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Office of Financial Management/Financial Services Group

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<u>Implementation of Medicare Secondary Payer (MSP) Mandatory Reporting Provisions in
Section 111 of the Medicare, Medicaid, and SCHIP Extension Act (MMSEA) of 2007</u>
(See 42 U.S.C. 1395y(b)(7) & (8))

ALERT: New Group Health Plan (GHP) Unsolicited Response File Program

This ALERT provides information about a new, optional, Unsolicited Response File that will be
made available to Section 111 GHP Responsible Reporting Entities (RREs) later this year. This file
will provide RREs with notification of subsequent changes made to MSP information, previously
submitted by RREs, due to information obtained from another entity or source.

Benefits for RREs Using the Unsolicited Response Program

The Unsolicited Response functionality will:
- Allow RREs to receive prompt notification of changes made about the MSP information of
  Medicare beneficiaries covered by the RRE's GHP.
- Allow RREs a vehicle to confirm the accuracy of conflicting MSP information.
- Improve the overall accuracy of MSP information used and stored by Medicare, and available
  to RREs and employers.
- Provide the RRE information that will allow for more precise confirmation or investigation of
  GHP coverage and its relevance to MSP determinations.
- Provide information to RREs that may be useful in their business relationships with their
  employer/other plan sponsor customers. *Example*: An Unsolicited Response may notify an
  RRE that the COBC has just changed the coverage status of a subscriber.
- Streamline the process to override the SPH0 hierarchy error.
- Provide the RRE with information to improve the accuracy of data reporting and its
  compliance with the Section 111 reporting requirements.

Background

Under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA)
(P.L.110-173), Group Health Plans (GHPs) are mandated to report GHP coverage provided to a
Medicare beneficiary. These reporters are referred to as Responsible Reporting Entities (RREs).
RREs report coverage information via quarterly file submissions to the Medicare Coordination of
Benefit Contractor (COBC). The information is reviewed, processed, and if appropriate, an MSP
occurrence is created.

In addition to Section 111 reporting, the COBC employs a number of other data capture
methodologies to identify and maintain MSP occurrences for Medicare beneficiaries. These
methodologies have various sources, including telephone calls to the COBC Call Center from
employers, insurers, providers and suppliers, Medicare beneficiaries, attorneys, and Medicare claim
contractors. They can also include information received from responses to the IRS/SSA/CMS Data

Match process, Initial Enrollment Questionnaire (IEQ), and Employer Voluntary Data Sharing Agreements (VDSAs). Each of the data capture methodologies employed can result in the generation of a new MSP occurrence or an update of an existing MSP occurrence on the Common Working File (CWF). These MSP occurrences are subsequently used by the claim processing systems to determine the appropriate payment for Medicare claims and may be used by the Medicare Secondary Payer Recovery Contractor (MSPRC) to recover improperly paid claims.

Sometimes, new MSP data coming into the COBC conflicts with existing data. With a few exceptions, typically the last submitted MSP occurrence information is deemed the most current information, and prior MSP information is overlaid or deleted. This, at times, results in a "ping-pong" effect of information updates. For instance, when one of the MSP sources, such as a Section 111 insurer, reports MSP information that is subsequently overridden by an employer reporting changed information, the insurer may then resubmit its information, which will again overlay the MSP data on file.

To address these problems with "information updating" and improve the integrity of MSP information posted to CWF, CMS and the COBC have developed new requirements related to the maintenance of MSP occurrences where conflicting information is received from different sources. As previously announced, a hierarchy and process flow for the COBC to structure updates and deletes according to the source of other insurance information has been developed and will become effective April 1, 2011. Section 111 as a resource of MSP information has been ranked in the third tier (of five) of the data submitting hierarchy, with Medicare Advantage (MA) Part C Plans. Data changes reported by a lower ranking data submitter will not be applied or may be returned to the submitter requesting additional verification that the information provided is correct. However, information reported by an equal or higher ranked source can update or delete existing MSP occurrences; information reported via Section 111 can be updated by a COBC Analyst, the COBC Call Center, the MSPRC, the Beneficiary Call Center (1-800 Medicare), an MA Plan, or another Section 111 RRE. Please refer to the "New COB MSP Hierarchy Rules for GHP RREs" alert dated November 19, 2010 on the www.cms.gov/MandatoryInsRep GHP Alerts page.

An SPH0 error code is returned on the Section 111 MSP Response File when an RRE attempts to update/delete a record last changed by a higher ranking source. RRE's can ask to modify such changes, with the exception of changes made by the COBC Analyst, by resubmitting the data along with an override code (discussed below) after the initial record is rejected.

Unsolicited Response Process Overview

Through their voluntary participation in the Unsolicited Response process, Section 111 GHP RREs will be able to receive notification from the COBC of changes to their previously submitted MSP occurrences that have been made by other sources. RREs will use the Section 111 COBSW to sign up to receive the Unsolicited Responses. Through this process, a monthly file will be sent to the participating RRE that provides notification to the RRE that information it previously submitted has been updated or deleted by another data reporting source. The file will contain information about the RRE's prior submission and information regarding the data modifications that were applied, the reason for the change, and the source of the new information.

Although there is no mandate for the RRE to react to an Unsolicited Response Alert, the RRE may wish to consider further review of the Alert data to ensure the validity of the changed information and the RRE's compliance with Section 111 Mandatory Reporting. By notifying the RRE that a change has been applied to a Medicare beneficiary's MSP information in which the RRE has an interest, the RRE could decide whether further analysis or follow-up should be done. The RRE could then use the

information in the Unsolicited Response to confirm the validity of a reported change, and of the data in its own system.

Additionally, upon receipt of an Unsolicited Response Alert, Unsolicited Response participants will be able to submit an update transaction on their MSP Input File using the hierarchy Override Code of "HB" to change an MSP occurrence last updated by a source higher than Section 111 in the hierarchy rules before the RRE first receives the SPH0 error. Without the Unsolicited Response, requests for an override will require two quarterly file submissions, one to produce the original SPH0 and a second to submit the HB Override Code, a process which could take up to six months.

The COBC will be conducting a pilot of the Unsolicited Response program with a small number of GHP RREs beginning April 1, 2011. Feedback from the pilot RREs will be used to adjust the Unsolicited Response program as needed. Upon completion of the pilot, the new Unsolicited Response program will be made available to all GHP RREs.

We anticipate the Unsolicited Response Alert program's availability will start in the Third Calendar Quarter of 2011. The Unsolicited Response Program's File Layout and detailed specifications will be published after feedback from the pilot has been incorporated into the process.