

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"

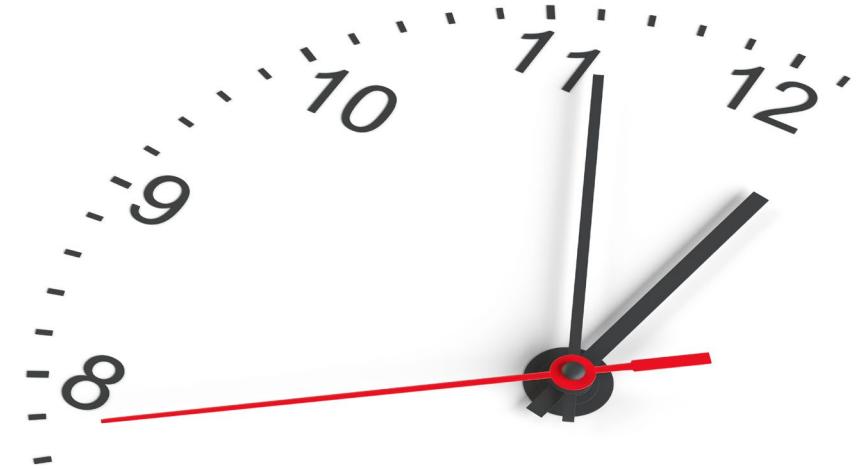
Reportable MSP occurrences **on or after** this date are eligible for CMS review

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.

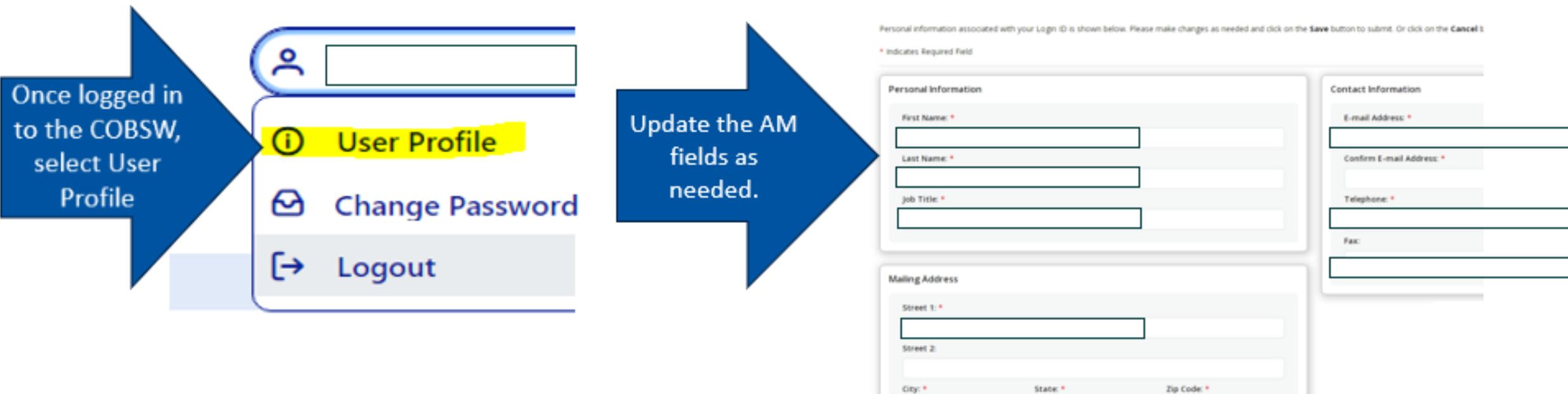
- RREs will still be held accountable should any CMP correspondence be missed due to inaccurate, outdated contact information.

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.



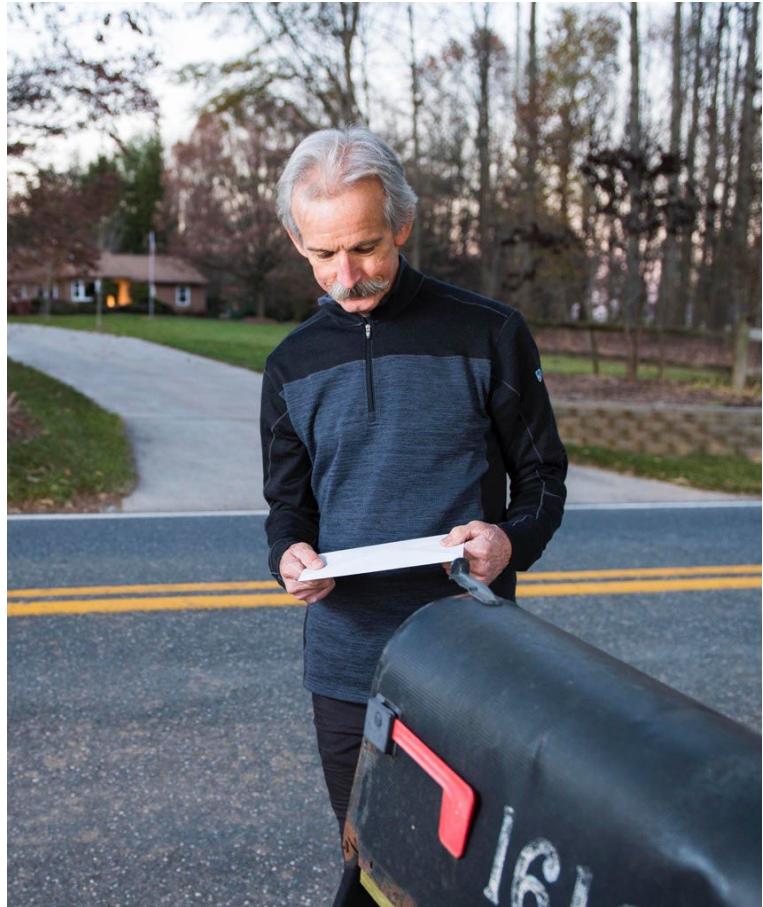
Clarifying the Audit Process

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



- CMS' 1st audit will include records from the 4th 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

Mandatory Insurer Reporting for Group Health Plans (GHP)
What's New
GHP User Guide
GHP Alerts
GHP Civil Money Penalties
GHP Training Material
GHP Transcripts
Archive

GHP Civil Money Penalties

Section 111 Reporting and Civil Money Penalties

CMS published regulations regarding Civil Money Penalties (CMPs) in the Federal Register on October 11, 2023. The regulations have been incorporated into the Code of Federal Regulations, and a copy can be found in the Downloads section below. These regulations are applicable as of October 11, 2024, and will be enforced as of October 11, 2025. While this section discusses compliance and CMPs, RREs are reminded to always refer to the GHP User Guide for information and instructions pertaining to the specifics of mandatory insurer reporting requirements. Any examples provided herein are intended to be illustrative only and should not be relied upon for policy guidance purposes. Where there appears to be a contradiction, the published User Guides take precedence over this information and should be referenced.

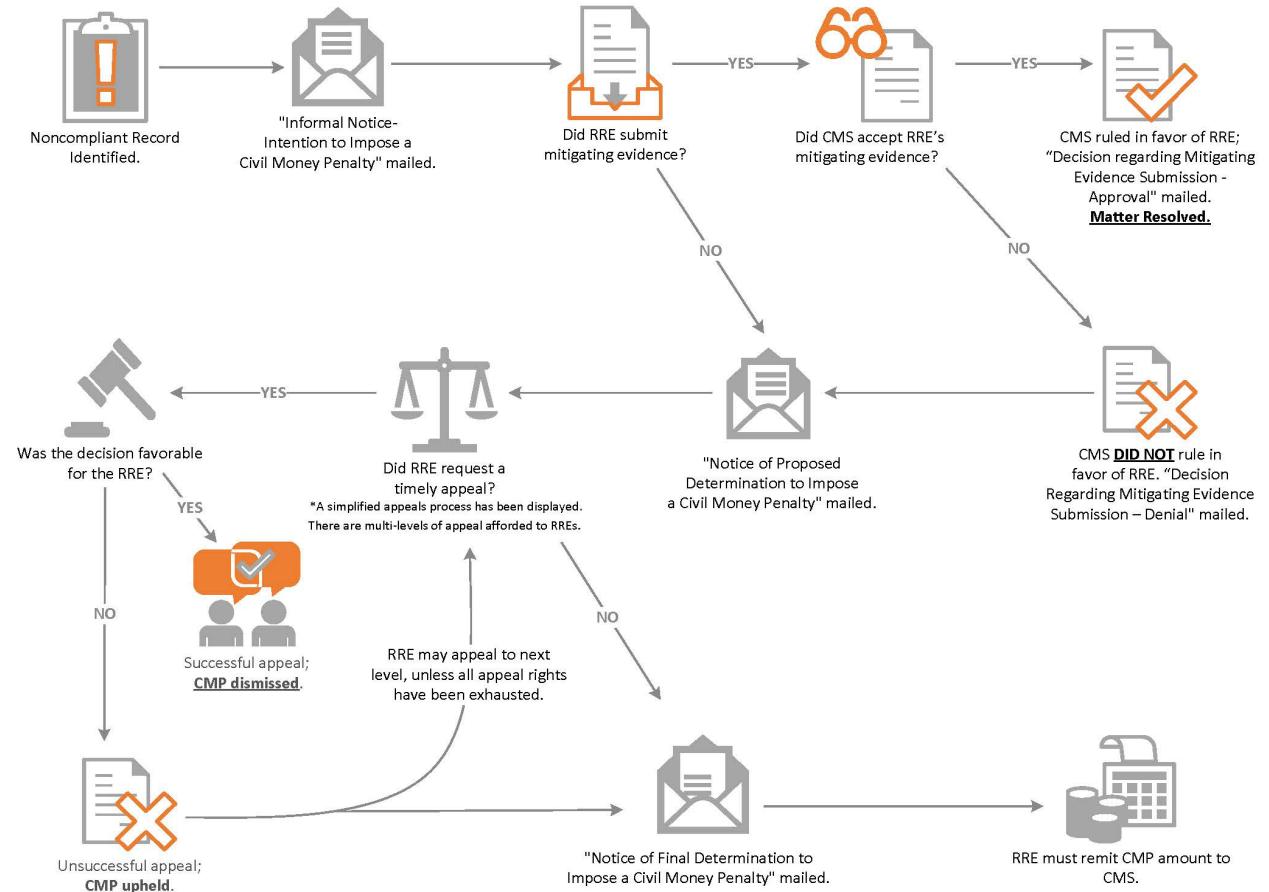
CMPs will only be issued by CMS on a prospective basis, and there will be no instances of retroactive enforcement related to noncompliant reporting. More details regarding what is considered timely reporting and when enforcement will begin can be found below.

Questions regarding CMPs should be directed to CMS via the dedicated resource mailbox at

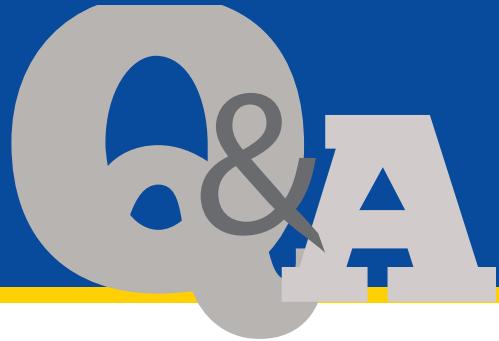
- The “GHP Civil Money Penalties” page is now live and available under the existing Mandatory Insurer Reporting page of CMS.gov.
- The letters and appeals process described on the website will be discussed in more detail at a future webinar.
 - Additional downloads, such as the letter samples, will be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