

# Medicare Secondary Payer and Certain Civil Money Penalties



*Non-Group Health Plan (NGHP)  
Webinar*

*January 15, 2026*

# Presentation Overview



Reminders



Maintaining Compliance



CMP Correspondence



Questions & Answers

# Reminders: Important Dates



**October 11, 2024**

CMP Final Rule applicable date and start of the “Compliance Clock”

**October 11,  
2025**

- CMP “enforcement date” for NF and L records
- MSP occurrences dated on or after 10/11/2024 must be reported within 365 days

**February  
2026**

- Anticipated completion of 1<sup>st</sup> CMP audit
- Random sample of 250 new, accepted records from the 4<sup>th</sup> quarter of 2025 (after October 11<sup>th</sup>) proportionately representing GHP and NGHP records

**March  
2026**

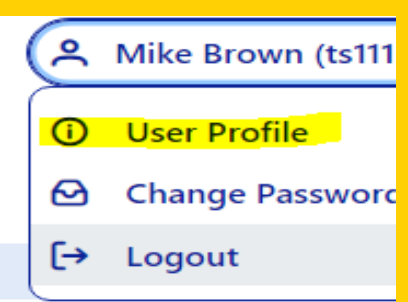
- Earliest mailing of Informal Notice, if a record is determined to be noncompliant

**July 2026**

- CMP “eligibility date” for WC records with settlements occurring on or after July 2025.  
❖ *Delayed due to April 2025 WC reporting issues.*

# Reminders: RRE Contacts

Log into  
COBSW, select  
User Profile



## Update Contact Information

- RREs will be held accountable should any CMP correspondence be missed due to inaccurate, outdated contact information.

## CMP Mailings

- Sent to Account Representative (AR) of record.
- Account Manager (AM) receives copy.
- **Reporting Agents will not receive CMP correspondence.**

## Contact Your EDI Representative

- To replace the named AR or AM.
- To update associated contact information.

## RRE COBSW User Profile

- To update to the AM contact information and RRE account information.
- Examples: address, phone, etc.

# Maintaining Compliance: Timely Reporting



An RRE is considered to have reported timely, or is compliant with the Section 111 reporting requirements, if their record is reported within 365 days of:

- ✓ The date of the settlement, judgement, award or other payment (TPOC Date or Funding Beyond TPOC Date, whichever is later), *OR*
- ✓ The effective date where ongoing payment responsibility for medical care has been assumed by the entity. (The date ORM was assumed (the date of incident (DOI) or the date the beneficiary became entitled to Medicare, whichever is later.)

**It is not the Reporting Agent's responsibility to ensure Section 111 records are submitted to CMS in a timely manner, if such a service is being used.**



# Maintaining Compliance:

## Rejected Records

### It is the RRE's Responsibility to:

- Contact the assigned EDI Representative,
- Determine the cause of the error, and
- Resubmit a corrected record within 365 days of the MSP occurrence.

### Helpful Resources

- 9/12/2024- GHP Reporting Webinar slides presentation
- NGHP User Guide
- ICD Code Exclusion List

# Maintaining Compliance: File Corrections

## TIN Errors

Delays the posting of records.

Invalid addresses are the most common reason for TIN errors.

TIN records should be corrected and resubmitted in a timely manner.

## ICD Codes:

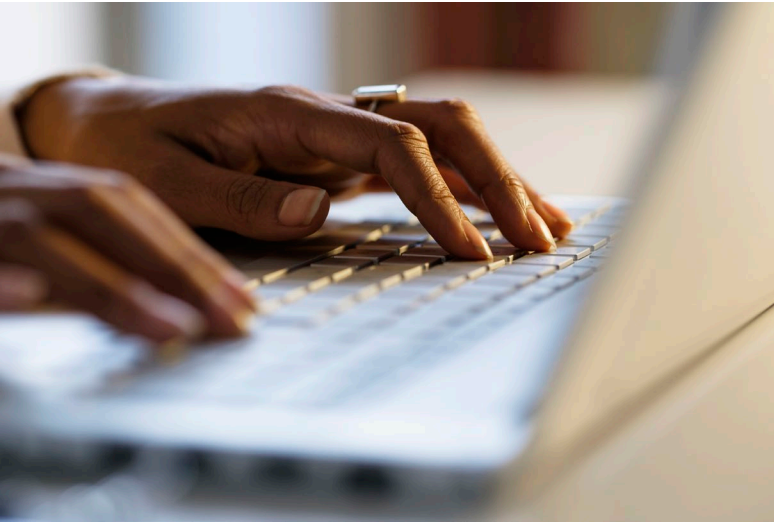
At least one (1) valid ICD code must be reported for the record to be accepted.

Codes on the excluded list should not be submitted. Refer to the ICD-9 and ICD-10 Valid and Excluded Diagnosis Code list.

Available under *Reference Materials* on the COBSW.



# Maintaining Compliance: “Good Faith Efforts”



## Resource Reminder:

*The MBI/SSN Collection- NGHP Model Language* is available for download on CMS.gov

- Rule requires RREs to make 3 efforts to obtain required beneficiary information and maintain accurate records reflecting each communication attempt.
  - **2 attempts** must be **in writing**, mailed or emailed, to the beneficiary and their attorney.
  - **1 attempt** can be made via **phone call, mail, or email**.
    - ❖ *Order of the communication attempts **does not matter**, only that 2 attempts were made in writing.*
- The safe harbor has been reached if the necessary methods of communication were attempted.
- If the RRE receives a written response from the individual or representative clearly refusing to provide any portion of the requested information, no additional communication attempts are required.
  - ❖ *For purposes of federal law, contacting the beneficiary is generally permissible.*



# CMP Correspondence: General Reminders



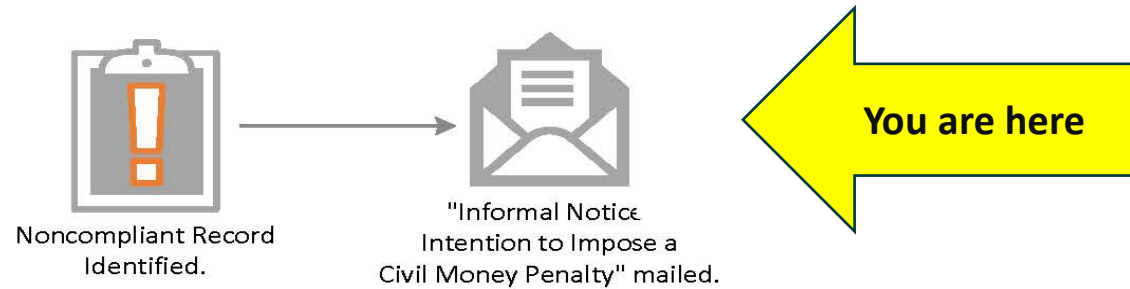
**CMP Workflow is available on CMS.gov and represents the process and correspondence RREs can expect.**

*Visit “NGHP Civil Money Penalties” on the NGHP Mandatory Insurer Reporting page*

- ☐ CMS **will only contact** RREs if a noncompliant record is randomly selected during a quarterly audit.
- ☐ An identified noncompliant record will be separately addressed under its own cover.
- ☐ Official CMS and COB&R letterhead will be used.
- ☐ The AR on record will receive the mailing.
  - AM will receive a mailed copy.
  - ADs, if used, will not receive CMS correspondence.

# CMP Correspondence: The 1<sup>st</sup> Notice

## Informal Notice – Intention to Impose a Civil Money Penalty

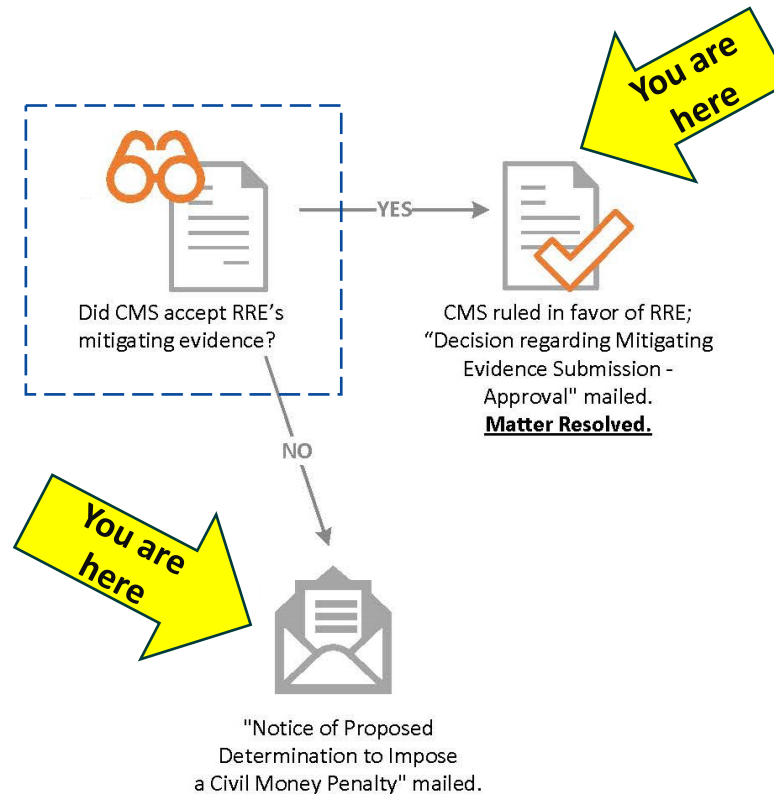


- Basis of CMS' determination and summary of noncompliant record.
  - Date of CMS Quarterly Audit = Applicable inflation adjusted rate
- Instructions on providing mitigating evidence related to technical or administrative issues resulting in noncompliance.
  - If RRE elects to submit this, CMS must receive response within 30 calendar days.

# CMP Correspondence: The Next Notice Will Vary

## Notice of Proposed Determination to Impose a Civil Money Penalty

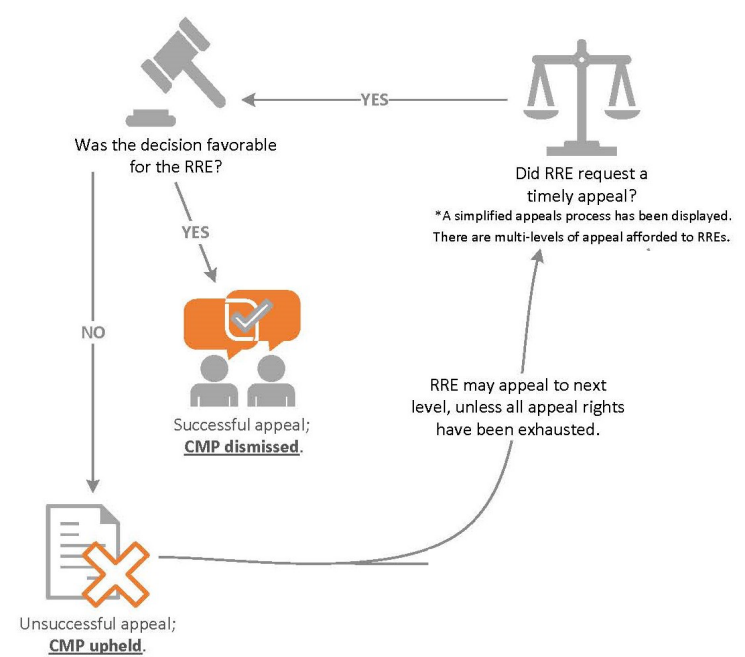
- Mitigating evidence was not submitted, was not received in time, **OR** was deemed insufficient.
- CMS proposes to issue a CMP.
- Appeal rights and instructions enclosed.



## Decision Regarding Mitigating Evidence Submission - Approval

- CMS accepted the RRE's submission of mitigating evidence.
- A CMP will not be imposed; no additional action is required.
- Decision pertains only to RRE's noncompliant record identified in the Informal Notice.

# CMP Correspondence and Appeal Rights: Brief Overview



The RRE has the right to:

Electronically request a hearing with an Administrative Law Judge (ALJ).

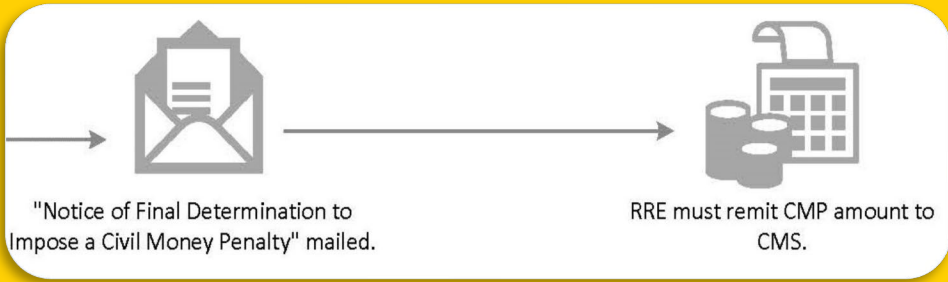
- Within 60 calendar days from receipt of Proposed Determination.

Appeal the ALJ's initial decision to the Departmental Appeals Board (DAB) Appellate Division (the Board).

- Within 30 calendar days of ALJ decision.

Petition for judicial review.

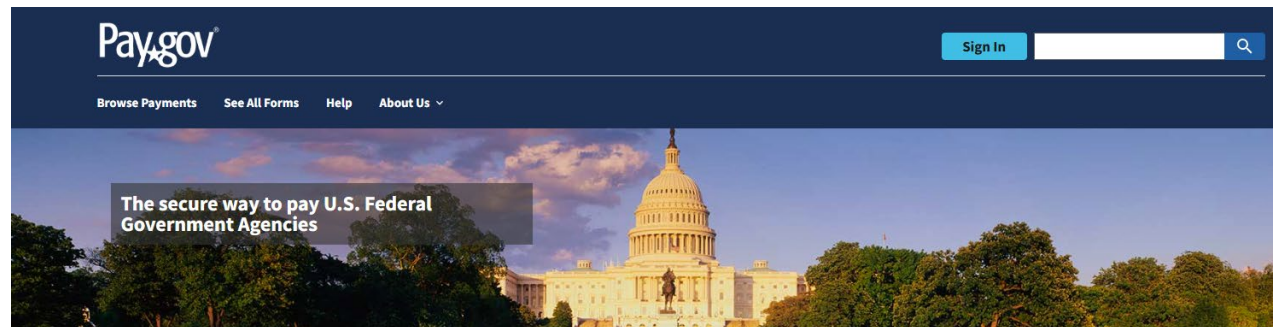
- Within 60 calendar days of the Board's decision, otherwise binding.



## CMP Correspondence:

### Notice of Final Determination to Impose a CMP

- The Final Determination is issued when the RRE:
  - did not file an appeal **OR**
  - exhausted all appeal rights.
- CMP is final.
- Payment is due within 60 days and is remitted via a Pay.gov *eBill*.
  - Instructions for account creation and payment process included.



# Question and Answer Session



- ❖ Please complete the Poll Questions at the conclusion of the Webinar.

**Questions and comments specific to CMPs should be directed to the CMS resource mailbox:**

[sec111cmp@cms.hhs.gov](mailto:sec111cmp@cms.hhs.gov)