

# Medicare Secondary Payer and Certain Civil Money Penalties



*Group Health Plan (GHP) Webinar*

*October 15, 2024*

# Presentation Overview



Reminders



Clarifying the Audit Process



Maintaining Compliance



CMS.gov Updates



Questions & Answers

# Reminders: Important Dates



**Note- There are no additional changes to:**

- Reporting requirements
- Designated reporting periods
- EDI Representatives

October 11, 2024

CMP Final Rule  
became applicable

Start of the  
"Compliance Clock"

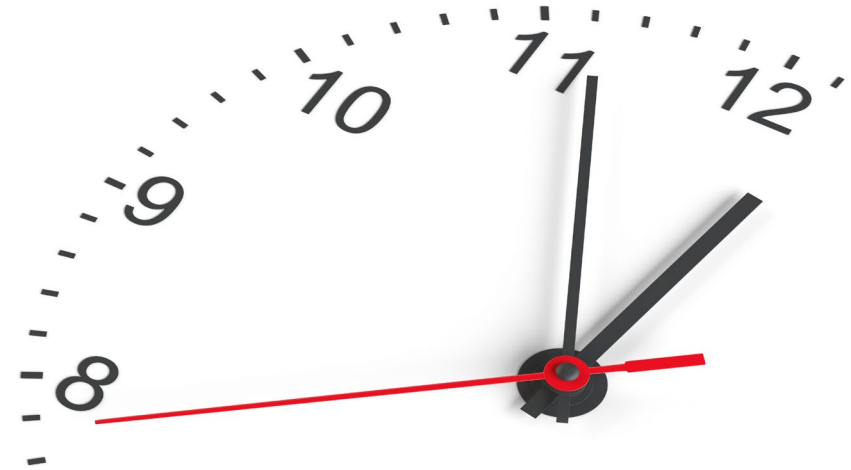
Reportable MSP  
occurrences **on or  
after** this date are  
eligible for CMS  
review

October 11, 2025

CMP enforcement  
date

MSP occurrences  
dated on or after  
10/11/2024 must  
be reported within  
365 days

# Reminders: The Timeliness Requirement



- Final Rule requires that records are submitted in a timely manner.
- 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 effective date of the coverage, *OR*
  - The date the individual became a Medicare beneficiary, 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.

# Reminders: Updating RRE Information



CMP correspondence will be mailed to the RRE's Account Representative (AR) on record.

- Copies will be mailed to Account Manager (AM).
- Reporting Agents will not receive CMP correspondence.

It is the RRE's responsibility to ensure all contact information is up to date.

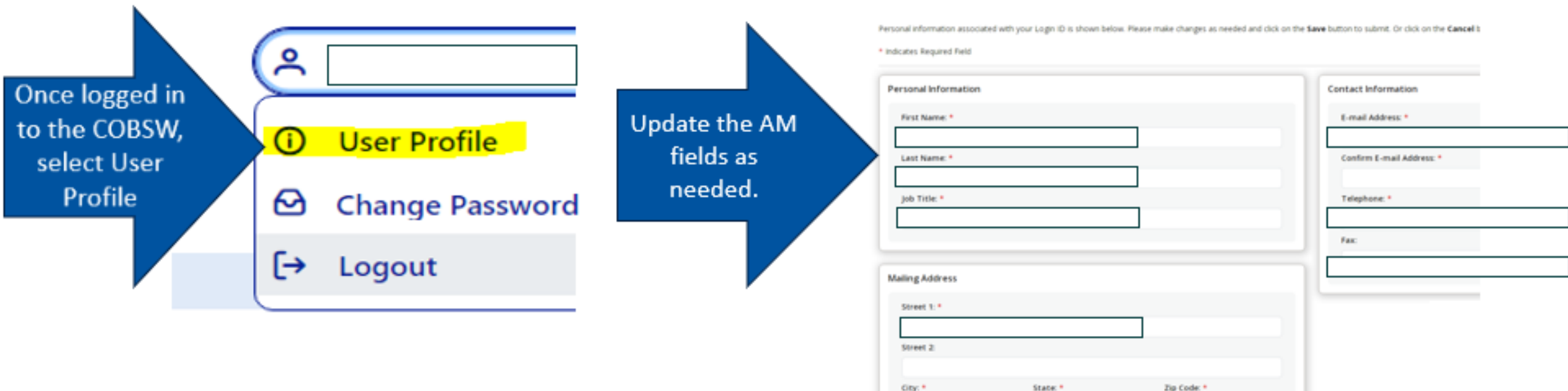
- RREs will still be held accountable should any CMP correspondence be missed due to inaccurate, outdated contact information.

Your assigned EDI Representative should be contacted if :

- The named AR requires replacement and/or associated contact information requires updating.

# Updating the AM Contact Information

- If the named AM requires replacement, please contact your assigned EDI Representative.
- If the AM contact information and the RRE's account information (e.g., address, phone, etc.) requires updating, the AM can complete this action via the COBSW.





# Clarifying the Audit Process

*Note: The statutory requirements are not waived due to another entity or individual reporting the information an RRE is required to report.*



- CMS' 1<sup>st</sup> audit will include records from the 4<sup>th</sup> Quarter of 2025.
  - The “compliance clock” began 10/11/2024 and eligible MSP occurrences must be reported within 365 days.
- Random sample of 250 new, accepted records per quarter which proportionately represent GHP and NGHP records.
  - Records received through both Section 111 (including records submitted through DDE) and non-Section 111 submissions will be sampled.
    - Non-Section 111 records will be matched to a Section 111 record, which will be evaluated for compliance.
    - If a non-Section 111 record cannot be matched to a Section 111 record, that suggests potential non-compliance.
  - Sample is across “entire universe” of a quarter’s records, not per RRE, and include DDE records.

# Maintaining Compliance: Obtaining Required Beneficiary Information



- General expectation: GHP RREs have already obtained required beneficiary information needed to report as part of enrollment, or soon after.
- RREs should maintain records of any communication attempts (including dates and type of communication effort made) which can be provided as mitigating evidence to CMS, if necessary.
- Reminder: *The MBI/SSN Collection- GHP Model Language* is available for download on CMS.gov.



# Maintaining Compliance: Employer Health Plan Coverage

RRE is required to report within 365 days of:

- The employee's Medicare entitlement date.
- The beneficiary enrolling in new employer health care plan.
- The beneficiary enrolling in a new prescription drug plan.



## Reminder:

Employees that are not eligible for Medicare should not be reported via Section 111.

**Reminder:** Query functionality and COBSW beneficiary lookup action are available for RREs to use to determine if an individual is entitled to Medicare.

# Employer Health Plan Coverage: Example



- A beneficiary is enrolled in their employer's health care coverage plan, which was previously reported by the RRE via Section 111.
- The beneficiary later enrolls in a new prescription drug plan with a new coverage effective date.
- The RRE is required to report the beneficiary's new prescription drug coverage within 365 days of the effective date of coverage.



## 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

- 9/10/2024- *GHP Reporting Webinar* slides presentation
- GHP User Guide

# Changes in MSP Applicability



- There may be instances where the circumstances of a beneficiary's Medicare enrollment may impact the applicability of the MSP rules, including the RRE's reporting obligations.
- The RRE is required to stay abreast of members' Medicare eligibility and enrollment, and report accordingly.

# Failure to Submit via Section 111 after a Non-Section 111 Record was Reported

As a reminder, both Section 111 and non-Section 111 submissions (e.g., VDSA, self-report, provider report, etc.) will be sampled, potentially resulting in the discovery of the failure to report.

## Example:

- A record was received with an effective date of 2/5/2025 through an employer's VDSA.
- On 4/1/2026, the employer's VDSA record is randomly selected for CMS' audit, and a corresponding Section 111 record from the RRE cannot be found.

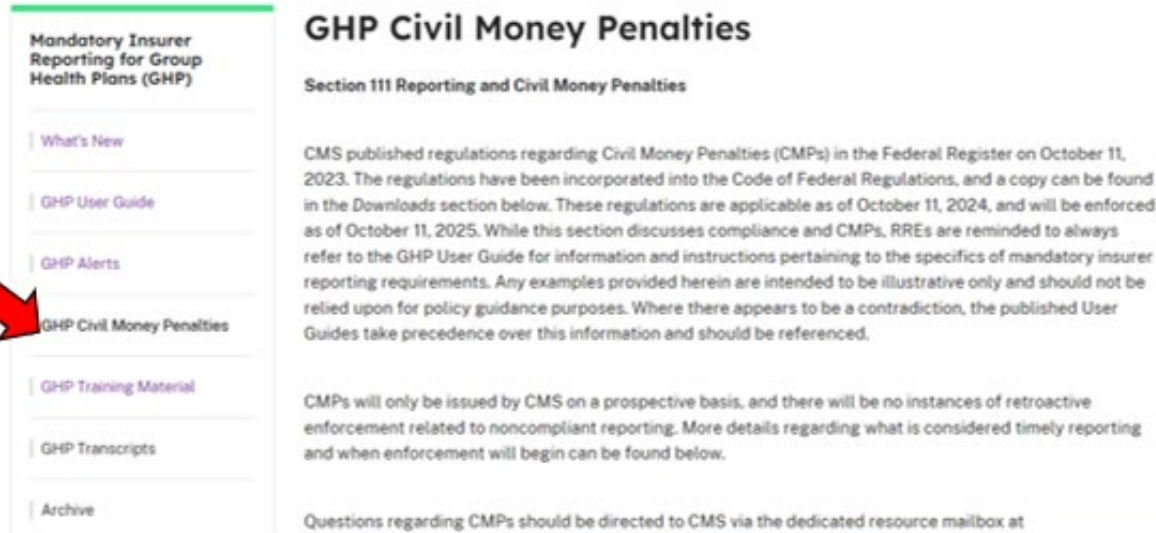


The RRE is non-compliant with Section 111 reporting because it failed to submit a corresponding Section 111 record to the 2/5/2025 non-Section 111 record.

Period of Non-Compliance	CMP Calculation
2/6/2026 - 4/1/2026 (The date of CMS' audit)	\$1,000 x 37 (days of noncompliance) = \$37,000 (as adjusted for inflation)



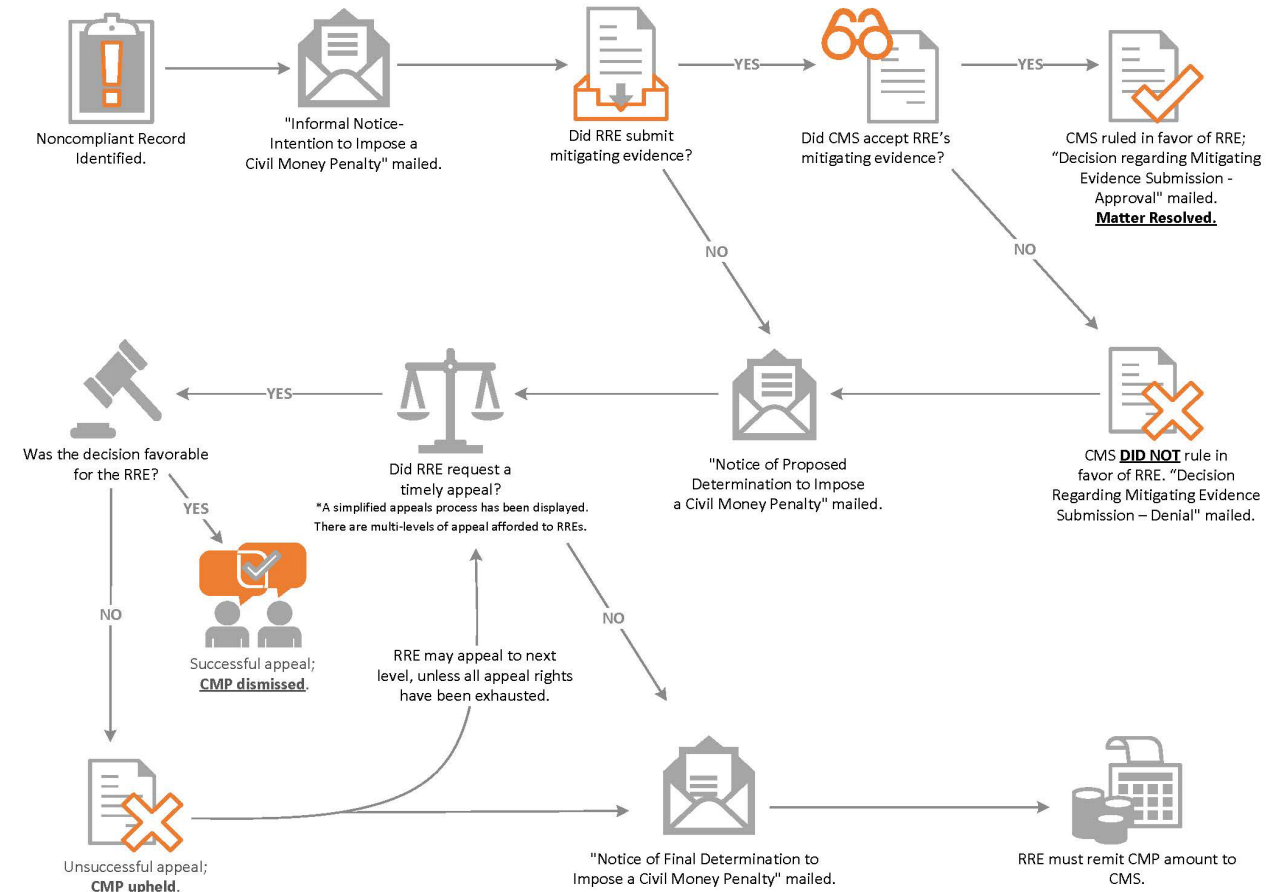
# CMS.gov Updates



- The “GHP Civil Money Penalties” page is now live and available under the existing Mandatory Insurer Reporting page of CMS.gov.
- The letters and appeals process described on the website will be discussed in more detail at a future webinar.
  - Additional downloads, such as the letter samples, will be published as they become available.

# CMS.gov Updates: Continued

- The “CMP Workflow” download is intended to visually represent the process an RRE can expect to follow if a noncompliant record is found during a quarterly audit.
  - **Note:** The process has been simplified, specifically related to the appeals process.
- If an RRE’s record is selected during the quarterly audit and it is determined to be **compliant**:
  - CMS will not contact the RRE. (Workflow does not apply)



# 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)
- Continue to monitor CMS.gov for updated outreach and education materials.