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MMSEA/SCHIP Reporting Readiness Review: The Who, What and How of January 1, 2011 MMSEA Compliance

As the January 1, 2011 launch date for active MMSEA Section 111 reporting approaches, it is important for all of the parties with responsibilities in the process to review and confirm their readiness. Employers should not only review their own preparations but should also require confirmations of readiness from their insurers, TPAs, independent reporting agents and any other involved parties.

Throughout 2010, the Centers for Medicare and Medicaid Services (CMS) has published alerts that have been incorporated into the Version 3.1 of the *User Guide* for non-group health plans (NGHP) covering MMSEA Section 111 Medicare reporting requirements for liability insurance (including self-insurance), no-fault insurance and workers' compensation programs. The complete *User Guide* is available for download [HERE](#) or through the CMS NGHP website at the link provided in the reference section of this *E-Bulletin*. This *E-Bulletin* highlights some of the most significant changes introduced by CMS during 2010.

Production Reporting Deferred to 2011. Sedgwick CMS Readiness. With their February announcement rescheduling full "production" reporting until January 1, 2011, CMS effectively extended to three full years the preparation interval since the signing of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA). The procedural requirements for reporting have been much-revised during that time. Sedgwick CMS has continuously accommodated these revisions so that we remain ready with a customized reporting solution reflecting all current requirements. Our solution integrates directly with our core claims management process. We will submit MMSEA-compliant reports to CMS on behalf of clients who have designated us as their agent for that purpose. Additionally, Sedgwick CMS will provide data files to other client-designated reporting entities.

Time Growing Short for Election of MMSEA Reporting Agents. Sedgwick CMS has received confirmations of reporting elections from most of our clients who are Responsible Reporting Entities (RREs) as currently defined by CMS. We encourage all who are still considering your options to let us know at your earliest convenience so that your reporting parameters can be implemented and made available to CMS for required testing in time to avoid CMS penalties for delayed reporting. Sedgwick CMS program managers are prepared to consult with any client still reviewing their options for MMSEA reporting.

It is especially important that clients who have elected a reporting agent other than Sedgwick CMS provide a copy of their RRE Profile Report to their Sedgwick CMS program manager as soon as possible so that we can make arrangements for forwarding their data files in a correct and timely manner. This is particularly critical if the client's third-party reporting agent has developed an alternate timeline for production reporting.

To Be or Not to Be an RRE? 2010 Changes. In February 2010, CMS announced changes to the definition of an RRE that reduced or eliminated the MMSEA reporting obligations of some Sedgwick CMS

clients but requires careful attention to assure correct application. The primary change was that the insurer, not the insured, will be the RRE for any claim filed under a deductible program. The insurer now has the responsibility to report both the deductible and any amount in excess of the deductible. The claim need not penetrate the deductible limit to become the insurer's reporting responsibility. This modification specifically applies to the high deductible programs utilized by many employers that outsource claim administration to a TPA.

By contrast an employer or other primary sponsor of a self-insured retention program remains the RRE. CMS defines "self-insured retention" as the risk an organization retains that is not included in the coverage provided by the insurer, whether or not that risk is covered by a formal self-insured program. Organizations that have both self-insured and high deductible elements to their loss funding strategies will need to sort out their RRE responsibilities very carefully. As a further complexity, CMS continues to treat deductible payments as self insurance for purposes of determining responsibility for Medicare Secondary Payer (MSP) compliance.

CMS carved out an exception in its amended RRE definitions for "fronting policies," which it defines as policies under which the insurer does not ultimately retain any financial risk of loss. The expectation of both the insured and the insurer is that the insured will retain the ultimate risk under the insurance policy for all claims. In those instances where the insured pays the claims, the insured is the RRE.

The definitions outlined above represent a significant change to the earlier CMS definition of self insurance. Sedgwick CMS encourages its clients with deductible insured plans to obtain confirmations that their carriers are prepared to assume MMSEA reporting responsibility.

TPOC and ORM. What Gets Reported? The revised *User Guide* version 3.1 narrows the universe of reportable claims somewhat with respect to Total Payment Obligation to the Claimant (TPOC) and Ongoing Responsibility for Medicals (ORM) under MMSEA, Section 111.

- **TPOC** - The retroactive date for reporting TPOCs has been moved forward from January 1, 2010 to October 1, 2010. Claims closed through a settlement, judgment, or award prior to October 1, 2010 are no longer reportable under MMSEA, but MSP compliance is still required.
- **ORM** - The retroactive date for the reporting of open claims with ORMs has been moved forward from July 1, 2009 to January 1, 2010. Claims with ORMs that are closed prior to this date will not be reportable under MMSEA, but MSP compliance is still required.

Other Changes from the Revised CMS *User Guide*. The revised *User Guide* includes other modifications to the MMSEA reporting requirements. Some of these changes have broad impact while others apply only narrowly. Two of general interest are:

- **Inactive RRE IDs.** Applications for an RRE ID move through several stages before completion, but CMS will rule the application inactive if it is not completed within 180 days of initiation. An application is only considered completed when the ID number indicated in a signed profile report has been tested and placed into production status by Medicare's Coordination of Benefits contractor (COBC) system. Due in part to changes over time in RRE definitions, some RREs may have initiated necessary RRE applications that have now lapsed. They can reactivate the process by contacting their EDI representative at the COBC.
- **Reporting ICD-9 Codes.** As part of production reporting beginning January 1, 2011, RREs are required to include an ICD-9 Diagnosis Code as well as an ICD-9E Event Cause Code (where applicable) in all MMSEA reporting. Historically, the claims industry has captured these codes only for workers' compensation. That obligation now extends to liability claims. Sedgwick CMS will capture and provide required ICD-9 and ICD-9E codes as outlined in the *User Guide*.

Conclusion. Sedgwick CMS has addressed in its MMSEA reporting system the adjustments to MMSEA reporting requirements reflected in the revised *User Guide*. We encourage all organizations with reporting obligations that have not completed the RRE registration process to do so as soon as possible in order to avoid non-compliant status as of January 1, 2011. Sedgwick CMS program managers will be pleased to assist any of our clients who may have questions about this process, and inquiries may also be directed to schipinquiries@sedgwickcms.com.

Reference Links:

For previously released Sedgwick CMS *E-Bulletins* and other resources visit our [MMSEA Resource Page](http://www.sedgwickcms.com) on www.sedgwickcms.com.

For a quick recap of changes to MMSEA reporting visit the *What's New* section of the CMS website at http://www.cms.gov/MandatoryInsRep/04_Whats_New.asp.

To download the revised *User Guide*, version 3.1, see <http://www.cms.gov/MandatoryInsRep/Downloads/NGHPUserGuideV3.1.pdf>.

For additional reference information from CMS on MMSEA reporting for liability (including self-insured), no-fault and workers' compensation programs, see http://www.cms.gov/MandatoryInsRep/03_Liability_Self_No_Fault_Insurance_and_Workers_Compensation.asp#TopOfPage.

For more information: Sedgwick CMS clients are encouraged to discuss their program's specific arrangements for MMSEA compliance with their Sedgwick CMS program manager or forward their inquiries to our MMSEA (SCHIP) team at schipinquiries@sedgwickcms.com. Clients and other *E-Bulletin* recipients are also invited to contact *Sedgwick CMS* Workers' Compensation Practice Lead Darrell Brown (562-981-1708, Darrell.Brown@sedgwickcms.com) or Liability Claims Consultant Marcia Nigro (215-231-3925, Marcia.Nigro@sedgwickcms.com) for general information on MMSEA and the Sedgwick CMS plan for supporting clients in achieving full compliance.

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