

Medicare Secondary Payer and Certain Civil Money Penalties



Non-Group Health Plan (NGHP) Webinar

January 15, 2026

Updated March 18, 2026:

*Responses from the Question-and-Answer Session are
included at the end of the Slide Deck.*

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

**March
2026**

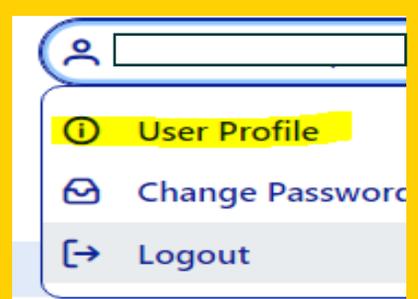
- Earliest mailing of Informal Notice, if a record is determined to be noncompliant

July 2026

- CMP “eligibility date” for *all* WC records with settlements occurring on or after July 2026.
❖ *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- RREs will be held accountable should any CMP correspondence be missed due to inaccurate, outdated contact information.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](https://www.cms.gov)

- Rule requires RREs to make 3 efforts to obtain required beneficiary information and maintain accurate records (for at least 5 years) reflecting each communication attempt.
 - **1 attempt** must be **in writing**, either mail or e-mail, to the beneficiary and their attorney,
 - **1 attempt** must be **via mail**, and
 - **1 attempt** can be made via **phone, mail, email, or any other reasonable method**.
 - ❖ *Order of the communication attempts does not matter.*
- 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](https://www.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.

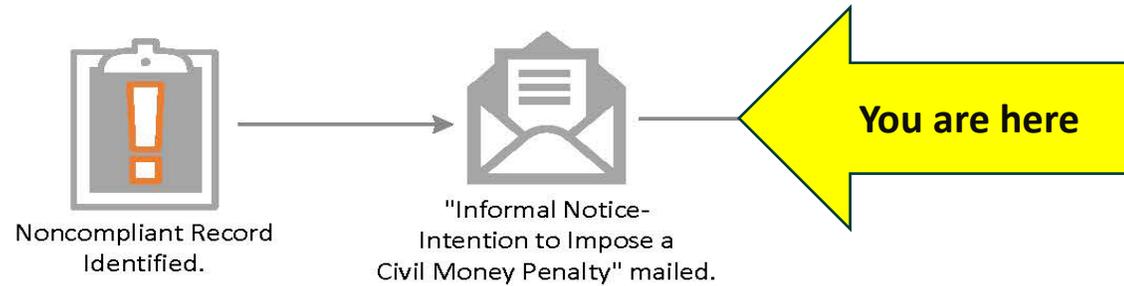
- ❑ An identified noncompliant record will be separately addressed under its own cover.

- ❑ 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 1st Notice

Informal Notice – Intention to Impose a Civil Money Penalty

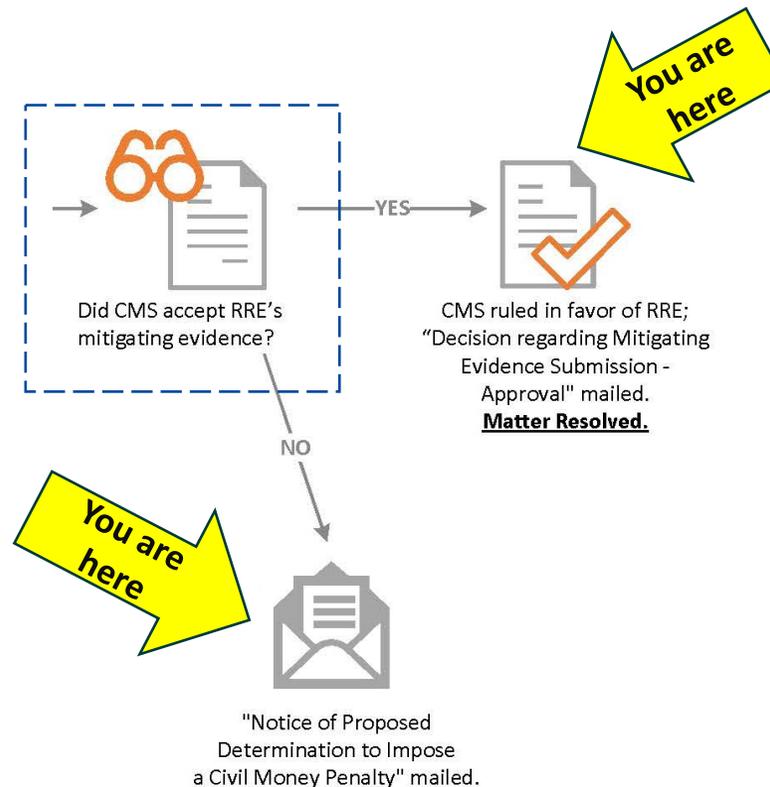


- Basis of CMS' determination and summary of noncompliant record.
 - Date of CMS Quarterly Audit = Applicable inflation adjusted rate
- Instructions on providing mitigating evidence related to technical or administrative issues resulting in noncompliance.
 - If RRE elects to submit this, CMS must receive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

CMP Correspondence: The Next Notice Will Vary

Notice of Proposed Determination to Impose a Civil Money Penalty

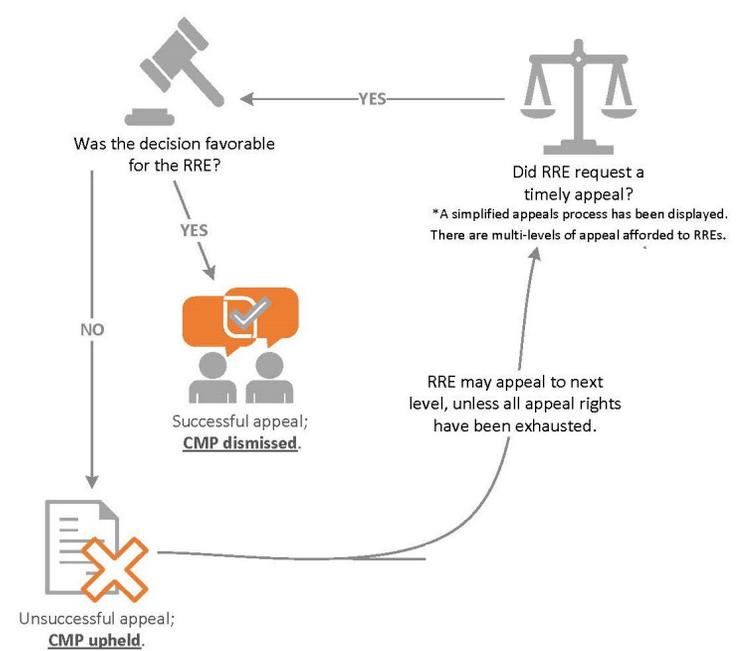
- Mitigating evidence was not submitted, was not received in time, **OR** was deemed insufficient.
- CMS proposes to issue a CMP.
- Appeal rights and instructions enclosed.



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.



"Notice of Final Determination to Impose a Civil Money Penalty" mailed.

RRE must remit CMP amount to CMS.

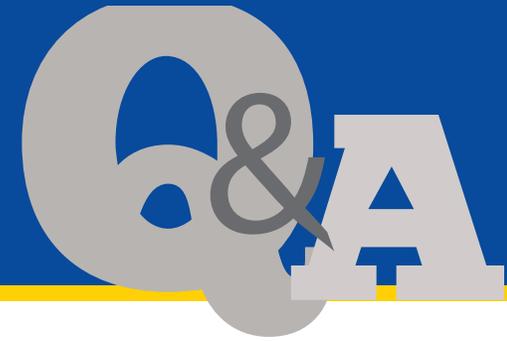
CMP Correspondence:

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.

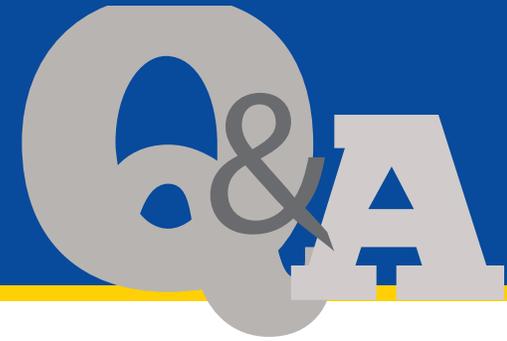


Question and Answer Session



- The following slides contain consolidated questions and answers discussed during the 1/15/2026 NGHP webinar.
 - Questions and comments specific to CMPs should be directed to the CMS resource mailbox:
sec111cmp@cms.hhs.gov

Questions and Answers



Q: Is a verbal refusal to provide information sufficient for the “Good Faith Efforts” safe harbor?

A: No. A refusal, by an attorney or beneficiary, to provide the required information must be in writing in order to qualify for the safe harbor exemption.

Q: If the attorney completes a CMS form on behalf of their client and marks it "No", are the 3 good faith attempts still required?

A: No. An attorney, acting on behalf of their client (the beneficiary), may indicate their client’s refusal to provide the information. This confirmation, in writing, would satisfy the good faith efforts safe harbor exemption.

Questions and Answers (2)



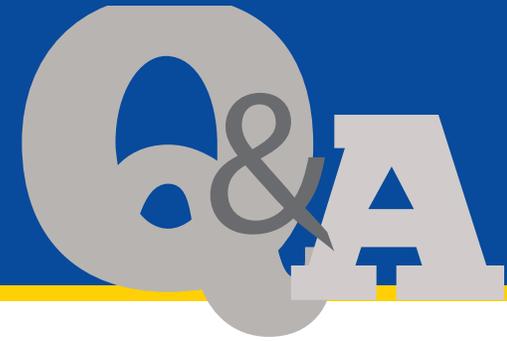
Q: How will CMS send CMP correspondence and how may RREs respond?

A: CMS is required to utilize USPS certified mail to send notice of potential CMPs, due to inclusion of PII and/or PHI in certain letters. Though the letters will be sent via USPS, the AR will receive an e-mail notification that correspondence has been sent, so that the RRE knows to be on the lookout for CMP-related letters.

Q: What is the current delay for Worker's Compensation record audits?

A: CMS will delay the audit and review of *all* Worker's Compensation records, including TPOC and ORM reporting, for any reportable event occurring before July 31, 2025. This means that RREs will have until July 31, 2026, to report these records without being susceptible to a CMP.

Questions and Answers (3)



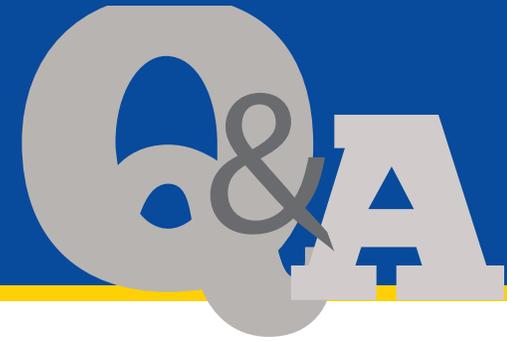
Q: Is an individual's assertion that they do not have a SSN acceptable as proof that they are refusing to provide this information?

A: Yes. If an individual, or their representative, claims, in writing, that they do not have a SSN/TIN, the RRE is only expected to perform their normal level of due diligence in assessing the validity of that claim.

Q: Of the 3 attempts made to obtain information from an individual, can the 2 attempts made in writing both be by email, or does one need to be by physical mailing?

A: Pursuant to the final rule, at least one attempt must be made by physical mail. While the RRE may use e-mail or any other reasonable method to obtain the information required, the good faith efforts exemption is only met if two attempts are in writing (one of which may be e-mail) and one additional method, such as phone, e-mail, or any other reasonable method of communication.

Questions and Answers (4)



Q: How does the tiered penalty system work for NGHP entities?

A: For any record that is reported more than one (1) year but less than two (2) years late, the penalty is \$250 per record, per day of noncompliance, as adjusted annually. For any record reported more than two (2) years but less than three (3) years late, the penalty is \$500 per record, per day of noncompliance, as adjusted annually. For any record that is more than three (3) years late, the penalty is \$1,000 per record, per day of noncompliance, as adjusted annually. The calculations above are absolute, and not marginal, so ***all*** days of noncompliance are assessed at the applicable tiered amount.