Bill Monroe): Okay, thank you.

Barbara Wright: Operator, before we move on to the next question, the gentlemen just prior to this who was talking about a compliance issue, I guess I - we would like him, if possible, to send us an email to our comments box and tell us what help line he was dealing with that was giving information about compliance for Section 111 because all official instructions are on our dedicated Web page and there should not be anyone else who is currently interpreting what our requirements are.

However, I would remind people that we do have one document about GHP RRE compliance on the Web site right now. And I think everyone might like to take a look at that in terms of what it says about general compliance and collection of SSN and HICN.

As we said, we do not have an absolute safe harbor at this point, but there are certain extensions, etcetera. So that document I think had a date of approximately, I think it was sometime in December 2008, but it is a document specifically about GHP RRE compliance.

Operator, if you want to go to the next call.

Coordinator: Your next question is from Tom Williams. Your line is open Tom.

Tom Williams: Hi. I just have a quick question about a really, really, really small employers who do not have a TIN and never will. How will we report those?

Bill Decker: What do you mean by really, really small? Do they have...

Tom Williams: Sole proprietors.

Bill Decker: Sole proprietors? A TIN is the social security number for a sole proprietor.

Tom Williams: Okay, so we can use a social security number?

Bill Decker: Yes, you use it in the TIN format though, not the SSN format.

Tom Williams: Okay.

Bill Decker: All right?

Tom Williams: Thank you very much.

Bill Decker: Now that is one two dash or, well actually it is just nine numbers.

((Crosstalk))

Pat Ambrose: Dashes, yes. Just give us nine digits.

Bill Decker: Right? Just nine numbers, never mind.

Tom Williams: Very good, thank you.

Bill Decker: The INS makes - puts it into a different format but we do not require any different format. We have no spaces or dashes in the number so it does not make any difference.

Tom Williams: Thank you.

Bill Decker: Okay.

Coordinator: Your next question comes from (Fran Fikes). Your line is open (Fran).

(Fran Fikes): Hi everybody how are you. I have a couple of questions. I just need some verification. We are a claims paying TPA so we are an RRE. And I just want to make sure that we are understanding. I have my IT guy in here.

Come April when we start registering and doing testing, all of our clients use a same eligibility format that we have designed so to speak. So it would be, for all of our clients it is going to be the same file.

So let us say you have 30 clients, are you doing 30 separate files?

Barbara Wright: No. You would put all of those clients into one file and submit one file. That would be fine. Yes, I mean you would have separate records obviously and identifying them with their TINs on the TIN reference file etcetera.

(Fran Fikes): Right. Come April, just to validate, that it is okay for us to go with the dependent social security numbers to populate those records for those individuals for all 90 clients with effective dates of January 2009 if that is what we can be comfortable in securing between now and April.

And we have until sometime in 2010 to do all of the rest that have been on the files prior to January of this year. Is this true?

Barbara Wright: Please hold on just a minute.

Bill Decker: Yes hi. We just had a sidebar conversation on what we thought you said. Best thing to make sure we know what you said that if you have a dependent that is a new registrant essentially, after January 1, 2009 you will put in the dependent social security number or HICN depending upon whether you have it.

Anybody who you were carrying as a spouse or a dependent who was an enrollee prior to January 1, 2009, you have extended period of time to collect the information before supplying it. Is that what you were saying?

(Fran Fikes): Yes sir.

Bill Decker: That is correct then.

(Fran Fikes): Oh that is - well okay. That - and that the testing format begins - well the registration begins in April. You send your files in April. You formulate

everything that you need based on what you are told in April. Testing fully in July. Your final file - live file on your designated day in the last quarter of this year, correct?

Pat Ambrose: Actually no. You will start - you will register starting in April. As soon as your registration and account setup is complete, you will receive a profile report to your authorized representative. Your authorized representative will sign that, return it to the COBC and then you will be ready for testing.

And your testing is to take place from that point until your file submission date. Your first production file submission date will be sometime after July. It will be July, August or September of 2009.

(Fran Fikes): Okay. Now...

Pat Ambrose: And then I think in the timeline it is a little bit confusing because it says well by October all new GHPs, all GHP RREs will be in production. That is true but basically they will have gone to production in the prior quarter.

(Fran Fikes): Okay got it. Okay. Thank you very much.

Bill Decker: Okay.

Coordinator: Your next question comes from Larry Whitehurst. Your line is open Larry.

Larry Whitehurst: Yes, this is Larry Whitehurst of Dean Health Plan. I have a couple of questions.

First one I would like to try to ensure that we are all on the same page as far as who we are talking about as eligible. The system indicates that under, let us

see, it is paragraph 712, which is page 19 of the GHP guide, specifically said active covered individuals, but below that paragraph, it specifically states under the criteria that those people are people that who have coverage based on their own or family member's current employment status.

So if I was to look at the data, when I say active covered individual, that could be everybody at a health plan. Everybody on a health plan has active coverage. The question is...

Pat Ambrose: Actually, could we back up and just clarify that point...

Larry Whitehurst: Okay.

Pat Ambrose: ...that the policyholder is actively employed. You could have the policyholder be a retiree and in that case, you know, the coverage that anyone has under that plan is not due to active employment. So the policyholder has to be actively employed.

Larry Whitehurst: Okay, that is what I am trying to get at. It is not so much that I understand that a person that is under current active employment means they are active working. They are showing up for work every day versus the definition of what a retired person is or somebody who is on COBRA for example that may not - that is actually not at work.

Pat Ambrose: Exactly.

Larry Whitehurst: The problem is it needs to be clarified in the documentation. In other words, when you say current active employment, to most individuals and to a lot of people who do not deal with Medicare at all, they assume that current active

employment means hey, my, you know, I was actively employed. They do not understand that term.

Barbara Wright: I do not think, and we will go back and check the verbiage, but I do not think we are saying active employment. I think we have said - we have defined the term active covered individual to be dealing, you know, to be relevant to the member's current employment status.

If we read on page 19, it talks about the first bullet who have coverage based on their own or family member's current employment status, or when we are talking about as you go down those bullets, we are referring to current employment status.

Larry Whitehurst: Well other than ESRD that is correct. But what I mean is current employment status means, a person is the policyholder for example, is active at work. Correct?

Man: No.

Barbara Wright: No. Hold on just a minute please.

Larry Whitehurst: They had better get their stuff straight.

Woman: (I know).

Coordinator: Your next question comes from (Nikki Henderson). (Nikki) your line is open.

((Crosstalk))

Bill Decker: Operator?

Larry Whitehurst: Hold, hold.

Bill Decker: Operator? Operator?

Larry Whitehurst: Wait a minute.

Bill Decker: We were not done with the last questioner. Can you hang on a second please?

Coordinator: Okay.

Bill Decker: Thanks. And last questioner, we are doing a sidebar here. We will be right back.

Larry Whitehurst: Okay, that is fine.

Bill Decker: Okay.

Pat Ambrose: Hi, this is Pat Ambrose. And just for my benefit, I am not the policy person here, but could you give us an example of, you know, really what the confusion is about whether they have current employment or not?

Larry Whitehurst: Sure. For example, when you state a fact and you say active covered individuals, we already know that an active covered individual can be anybody covered under insurance plan.

Barbara Wright: No, that - we are defining active covered individual with the bullets that follow that to tell you what we mean by that. Does active covered individual is not every single person under the policy.

Larry Whitehurst: Okay.

Pat Ambrose: And that is why in the user guide, active covered individual is capitalized all over the place trying to, you know, it is our definition under Section 111...

((Crosstalk))

Larry Whitehurst: Okay. Okay.

Man: We are trying to use terminology that, you know, reflects what the statute says in terms of defining current employment status and when MSP for working aid situations would apply. And so we have this term called active covered individuals which attempts to essentially mirror that fairly complex (code to Fed) to regulation definitions regarding what current employment status because it is a fairly lengthy definition.

But in a sense, if somebody has coverage through current employment status, then - and that person has Medicare, then Medicare would be secondary in those situations. That would also include a spouse of a working - if the working person has family coverage and covers the spouse, and the spouse has Medicare - entitled to Medicare, Medicare is secondary for those benefits.

So we attempted to - and we have had a fairly long track with this definition through the VDSA process that we have been doing for about ten years. But again, if the (unintelligible) reflects the statute in terms of what the definition of current employment status is then, you know, we could go into great detail regarding the specific, you know, site and what not, but we basically find it much easier for people to understand kind of the way I just said it.

And that is, if somebody has coverage through current employment status that coverage is secondary to Medicare in the case of...

((Crosstalk))

Barbara Wright: Assuming we have met the requirements from employer (size) is better...

Man: Yes.

Larry Whitehurst: Well let me get - let me explain what I am talking about. If you have a person that is on a retiree policy, age 65 or older, they have Medicare. Medicare is primary. Correct?

Man: Yes.

Larry Whitehurst: If you have a person that is on a COBRA policy over age 65 and older, Medicare is primary, correct, because COBRA is a non-active at work policy.

Man: Unless they are all - unless their original basis of entitlement was ESRD.

Larry Whitehurst: No, no, no. I understand. I am not - ESRD is not in this. I understand the ESRD process. That does not take into consideration work status, group size or any of that. What I...

Pat Ambrose: And the person in your examples is the policyholder?

Larry Whitehurst: That is correct.

Barbara Wright: Okay.

Larry Whitehurst: The policyholder is over age 65. The policyholder is not active at work. In other words they are not showing up for work every day.

((Crosstalk))

Barbara Wright: Well that is...

Man: Well they do not have to show up every day.

Pat Ambrose: Yes, and that term active is the point Barbara was trying to make. It is saying current employment status.

Barbara Wright: For instance, someone...

Larry Whitehurst: Okay. So in other words, the term active means that a person is showing up for work every day like you and I are.

Barbara Wright: No.

Man: No.

Barbara Wright: The term active is the term of art that reflects people who are under current employment status. You might be on extended sick leave, there could be various things going on, but you have employment status with the employer.

Man: You are carried on the employer's rolls as an employee, whether you are actively working on any given day or not. For example, we have had instances where an employer had people who worked for them part-time across the country doing certain repair work on machinery, and on any given day, less than 20 of them may or may not have been actively working, but there were several hundred carried on the rolls as an employee at all times.

Every one of those 700 had current employment status because they were carried on the roll of that employer as an employee.

Larry Whitehurst: Okay. I guess - I guess it is just confusing because when a person is retired, they are not working.

Barbara Wright: Well.

Larry Whitehurst: When a pers...

Barbara Wright: What we are telling you, and I think we need to move onto another question, we are telling you...

Man: Not going anywhere.

Barbara Wright: ...that active is a term of art. You cannot graft your concept of what active means onto this. You need to look at what we have got here and what our regulations say about what current employment status is.

We are telling you, you cannot think of it as a physical description that yes, they are running into work every day. It is a legal construct as to whether or not they have current employment status.

Man: I believe it is defined in the statute as saying an individual has current employment status if they are the employer, an employee, an individual associated in the business relationship with the employer, or a family member of any of the above.

Larry Whitehurst: Okay. One last question to get away from that. We did a member conversion, a number conversion back in 2008. We used to enroll people under their social

security number and then we would put an 01 for the policyholder, 02 for the spouse.

In 2008 we did a complete number conversion and took all those people previously on and changed their number to an alternate number. In other words now it is like, you would consider it like a dummy number. It is just a number just for our reporting purposes.

In accordance with page, I think it is 37 of the group, you are talking about one record be supplied for each individual who qualifies as a covered individual and if the individual had multiple periods of coverage during this timeframe, multiple records must be submitted.

So, instead of submitting both numbers who are actually the same people, do you want the reporting effective date based on the original record?

Barbara Wright: If their coverage was continuous through January 1, 2009 and on, so prior to January 1, 2009 and on, we want you to report the earliest effective date of their coverage.

Larry Whitehurst: Okay.

Bill Decker: Okay Operator, thank you.

Barbara Wright: And I will try to add some more examples. I know there are some examples in the CDTs also for this active covered individual's concept. We will do our best to put, you know, some real life examples in there if they are still confusing.

Bill Decker: Operator?

Coordinator: Your next question comes from (Nikki Henderson). Your line is open.

(Nikki Henderson): Hi thank you. We have two questions. The first question is, are HSA plans considered group health plans under the (fact)?

Barbara Wright: I believe we have...

((Crosstalk))

Pat Ambrose: I thought we had...

Bill Decker: We addressed that.

Barbara Wright: We have addressed that in the manual, hang on, in the user guide. Let me find the exact page.

Man: Number will be put into effect.

((Crosstalk))

(Nikki Henderson): Okay, well we can look at the manual if it is actually in there.

((Crosstalk))

Barbara Wright: Yes, we have specifically addressed HSAs at the same location. We addressed FSA and a few other things, so.

(Nikki Henderson): Okay. Okay.

Man: FSAs and HRAs in fact.

Barbara Wright: Yes.

Man: Yes. It is all in the same spot.

(Nikki Henderson): Okay. The second question is if - in a case where a group health plan is a (bi-por) TIN but has not received it upon contracting with an RRE, is it acceptable to hold - for the RRE to hold these records until the TIN is received?

Man: No. You can use a pseudo TIN until you get the real one.

(Nikki Henderson): Okay. Okay.

Man: You cannot hold the records though.

(Nikki Henderson): Okay, thank you.

Barbara Wright: And as a follow up, Section 7.2.7 has information about SFAs and HSAs and also reference to the HRA information.

Woman: (Unintelligible) dot two dot seven I think?

Barbara Wright: Yes.

Woman: Thank you.

(Nikki Henderson): Thank you.

Bill Decker: Okay Operator.

Coordinator: Your next question comes from (Jeff Conahan). Your line is open (Jeff).

(Jeff Conahan): Hi. Two quick questions. One is TIN reference file. We have insurer records, an employer record, and I was assuming that the, you know, the address field would be on the employer record would be the employer's address, but the way it says that it should be the address to which healthcare insurance coordination of benefit issues should be directed.

So I am wondering, should that really be the insurer's address on the employer record?

Barbara Wright: No.

(Jeff Conahan): Okay.

Barbara Wright: When we say address to which inquiries should be directed, we are talking about if correspondence is going to the employer, what address of the employer do you want that type of...

(Jeff Conahan): Okay.

Barbara Wright: ...correspondence to go to. If we correspond with the insurers we do that separately on the information we have on the insurer.

(Jeff Conahan): Okay great. And just one quick clarification, if I have somebody that had employee and spouse coverage in 2007 and then 2008 they went to employee only, okay so this was all MSP coverage, on my first file, you want both of those records right?

Man: Yes.

((Crosstalk))

(Jeff Conahan): Because they are...

Man: ...two separate records.

(Jeff Conahan): Great. All right. That is all I have. Thanks.

Man: It is a separate record but if it (unintelligible).

Man: It is two records. It is two records.

Man: We are going to put you on hold a sec.

(Jeff Conahan): Thank you.

Man: Yes. Just a point of clarification because that old record terminated prior to January of ’09, you would not need to report that old record.

Barbara Wright: Remember you will have a - if you needed to report them both, you would have a separate record for the subscriber and one for the wife.

Man: Right.

Barbara Wright: And if the wife’s coverage terminated prior to the required reporting date, 1/1/09, she does not need reported at all. The subscriber, if they have had continuous coverage, you are going to be reporting them for the full time.

(Jeff Conahan): Yes the, you know, the subscriber's continuous coverage begins in 2007 even though his employee election changed. That is why I was a little hesitant there.

Barbara Wright: No you would just - for the subscriber report his complete record.

Man: We will not turn down spousal data.

(Jeff Conahan): All right. So typically you are only going to have one record per person typically?

Man: Well you would - each rec - you would have a record for each person upon whom you need to report. If you had both an employee and a spouse that you needed to report on, those are two records.

(Jeff Conahan): Right, right. But I am just saying, on a particular person, you would not normally get history like this?

Man: No we would.

(Jeff Conahan): On the same file.

Man: Well, on an initial startup file if people are providing historical coverage information, then yes we can accept multiple records on the same person.

(Jeff Conahan): Okay you can but it is not really required.

Man: We are basically requiring coverage that continuous coverage that was in effect as of 1/1/09. That is the requirement.

((Crosstalk))

Man: If you want to send us historical data, we will certainly take it though.

(Jeff Conahan): Well it would certainly be easier not to in our case, but, all right, thank you.

Man: Yes.

Barbara Wright: Operator.

Bill Decker: Next question.

Coordinator: Your next question comes from (Mary Ellen Hange). Your line is open.

(Mary Ellen Hange): Hi yes. My question is about the registration process, the online registration. The information you gave earlier is very helpful. I was wondering if you have anywhere where you have posted exactly the information that we will have to collect when we go online when we do this registration.

The paperwork that was submitted or posted some time back said this is a general description, but it is not the actual registration form.

Pat Ambrose: I would - that is the best that we have got published right now as far as...

(Mary Ellen Hange): Okay.

Pat Ambrose: ...what will be collected.

(Mary Ellen Hange): Okay. So it is probably not going to steer too far from there.

Pat Ambrose: No.

(Mary Ellen Hange): Okay. And secondly, do you have an idea when the Web site - I know we do not register until April 1, but do you know when the Web site, the secure Web site will actually be open?

Pat Ambrose: April 1.

(Mary Ellen Hange): It will be open on April 1.

Pat Ambrose: Yes.

Man: Yes.

(Mary Ellen Hange): Okay thank you.

Bill Decker: Next question.

Coordinator: Your next question comes from (Jamie Herschman). Your line is open (Jamie).

(Jamie Herschman): Yes. I sent in a couple of questions to your comments Web site and it looks like they are not going to be addressed in this format. Is there some other place where...

Man: Well.

Bill Decker: Ask them now.

Barbara Wright: Ask now.

(Jamie Herschman): Okay. Actually one has been answered, so this is - just I want some clarification on the employer side on the MSP input file. And I just want to make sure we are going to be using this correctly because the criteria is that if the employer side is less than 20 employees, so 19 employees or less, that we do not submit those records. Is that correct?

Barbara Wright: It depends on whether or not you are part of a multi...

((Crosstalk))

(Jamie Herschman): Right. We are not.

Barbara Wright: ...group health plan.

(Jamie Herschman): Right.

Barbara Wright: If you are not part of a multiple or multi-employer group health plan and you have less than 20, then no.

(Jamie Herschman): Okay.

Barbara Wright: But you need to be following the regulations about how to count and determine your employer size.

(Jamie Herschman): Right it is the...

((Crosstalk))

Man: Not the number of employees on the plan, it is the number of employees period.

(Jamie Herschman): Exactly. Exactly. We are aware of that. Okay good. I just wanted to make sure when this was going to be used and you did clarify that. If it is a multi-employer plan then you would use the designation of 1 to 19 employees. Yes?

Barbara Wright: If it is a multi-multiple employer plan, then remember the question makes you take into account the employer size of all employers. If any employer in that group has more than 19, you have to reflect the appropriate category.

(Jamie Herschman): Okay great. That is fine. That clarifies. Thank you.

Coordinator: Your next question comes from (Alisha Skalzo). Your line is open.

(Alisha Skalzo): Hi. Thank you so much for having this call today. I have two questions and one is actually - the second question is more of a follow up depending on your answer to the first.

From the employer perspective, a number of employers have something called a deductible reimbursement account, which is similar to an HRA except it does not have the rollover feature. But it is funded with employer dollars and it essentially reimburses medical expenses up to the deductible tied to the group health plan.

Many employers have this and they may self-fund it and self-administer it so the employer is operating as the claims administration - as claims administrator. I am wondering if this would be treated as a group health plan for purposes for - and make the employer the RRE.

Barbara Wright: What you described is a variation of an HRA.

(Alisha Skalzo): Correct.

Barbara Wright: So when we answer - when we put out our final policy on the HRA it will be covered under that.

(Alisha Skalzo): It will be covered under that. Okay. Great. And then, so just - I am going to throw out my second question, just when you issue that you will be able to address it as well.

The second question has to do with that then looking at the definition of the TPA, the claims administrator. If an employer then does have that type of arrangement and is required to - and it would need to be reported on, but their medical plan is self-funded and they have a TPA paying those claims, based on my reading of the definition, it appears that that TPA can be responsible or is the responsible reporting entity and not the employer. Is that correct?

Barbara Wright: We are going to ask you to hold on just a second.

(Alisha Skalzo): Please do and I can get the definition if you need it.

Barbara Wright: We are back.

(Alisha Skalzo): Hi.

Barbara Wright: We are just doing a sidebar again, but it goes back to the same regulations or the same rules that we use and definitions, even if it is like comprehensive or major medical or anything else, it is who is essentially doing the claim processing if you described a situation where you have an HRA arrangement

and there is a separate claims processing TPA for that arrangement, then yes, the TPA is the RRE.

But if there is the situation where, let us say, there is major medical coverage of blues or someone else, and there is a claims processing TPA for that, but there is also an HRA where the employer does the claims processing, then in that instance the employer would be the RRE just for the HRA part.

(Alisha Skalzo): Okay, then what I would request is when I look at the definition in Appendix H on page 157 of the guide, the last sentence of the third party administrator definition says, if a group health plan is self-funded and self-administered for certain purposes, but also has a TPA as defined in this paragraph, the TPA has the responsibility for the reporting requirements.

So when I read that, the self-funded and self-administered language essentially implies that the group health plan is being handled in house under the definition of employer.

Barbara Wright: Well but what it says - what we have...

(Alisha Skalzo): Uh-huh.

Barbara Wright: ...just so you can put it in context, we have had numerous situations where entities come to us and say yes, employer are actually self-funded and it is self-administered but oh, by the way, they do not process their own claim.

The statutory requirement said that an RRE for an employer is when they are self-funded and self-administered. And we had to make sure our definition of TPA did not imply that third party administrators who did no claims processing were responsible reporting entity.

So I mean what this is essentially saying, if you are self-funded and self-administered that is not good enough to make you an RRE if you have a separate claims processing entity for the coverage we are talking about.

(Alisha Skalzo): Okay so...

((Crosstalk))

Barbara Wright: Does that help at all?

(Alisha Skalzo): ...it would (aspire) to be the same coverage then.

Barbara Wright: Oh yes, yes.

(Alisha Skalzo): Okay. That is perfect.

Barbara Wright: If there is like two different plans, you potentially have a separate RRE for both of them - one for...

(Alisha Skalzo): Okay.

Barbara Wright: ...the HRA and one for the...

Man: Whatever.

(Alisha Skalzo): Yes.

Barbara Wright: ...Blues or Aetna or Cigna or you name it.

(Alisha Skalzo): Okay. My thought would just be in whatever piece you do with respect to the HRA is try and clarify that point maybe in an example because I do know there are a number of employers that self-administer and self-fund and pay the claims on an HRA that in an initial blast of that interpretation may have thought that their TPA associated with their self-funded medical plans may be able to take on that responsibility, even though they were not paying the claims with respect to the HRA.

Barbara Wright: They can give that responsibility if they make them an agent for it. They will remain ultimately responsible...

(Alisha Skalzo): Right.

Barbara Wright: ...but they can have them physically do the submissions.

(Alisha Skalzo): Right, which is fine. But I, you know, I would just say that I can see where that can - can (compound) a problem because they (unintelligible) question that came for me.

((Crosstalk))

Barbara Wright: Well then I will ask you before you go away in terms of example, do you think an example is sufficient if we just add language whether it is probably in the user's guide at this point that made it clear that if an employer is involved with more than one type of group health plan arrangement, that they have to make their RRE determination separately for each of those arrangements.

(Alisha Skalzo): Yes. That would be helpful.

Bill Decker: Thank you.

(Alisha Skalzo): Okay. Thank you.

Bill Decker: Next question?

Coordinator: Your next question comes from (Marie Ammo). Your line is open Marie.

(Marie Ammo): Hi there. We still have a few questions that we would like to ask. We wanted to make sure that our con - if we understand this correct, our contact point at CMS for UAT activities would that be our EID representative who will be identified after we register?

Barbara Wright: Yes. You will get an EID representative who is assigned to you during registration, and, you know, COBC EID representative.

(Marie Ammo): Okay. The other question we've got is you guys were saying we could use pseudo TINs for every employer that is not available. The question we have is can we use the same pseudo TIN for every employer or do they need to be distinct for each employer?

Man: Go ahead...

((Crosstalk))

Barbara Wright: They do need to be distinct because we want to have a separate name and address associated. It is, you know, that is the...

Man: Yes.

Barbara Wright: ...the important information that we need. So for each employer that you do not have the TIN for during this period of extension that you have, make up a fake TIN or a pseudo TIN for each one of them so that you can report them on your TIN reference file with a unique name and address for each.

(Marie Ammo): Okay thank you. The next question we've got is we wanted to get a clarification. Do we need to - if we do not get an SSN, are we supposed to send this record or not if we do not have the SSN?

Man: No. There is no point to it because we will not find it.

Woman: When you...

Bill Decker: It is either an SSN or a Medicare ID number, one or the other.

(Marie Ammo): Right.

Bill Decker: If you do not have either, there is no way we can match those on Sunday.

(Marie Ammo): Okay, another clarification. Just a few minutes ago you had stated that if the employer size is less than 20, we do not need to report it. Is that a true statement?

Man: It was a qualified statement. We made it clear that we were talking about situations where the employer was not involved in a multi-employer multiple employer group health plan.

Where they are involved in a multi-employer multiple employer group health plan they do have to report and report accurately on employer size which

takes into account the size of the largest employer in that multiple employer multi-employer group.

Woman: Damn it.

(Marie Ammo): Okay. Another one we wanted to clarify is if we have a - if we are reporting on a customer and if we only have them active that we need to report on for like one month, and if we go ahead and send over the transactions or the records within the effective date and the term date, if there are errors on those that are reported back by COBC are we responsible to correct them and resend them?

Woman: Yes.

Man: Yes.

(Marie Ammo): For how long, until it actually accepts?

Woman: Yes.

Man: Yes.

(Marie Ammo): Okay, the other question we had was, is how - are we going to get more information on our documentations for the due diligence where I think everybody has it where we are trying to go ahead and we try to get information, but you do not have it.

Barbara Wright: As we said earlier in the call, there is a document out there right now on GHP compliance. You should read that. We are going to be issuing further

information on that at a later date, but that is what we have available at this time.

Bill Decker: The one document concerning due diligence the way you put it that is available to you now is already on the Web site. It is the document (about) GHP compliance. We will be adding new information to the Web site over time regarding compliance, which is the way we look at due diligence. And you will see that new information as it becomes available.

(Marie Ammo): Okay, our last question is on - is there a way that your user document here, is there any point where you are going to state it as done, it is over with, it is signed off that no more changes are going to be made so that - because when it comes to April that, you know, we can state that okay we have met all of these requirements?

Man: I mean obviously nothing is really ever final. But in terms of, you know, the question will we spring some massive change on you and expect you to still meet those deadlines obviously not.

We can never made a 100% guarantee that a requirement will never change because again as healthcare policy changes, healthcare operations changes, I mean we have to try to...

Man: The law.

Man: Yes, and the law changes as well. We have to be able to...

((Crosstalk))

Man: ...you know, address those issues as they come up, but for the most part I would say that, you know, this thing is pretty much set. So I do not anticipate anything that would be truly substantive changes to this user guide.

Pat Ambrose: As far as your coding for your test files in April the major things that are happening in the next update is to add the response file trailer. That is a record that the COBC is creating and sending back, and, you know, it has always been there, we just forgot to document it or I missed putting it in the guide.

And then the other changes that minor format change to the query only, the flat files that are input to the Q software that create the query only files. I do not anticipate any other, you know, changes that would affect your coding, but there are policy issues that are still outstanding that may affect how, you know, what records you report and how you report them.

Barbara Wright: For the most part, if you look at the changes we have made in the last couple months at least, the changes we have been making are ones that give you more time to report or add certain extensions. They are not ones that really change what ultimately needs to be reported.

Man: And for the group health plan we have been doing this for quite a while and there were very few changes made to the old voluntary process to reflect the new requirements of Section 111, so.

(Marie Ammo): Okay I am sorry, I have got one more question. If we - when we send over records and they are returned for an error, and if we end up having changes in between that time, do we go ahead and just send one record with the latest changes on it?

Woman: Yes. Well, no.

Man: (Unintelligible).

Man: No, no, no. If the informa - if that record did not post and there was say some changes did not affect the uniqueness of the coverage record, then yes, just send over the changed information as an add the next time around again.

(Marie Ammo): Okay. That is what I needed.

Man: Yes. It is only - the only time you would need to potentially send two records is if someone's coverage for example changed. You know, they have changed one plan to another. It is like that is an obvious you have to resend the old one and then it is now send the new coverage as well, so. But where like, you know, an employer address or something like that changes, just reflect that in the new record.

Barbara Wright: You are - and (John) you are saying that they do that in the next quarter or in the...

(John): The next quarter, yes.

Pat Ambrose: The next quarter, right?

Barbara Wright: Yes, we do not want any interim files.

Man: I think that was more your question was whether you sent it right away or waited until your next file submission.

(Marie Ammo): No, I figured the next file submission, but I just wanted to make sure that on the next file submission we could send the updated one with the corrected

information. You know, it errored off for some reason for field A or B and we correct that, but there was another issue or some other data got updated, we wanted to be able to send that all in one.

Pat Ambrose: Yes, we do not keep any record. I guess this...

(Marie Ammo): Okay.

Pat Ambrose: ...might be - we do not keep a record of those records you send and we rejected for errors. It says no, they never came to us. So...

Man: That is why for example...

Pat Ambrose: ...there is no matching or anything.

Barbara Wright: ...it does no good to send something that does not have a social security number or a HIC number because we do not retain it at all. When we reject that because we cannot process it, we keep no record of that.

(Marie Ammo): Okay, that is all we had. Thank you.

Man: Thank you.

Coordinator: Your next question comes from (Helen Lawyer). (Helen) your line is open.

(Helen Lawyer): Yes. We would just like to have some clarification. If a person does not have a social security number or a HICN number, what is it that we are supposed to do?

Bill Decker: Yes, if you were considering sending us any information about that individual and they have neither an SSN nor a HICN, don't. There is no way we can match that individual against our database.

Pat Ambrose: If they don't have either of those, they do not have Medicare coverage, so.

Bill Decker: Yes, thank you. Well certainly if they do not have an SSN at all, they will not have Medicare coverage at all, that is true.

(Helen Lawyer): I mean so, is there a requirement from Social Security that, you know, when a child is born or at some point they must get a social security number?

Barbara Wright: I believe they have to have it by the age of five or has that been reduced?

Man: I think it is now three months.

Barbara Wright: Okay, they definitely have to have it when they are very young. At one point it was age five and someone here is saying they believe it is now three months.

Man: Again, if they do not have it, they do not have Medicare so...

(Helen Lawyer): Okay.

Man: ...it is kind of beyond our control and scope.

Barbara Wright: Now there could be some very old beneficiaries at this point that were connected to railroad employment that their Medicare number takes into account a railroad number that is not exactly like the social security number.

So it is not entirely fair to say there is never a situation where someone could not have Medicare without a social security number. On these very old, sort of grandfathered in issues, but anyone that is currently of relatively young age or anything else, the only way they can be on Medicare is if they have a social security number and a health insurance claim number which will either be based on their own SSN or for example the SSN of a spouse or parent in certain circumstances.

(Helen Lawyer): So that is the difference because we have been trying - I was trying to confirm what the difference - we always thought your HICN was your SSN, but the difference is your HICN could be a parent's social security number or a spouse's social security number.

Barbara Wright: Under limited circumstances, for instance, and it is getting more rare as everybody is in the workforce etcetera. But for example my own mother did not have a social security number until maybe 20 years after she was married.

She was in the military and had a military number, but she never was employed under a social security number. And so her Medicare coverage was based on my father's record and her Medicare number was his social security number with a B after it. You have widow or widower benefits with a D. You can have disabled adult children that have a C.

(Helen Lawyer): So if a spouse for example, a woman never worked, she...

Barbara Wright: If she has Medicare, she typically has it on the basis of her spouse's.

Man: Yes, or someone else's.

Pat Ambrose: Right, but we will be sending you files that may include - that would include people who do not have Medicare. It is like a person who is 45 years old they are not going to have Medicare...

Barbara Wright: Well if they do not have a social security number or a Health Insurance Claim Number you are not going to submit them. And if they have a social security number, our records will turn up that they have no Medicare coverage.

(Helen Lawyer): Okay.

Man: If they do not.

Barbara Wright: If they do not.

(Helen Lawyer): All right. And an additional question, do you consider seasonal employees to be part-time employees?

Barbara Wright: Let us give you the regulatory sites again. The regulations best define how you determine the number of employees, and it includes both full and part-time. Bill did - we are going to take just a second and look for the two regulation sites again.

(Helen Lawyer): Okay. And so I, just to confirm...

Barbara Wright: We are still looking for the regulation site.

(Helen Lawyer): Oh sorry.

Bill Decker: Of GHT, it is more like a point 1 0 2. I think the other one (unintelligible).

Barbara Wright: One of the sites is 42 CFR 411.102. But, it takes into account what your number of employees was for a particular period of time and it takes into account both full and part-time employees, but you need to really read the definition in the regulations.

(Helen Lawyer): Okay, so basically though it sounds like even though we do not necessarily insure part-time people, they would still be - have to taken into...

Barbara Wright: Yes. Let us reiterate that. We did say that earlier this call, but when you are counting employer size, it is based on the number of employees that you have, not the number of covered lives under the coverage you offer.

(Helen Lawyer): Right. Thank you.

Bill Decker: The other one is 411.70A

((Crosstalk))

Barbara Wright: The other site is 42 CFR 411.170...

Man: A.

Barbara Wright: ...A.

Man: Two I.

Barbara Wright: Okay, 411.170A2I. And the first one again was 42 CFR 411.102. And CFR for those of you who are not familiar that is Code of Federal Regulations.

Man: All available online.

(Helen Lawyer): So, just one other question. So if we have, for example, when it comes time to report after July 1, if we have an individual employee, social security or health insurance claim number, but we do not have it for their dependents, should we send the employee's?

Barbara Wright: Yes.

(Helen Lawyer): Because I know we have a period of time for older groups to get - or for people who were hired who were hired prior to 1/1/09?

Barbara Wright: You have an extension to get dependent information. We expect you to (unintelligible) information starting with your initial report.

(Helen Lawyer): Okay, so we will not get rejected for that employee because we did not have their dependents social security number.

Barbara Wright: No.

(Helen Lawyer): Okay great.

Man: So, I mean do not include them on the file though.

(Helen Lawyer): Right.

Man: If you do not have the extra (spend).

(Helen Lawyer): Right, but we should show that - perhaps we will know if they have like employee and dependent coverage, so we should indicate that even though we are not going to send the dependents.

Man: Oh yes, the prime, yes, the primary policyholder, yes.

(Helen Lawyer): Okay. And it is - this would be for any person hired 1/1/09 or later we should have the social security number.

Barbara Wright: This would be for any person where your coverage is effective 1/1/09 or later even if, you know, if you hired them earlier than that, if their coverage, including their dependent coverage was not effective until 1/1/09, we expect you to have obtained that information by the time you submit the record.

(Helen Lawyer): Okay, thank you. Are there any - is there anything written about what happens if by some chance let us say our IT people could not have this file ready by, you know, 7/1 by our initial date?

Barbara Wright: Well again what we are back to is you can look at the documents that is on the Web site that talks about GHP compliance in general, what it takes to generally be in compliance. And once you - as we said at the beginning of this call, you need to register and arrange for testing, even if you do not have the data.

And once you have done your registration, including returning the profile etcetera, you will be assigned an EDI rep. And that EDI rep will work with you to help you make the dates and make any adjustments if necessary for some reason.

Man: Yes, the best advice that CMS can provide is that, you know, we do expect everybody to register within the timeframe. And if people do that, then they, you know.

Barbara Wright: But I think it will give you some reassurance if you go back and read the GHP compliance document that is on the GHP page on our Web site, and also make sure that your timely registering and moving forward as fast as possible.

(Helen Lawyer): Thank you. That is it for us. Thank you.

Coordinator: Your next question comes from (Steven Marlow). (Steven) your line is open.

(Steven Marlow): Yes, my question is what are the obligations if any of the plan sponsor that is a state government to provide social security numbers to the responsible reporting entities?

Barbara Wright: Well we expect employers to respond to requests that information, you know, is asked for in terms of TINS or social security numbers, if you go to our Web page we have had up since I believe June of last year an alert that explains why this information is needed and that entities, you know, needed to comply with Federal law.

And that alert actually even as its last line says that no one - so they know it is an official document it gives them the site on our Web site so they can go and look it up and make sure that it is in fact a government - an alert and that we are saying collection of this information is appropriate.

(Steven Marlow): Well, it is - okay. So the responsible reporting entity which are the insurers, that is not the plan sponsor. So the plan sponsor is expected to collect the social security numbers?

Barbara Wright: We are not defining how the responsible reporting entity gets it. If in a particular circumstance the plan sponsor would be the most appropriate person to work - entity to work through we assume they will do that. If there are

situations where it would be more expedient to go directly to an employer they may do that.

We are not defining that. We cannot offer legal advice or dictate how you will do certain things, such as earlier on this call someone said they believe that we said you should stop coverage if you cannot get an SSN. We cannot give that type of advice.

(Steven Marlow): Right. Well I guess, just so you are aware, I mean there is this thing called the Privacy Act. It is at 5 USC Section 552A which prohibits the government entity from denying a benefit when the beneficiary refuses to provide his or her social security number. So.

Barbara Wright: If you are talking about that in terms of refusing to provide social security Medicare, if someone refuses to provide us with numbers or anything, keep in mind, I think we have given the sites two or three times on the call that 42 CFR 411.23 and 411.24 mandate cooperation of beneficiaries with respect to coordination of benefit activities.

(Steven Marlow): Right. So I think the responsible reporting entity, which are the insurers which are the ones subject to this act, I think the way you are saying it, which are the ones that can demand the social security numbers and, you know, they are the ones required by the act to report to you the social security numbers.

But the plan sponsor is not required to report to you and so therefore it seems like, and I think that what you are saying is however the responsible reporting entities can get it is up to them, that the plan sponsor has no obligation to provide the social security numbers to the responsible reporting entities.

Barbara Wright: I do not believe we are going to make a legal call on exactly what the obligation is between a plan sponsor and an employer. I mean...

(Steven Marlow): Okay.

Barbara Wright: ...we are not privy to those contracts or anything else.

(Steven Marlow): Okay. Because I mean that...

Barbara Wright: So.

(Steven Marlow): ...the statute there at 1395Y and then the B7A, it states that an insurer or third party shall secure from the plan sponsor and plan participants then such information as the secretary shall specify, and the secretary specified social security numbers.

Barbara Wright: Right.

(Steven Marlow): So you are saying secure does not require us in this case, the plan sponsor.

Barbara Wright: I am saying that we are not going to give a legal opinion in terms of exactly what secure means. I think that the plan sponsor, based on the statutory alone, have a reasonable expectation that they are going to be asked for this information and should cooperate. If you are not...

(Steven Marlow): The plan participants? I am sorry, did you say the plan participants or plan sponsors?

Barbara Wright: Well you just read me plan sponsor and participant.

(Steven Marlow): Good.

Barbara Wright: If you are asking for us to say that legally you have no obligations, I mean, you are reading the statutory language towards yourself. And I am not sure why you have a question if the statute itself says that. I think that...

(Steven Marlow): Okay, so you are saying that...

Barbara Wright: I think we are missing your point.

(Steven Marlow): All right, okay. Does the plan sponsor have an obligation under this act to provide social security numbers to the responsible reporting entities, yes or no.

Barbara Wright: Well it says secure from the plan sponsor and plan participant. What in that to you does not mean that the plan sponsor should cooperate if they have that information? If you want to get into a legal debate, this is not the forum for that. So.

(Steven Marlow): So the plan sponsor should be, I guess, collecting them and then transmitting them to the responsible reporting entities?

Barbara Wright: I think that is a reasonable interpretation. But I, is this a place for us to give you a finite legal opinion on that? No.

(Steven Marlow): So but you are leaning towards saying then that the...

((Crosstalk))

Barbara Wright: I am...

Bill Decker: We are not leaning towards anything.

Man: We are not leaning towards anything right now.

Bill Decker: We are going to move onto the next question now.

(Steven Marlow): Okay, thank you very much.

Bill Decker: Operator?

Coordinator: Your next question comes from (Scott Durg). Your line is open.

(Scott Darer): Yes, this is (Scott Darer) of Blue Cross of Idaho. Two questions, one is about the small employer exception. We are a little bit unclear as an insurer how this process works. And we are finding most of our small groups do not know either. And it is almost expected that we should educate our small groups about it.

So we would like to know more about the process of the small employer exception, how it works, who gets paperwork to them...

Barbara Wright: And.

(Scott Darer): ...and all that kind of stuff.

Barbara Wright: Right. Where you need to go to find this information is on the Coordination of Benefits Contractors Web site. We have detailed instructions.

Man: Well yes, it is the CMS.

Barbara Wright: It is the CMS Web site with...

(Scott Darer): We have got all those documents.

Barbara Wright: ...and if there is something specific you do not understand because the process to obtain this small employer exception is lined out.

(Scott Darer): Okay. Well I guess we will undertake studying that more thoroughly.

Barbara Wright: I mean, insurers have a responsibility to know whether or not they are primary and pay appropriately. And in a situation where there is a multiple employer/multi-employer group health plan, in order to make that determination they need to have information about employer size.

If any employer was in a multi multiple employer group health plan has 20 or more, then the working aged provisions apply to all the employers in that plan unless the employer has requested - I am sorry, I should not say employer - unless the plan has requested the small employer exception and had that request granted by the COBC or specific beneficiaries for specific time periods.

(Scott Darer): Okay.

Barbara Wright: And similarly, we get questions about if MSP, the MSP occurrence is based on disability. And we are talking about in large group health employers with 100 or more, there is no equivalent of the small employer exception.

If any employer in a multi multiple employer group health plan has 100 or more, then the disability provisions apply to every employer in the group health plan.

((Crosstalk))

(Scott Darer): Okay.

Barbara Wright: As we have said before, group health plan size is not relevant for ESRD.

(Scott Darer): All right. And I have one other question about, and I hate to revisit it again but active coverage individuals in a GHP. Our Medicare Advantage and our individuals who we insure whom you said earlier we should be sending down into the MSP process, they are not attached to an employer at all. And so we need some clarity about...

Barbara Wright: I do not think we ever said, and certainly no one meant to say that every single individual that is in a Medicare Advantage plan is someone that needs reported.

The reporting is limited. The discussion we are having here today is limited to when there is group health plan coverage.

(Scott Darer): Okay.

Barbara Wright: And if that group health plan coverage is in fact primary to Medicare, then those individuals should be reported if they are “active covered individuals” as we define them in our document.

If they are on the other hand clearly in a situation where Medicare is second - Medicare is primary, for instance a retiree, then that person does not get reported.

We do not want whole files of retirees coming in here in situations where we are clearly primary.

((Crosstalk))

(Scott Darer): All right.

Man: MSP records by mistake.

(Scott Darer): Thank you.

Bill Decker: Next question Operator?

Coordinator: Your next question comes from (Carol Leachman). Your line is open (Carol).

(Carol Leachman): Thank you. First question, Pat Ambrose I believe it was earlier in the call was talking about the non-MSP and MSP files. And she made the statement that both could only be sent quarterly. I thought the non-MSP could be sent at up to once a month.

Pat Ambrose: You are correct.

(Carol Leachman): Okay.

Pat Ambrose: I think I was referencing more along the lines of not setting up an RRE ID for specifically for the query only or specifically for the non-MSP.

(Carol Leachman): Okay thank you. The other question I have is on the term that has been used a couple of different times about validating TINs. Could you explain exactly what CMS means when they say they are going to validate TINs? Are you just going to run it to see if it is a good tax ID number? Are you going to match it to names? What?

Man: Yes. I...

Pat Ambrose: We are validating against sources.

Man: What is her name?

((Crosstalk))

(Carol Leachman): So, okay, so if I - if an employer actually - if an employer group actually purchased coverage with us using a DBA name, Doing Business As, not the name as it exactly shows on their IRS record, we are going to get a compliance error?

Pat Ambrose: Actually we are only checking the number itself. I misspoke. And we do request the name and address of course on the TIN reference file. However, in our validation of that TIN, we are just using the nine digit number and validating...

(Carol Leachman): And you are...

Pat Ambrose: ...and validating that it is a valid IRS assigned Tax ID Number.

((Crosstalk))

Bill Decker: And through the validation...

(Carol Leachman): Okay, could that...

Bill Decker: ...through the validation process, we will find the name and address associated with the TIN.

(Carol Leachman): Correct.

Bill Decker: You may have a different one.

(Carol Leachman): Okay. Could that be clarified in the next version of the user guide because that is - we have heard different things and that is kind of a scary thing for us.

Pat Ambrose: Sure. And...

(Carol Leachman): Thank you.

Pat Ambrose: ...you know, the name and address that we want on the TIN reference file is as Barbara said earlier the name and address to be used when Medicare is going to send mailings...

Man: Right.

Pat Ambrose: ...to that entity.

Man: Yes.

Pat Ambrose: So obviously, you know, if we were requiring the IRS defined name and address that could be a problem for you, so.

(Carol Leachman): Very much so. Thank you very much.

Man: Yes, but again, we are just validating that it is a valid EIN number.

(Carol Leachman): Okay thank you.

Man: Okay.

Coordinator: Your next question comes from (Brenda Hooper). (Brenda) your line is open.

(Brenda Hooper): I have a question about Taft-Hartley group and how they are included with the small employer exception. There has just been some questions surrounding that and from I am understanding from the folks I am dealing with here is that all employees have the same benefits with the Taft-Hartley groups and so they really should not be included in that. So is it necessary to go out and find out that - ask that whole question of them?

Barbara Wright: I am - you are going to have to expand on your question a little bit.

(Brenda Hooper): Okay. So when we sent out letters to our group here, one of the things we are asking them is about indicating if they are (Obra, Tep or Depra) status. And the question is do we have to ask that question of the Taft-Hartley group?

Man: Yes.

Barbara Wright: Hold on just a minute please.

For our purposes, for the reporting we have asked for - what we have said is when it is a Taft-Hartley group that instead of reporting the employer specific name that you are reporting the plan sponsor name and TIN information.

(Brenda Hooper): Okay.

Barbara Wright: And when you do that, we use that in determining how we will pursue further recovery if we do recovery. But I am not sure that the questions you are asking the employer are something that we have asked you to ask.

(Brenda Hooper): Um-hmm.

Barbara Wright: I am not sure we have a stake in that part of it.

(Brenda Hooper): Right. Right. Well we actually held off asking them, so that is a good thing. So, (actually)...

Barbara Wright: But if they do - if you were not and we know that some groups were not, others were not, did you absolutely need to know employer size in order to be answering questions appropriately. Whether or not it is your plan sponsor or plan administrator presumably can assist you if you need information for a particular employer to answer a question correctly about whether or not any employer in the group has more than the requisite 20.

(Brenda Hooper): Okay. Your first - when you first replied you - I was clear on that. And your other part just confused me. So I think I am going to go with the first part that I am okay with, to be honest with you.

The other thing I am curious about is does CMS require obtaining the social security number for 45 - age 45 and above or do we have to get the below 45 age?

Barbara Wright: You - it is not a matter of getting it for everybody, it is that what we have suggested or, you know, want reported is everybody 45 and up. But if there is an individual who is a Medicare beneficiary who is below 45, you still have an obligation to report that person.

We are not asking you to report the whole universe below 45, but you have to know anyone who is below 45 and is a Medicare beneficiary.

Pat Ambrose: And in fact the system has an edit in it that if you report someone under the age of 45, you have to submit the HIC number.

((Crosstalk))

(Brenda Hooper): Okay, great. Thank you. Okay. The other question that was asked is that if there is a third party administrator involved and they send their information about, not TIN numbers but like social security numbers, can they send the file direct to CMS or does that have to come back through us, the carrier?

Barbara Wright: Whoever is the responsible reporting entity is the one that has to submit the information, whether they do it directly or through an agent. But no you cannot do any type of split files if that is what you were looking for, or if someone who is a TPA who is not a responsible reporting entity, they cannot automatically assume responsibility and do something directly.

The only way someone should be reporting under 111 is if they are actually the responsible reporting entity, or they have an arrangement with the responsible reporting entity to act as their agent for reporting purposes.

Pat Ambrose: You can set up two different RRE IDs. And if you, you know, if you had a situation where you wanted an agent to send one set of MSP information and another agent send another set of MSP information like for different plans, so the RRE must initiate both registrations and get two different RRE IDs and then you could have just separate agents or, yes, separate agents sending it, or the RRE could send one file and the agent send the other file.

But again, the RRE is ultimately responsible and they have so two separate reporter IDs.

Barbara Wright: The other thing we have had asked is people have said well can I have my TPA submit data elements one through ten and another one submit the other elements because I have things in separate files. And the answer on that is no.

You can have multiple RREs but when an RR - ID with multiple agents. But when a record comes in, it has to be complete information for that person. You cannot have two separate records submitted by two different agents concerning the same individual for the same period of time.

(Brenda Hooper): Okay, thank you. And then I had another question in regards to, let me see here. No I think actually that took care of that. Okay. I think I am okay.

Barbara Wright: Operator, can you tell us how many questions are queued up?

Coordinator: You have 28.

Bill Decker: Okay, let us keep going.

Coordinator: Your next question comes from (Julie Cox). Your line is open (Julie).

(Julie Cox): Hello. My question has to do with a further definition of group health plan. We are a third party administrator who is also an RRE for not only major medical self-funded plans but also self-funded and fully insured non-traditional group health plans such as Limited Benefit Medical Plan.

And so we would like to get further clarification on if those types of outlier plans if you will the limited benefit medical plans are also required to report.

Man: What exactly do you mean by a limited benefit plan?

(Julie Cox): Specifically indemnity based benefit plans.

Man: Yes.

Bill Decker: Yes we are required to report?

Man: I believe so.

Bill Decker: All right.

(Julie Cox): Easy enough. Thank you very much.

Bill Decker: Next question.

Coordinator: Your next question comes from (Aaron Lough). Your line is open (Aaron).

(Aaron Lough): Yes hi there. Thanks for taking my question. I guess this is a compliance issue. I have noticed that, you know, a number of group health plan providers have subscribers who will not reveal their social security numbers for the purpose of protecting themselves from identity theft.

And CMS has responded on previous calls roughly with, you know, why would an insurer cover someone who does not want to give up their SSN? And I have noticed that the answer, you know, seems to me to be covered in U.S. Code 42 1395B which says, I will paraphrase here but, you know, it is easy to look up.

Nothing in this law shall be construed to preclude an individual from purchasing health insurance. You know, the intent of the law seems pretty clear there. If plans threw out subscribers because of CMS and social security requirements in its implementation of 1395Y, you know, it seems like they will be in violation of 1395B.

Some of that stuff, you know, the text of the U.S. Code is pretty hard to wade through. So people are taking cues from you guys.

Barbara Wright: Well then let us reiterate that we cannot give you a legal opinion about dropping anyone from coverage. But under the statutory provisions for 111, RREs have the responsibility for obtaining and reporting information...

(Aaron Lough): Well...

Barbara Wright: ...on people who are Medicare beneficiaries.

(Aaron Lough): Right. But I guess, I mean it seems, forgive me for being forward, but, you know, it seems like you are kind of ducking our questions about the lack of

social security numbers. You know, you are not defining how plan sponsors obtain them. You do not care how they do it. But you are going to require that you get them for Medicare eligibility checks even for people who are not on Medicare and have no legal obligation to provide them to their plan provider.

Barbara Wright: If you do not - keep in mind that if you do not report someone for whom we are - if it is a person that we are not secondary for...

(Aaron Lough): Uh-huh.

Barbara Wright: ...the failure to report that person cannot result in a penalty.

(Aaron Lough): Okay, no penalty. Well is it, I mean here is the problem. Is it - I - it is clear to me that that is not being conveyed to group health plan providers. And I will tell you why.

I am a subscriber. I instructed my employer many years ago to never provide my social security number to insurance companies. And that has not been a problem until recently. The health insurance, you know, for me and my beloved was dropped on January 1st and I just found out about it a couple of days ago.

So I felt it was important to come here today and point to you guys, you know, Mr. Decker, Ms. Wright, Mr. Albert, that your threats to fine insurers, well at the same time being vague, you know, about how they can avoid that is affecting real people right now.

Barbara Wright: I believe Mr. Albert has said on more than one call that while we have set up this process for active covered individuals...

(Aaron Lough): Um-hmm.

Barbara Wright: ...that failure to provide information on someone for whom we are not secondary is not being non-compliant. That is not something that someone can be given a penalty for. And I think we have said that more than once. But...

(Aaron Lough): Well, okay I...

Barbara Wright: ...what I would also say is...

(Aaron Lough): Put it on your Web site please because my insurance provider drops me and they point me to your Web site for why.

Barbara Wright: I...

(Aaron Lough): I am, you know, I am...

Barbara Wright: I would like - we would be interested in knowing specifically where on our Web site you are being pointed.

(Aaron Lough): Oh okay. That I think, you actually gave the address right at the beginning of the call. I received notices from two providers, Premara Insurance who, you know, I think is a fairly large provider and also Great West. And they listed it as the www.cms.hhs.gov/...

Barbara Wright: Oh I - we are aware of our Web site, but...

(Aaron Lough): Yes.

Barbara Wright: Is all they are just vaguely saying...

(Aaron Lough): Put it there.

Barbara Wright: ...go to that Web site?

(Aaron Lough): Well no, they are saying, you know, they are saying that due to the new government requirements and if you, you know, you press them for details and it is U.S. Code 42 1395Y that, you know, Section 111 reporting requirements, you know, we all know what they are, people have been asking you guys this same question. What do we do when we do not have social security numbers? And you guys are saying we cannot make a legal call on what plan providers, you know, should do.

But, you know, why would you guys cover someone who does not want to give up their social security number? And they will hear you. They are taking those cues and they are dropping people.

So, you know, I think that you guys have a responsibility to clarify that and describe, put right up front, you will not be considered in non-compliance if you do not report somebody who is not eligible for Medicare and they do not have an SSN to give us. That is what I am saying.

Barbara Wright: Okay, we appreciate your comment.

(Aaron Lough): So, I just - if I actually had to ask a question, it would be to what extent did you consider 1395B when you imposed your requirements to implement 1395Y?

Barbara Wright: We...

(Aaron Lough): That is the question.

Barbara Wright: We need to have social security numbers, yes, or Medicare health insurance claim numbers in order to complete our process. And also if someone is a beneficiary, which I believe we have said on this call and some of the others, if they are a beneficiary, they are required to give us information for purposes of coordination of benefit matters.

So if in fact you are a Medicare beneficiary, I am not saying you are, but let us say...

(Aaron Lough): Yes, I declared very clearly the situation. For someone who is not a Medicare beneficiary, and they are not providing their social security number to their plan provider, you know, you need, I think that you need to do a better job of being up front with group health plan providers that they do not have to drop those people. They are not going to get fined, because that is what I am hearing from more than one group health plan provider. And this is just as a person trying to buy health insurance.

Barbara Wright: Okay we...

(Aaron Lough): Okay.

Barbara Wright: We hear you loud and clear.

Man: Yes, we hear you loud and clear...

(Aaron Lough): Okay.

Man: ...and we will try to offer some clarifying information regarding that. You know, the process for the GHP reporting was, you know, set up with - based on best practices from past experience with other voluntary data share agreement partners that have been doing this for as long as ten years.

And there are multiple ways to satisfy the reporting obligation, but one thing I will state, you know, without waiver, and that is if the person is not a Medicare beneficiary, there is no need to report that person to us.

(Aaron Lough): I am aware of that. And I got to tell you, explaining this to some of the group health plan providers, you know, is really difficult. Now, we have heard other group health plan providers even today ask you guys what should they do.

And your response to them has not been what you are just telling me right now which is that they have no obligation to report those people. Okay, that is what I am saying.

Man: But they do have an obligation to report the people that are Medicare beneficiaries.

(Aaron Lough): Yes, everybody understands that. That is a no-brainer.

Man: And...

(Aaron Lough): We are talking about the people that want to protect their identity and they are not Medicare beneficiaries. You are still saying to them, look you guys, you know, you are at risk of non-compliance if you do not at least send us their SS - get their SSN. We do not care how you do it. Send it to us for a Medicare beneficiary check.

They will fail the check and we will drop the information. But you are still telling them they are at risk for non-compliance and that is not right.

Barbara Wright: I believe the phraseology and we can go back...

((Crosstalk))

(Aaron Lough): I am just - I am telling you what they are hearing from you, what they are thinking.

Barbara Wright: I - we hear what you are saying, but I also wanted to say that I believe if you check the compliance document that is out there, it tells them how they can generally be in compliance. It is not phrased in terms of whether or not certain actions will in fact make that out of compliance.

And I realize you would argue that is splitting hairs, but when we are answering questions, we are trying to answer them from the angle that you have asked.

I think you raised a very important point, and, you know, we are going to go back and look at what we would need to do to put up on the Web site to make this clearer, but we had no - I do not think anyone has verbally here directly said if you do not report someone who is not a beneficiary you are still at risk. It has never been that type of phrasing.

((Crosstalk))

Man: Right.

Man: Have you ever submitted anything to the comment box, the CMS resource box?

(Aaron Lough): Yes.

Man: Okay. And again, if you want to add additional detail regarding the who's, what's and where's, that would be very helpful to us in terms of if we feel like we need to target some outreach because again, there has never been a requirement to coordinate benefits with people who do not have them, so.

(Aaron Lough): Right, right. Well I think that, you know, you, I mean if you go back through the transcripts, people have been asking this general question, plan providers have.

What do we do when subscribers will not, you know, they want to protect their social security numbers and they are not eligible.

Man: Right.

(Aaron Lough): You know, from the October 22 conference call on. So, you know, I - this is not new.

Bill Decker: Okay, just make sure you identify yourself and what the...

((Crosstalk))

Man: Yes, provide your name and contact information on the comment...

(Aaron Lough): Uh-huh.

Man: ...and then we can reach out to you directly.

(Aaron Lough): Okay you bet. All right, appreciate it, taking too much time. Thanks a lot.

Man: Thank you.

Bill Decker: Operator?

Coordinator: Our next question comes...

Bill Decker: Operator? Operator? We are out of time for calls today. We are going to have to stop the calls at this point.

Man: But we have another call scheduled.

Bill Decker: Yes, we have another call scheduled for next week.

Man: For the same - for the same group, so again, we appreciate everyone's participation as we work toward implementation on this. And again, we hope that most will be able to join us again next week on the next call.

Keep tuned to the CMS Web site and the alerts that we send out. If you are not subscribed to the alert function, whatever it is called...

Barbara Wright: If the document is not yet posted giving the password for next week, it should be up within a couple of days...

Man: Yes.

Barbara Wright: ...and we will go back and check and make sure...

Man: Yes.

Barbara Wright: ...it is being posted. But it is next week.

Man: Okay, thank you.

Bill Decker: And Operator if you could hold on for a minute, we would also like to know how many people were in the queue and how many people are participating.

Coordinator: Okay.

Pat Ambrose: John? Bill?

END