

Department of Health & Human Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



Financial Services Group

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

“GHP RRE Compliance” Revision: 1-1-2009

Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA)110-173) has added new mandatory reporting requirements for group health plan (GHP) arrangements and for liability insurance (including self-insurance), no-fault insurance, and workers' compensation. See 42 U.S.C. 1395y(b)(7) & (b)(8).

This document provides information on how Responsible Reporting Entities (RREs) can work within the Section 111 GHP reporting requirements and remain in compliance with those requirements. Guidance is also provided on the steps RREs can take to avoid the possibility of finding themselves in situations that may not be compliant with Section 111 requirements.

As we carry on the implementation of the Section 111 reporting process, the Centers for Medicare & Medicaid Services (CMS) will continue working with all Section 111 RREs to help make the management and operations of Section 111 reporting as easy as possible.

Disclaimer – The following discussion includes information and examples for RREs to follow to remain in compliance with the Section 111 Reporting Requirements; however, the information in this document is not all-inclusive. These guidelines alone do not ensure or confer an RRE's general Section 111 compliance. RREs are expected to exercise due diligence in compiling the data required to be fully compliant with the Section 111 Reporting Requirements. This includes, but is not limited to, maintaining a record or case file of all data development activities. RREs are also encouraged to maintain ongoing communication with their assigned Benefits Coordination & Recovery Center (BCRC) Electronic Data Interchange (EDI) Representatives and with CMS, particularly when any questions, concerns, or difficulties arise during the implementation or operation of the Section 111 reporting process. RREs should also regularly monitor the Mandatory Insurer Reporting Website for notifications about the Section 111 Reporting Requirements.

Compliance Discussion

In general, an RRE, for purposes of the reporting requirements in Section 111, will be found compliant if it participates in the Section 111 process in the manner prescribed by CMS. Now that the Section 111 implementation period has started, we would like to illustrate good compliance practices by discussing seven GHP compliance scenarios and areas of concern that have been brought to our attention by GHPs and their industry

associations.

RRE Registration: An RRE generally will be considered compliant with Section 111 process requirements as part of the registration process if:

- At its designated time, it completes the registration process (which includes submission of a signed profile report) with the BCRC to begin working toward reporting data in accordance with Section 111; or
- It notifies the BCRC of its inability to register during its initial designated timeframe; and
- It subsequently registers during an alternative timeframe arranged with the BCRC.

Testing Data Exchange: An RRE generally will be considered compliant with Section 111 process requirements as part of the data exchange testing process with the BCRC if:

- It begins testing with the BCRC on schedule (or provides an explanation for its failure to begin testing);
- It successfully completes its scheduled testing cycles (or its alternative assigned testing cycles where testing is delayed);
- It informs the BCRC about system or other problems that will lengthen the testing process beyond the scheduled process, arranging with the BCRC for any necessary accommodations; and
- It otherwise completes the data exchange testing process to the satisfaction of CMS and the BCRC.

Ordinary “Production” Data Exchange: An RRE generally will be considered compliant with Section 111 process requirements as part of the regular production data exchange process with the BCRC if:

- It establishes routine, punctual production file submissions for processing. If the BCRC finds that Input Files are routinely submitted late, the RRE must communicate and establish how it is working toward establishing regular filing on its designated schedule;
- After an initial reporting cycle, its new Input Files are of a quality that enable the BCRC to successfully process the data; and
- The RRE consistently follows CMS data submission protocols resulting in quality file submissions and data that can be adequately processed.

Reporting of Active Covered Individuals Age Threshold: An RRE generally will be considered compliant with Section 111 process requirements as part of the reporting of Active Covered Individuals with the BCRC if it reports:

- All Active Covered Individuals, including spouses and dependents, age 55 and over;
- Effective no later than January 1, 2011, it reports all Active Covered Individuals, including spouses and dependents, age 45 and over;
- All Active Covered Individuals covered in a GHP who have been receiving kidney dialysis or who have received a kidney transplant, regardless of their own or a family member’s current employment status;

- All Active Covered Individuals covered in a GHP who are under age 55, are known to be entitled to Medicare, and have coverage in the plan based on their own or a family member's current employment status; and
- Effective no later than January 1, 2011, it reports all Active Covered Individuals covered in a GHP who are under age 45, are known to be entitled to Medicare, and have coverage in the plan based on their own or a family member's current employment status. When reporting on individuals under age 45, the RRE must submit the individual's Medicare Health Insurance Claim Number (HICN).

How to Comply with the Reporting Age Threshold: An RRE generally will be considered compliant with the Section 111 Age Threshold requirements if:

- It includes all of the individuals covered by their GHP for whom, if they had Medicare, Medicare would be a secondary payer of their GHP benefits. From this file, CMS shall identify those Active Covered Individuals who are Medicare beneficiaries for whom Medicare assumes secondary payment responsibility, based on coverage enrollment information received from the RRE; or
- It uses a "Finder File" tool to query the Medicare database (providing accurate data for the CMS' fields used as matching criteria for determining whether or not an individual is a Medicare beneficiary) prior to submitting scheduled Input Files and then reports all identified Medicare beneficiaries. (The "Finder File" tool is a preliminary and non-precise manner in which RREs can determine possible Medicare-eligibility of an individual.)

Collection of SSNs and HICNs: An RRE generally will be considered compliant with Section 111 process requirements as part of collecting Social Security Numbers (SSNs) and HICNs for Active, Covered Individuals, including spouses and dependents, if:

- It reports SSNs or HICNs for all Active Covered Individuals, including spouses and other family members, for covered lives with an effective date on or after January 1, 2009;
- It reports SSNs or HICNs for all subscribers who are Active Covered Individuals for covered lives with an effective date prior to January 1, 2009; and
- Effective beginning January 1, 2011, it reports SSNs or HICNs for all spouses and other family members who are Active Covered Individuals for covered lives with an effective date prior to January 1, 2009.

Reporting of TINs/EINs: An RRE generally will be considered compliant with Section 111 process requirements for the reporting of Taxpayer Identification Numbers (TINs)/Employer Identification Numbers (EINs) if:

- It reports valid TINs/EINs for itself starting January 1, 2009; it reports valid TINs/EINs for any business partners it enters into agreements with effective on or after January 1, 2009; and
- Effective beginning January 1, 2010, it reports valid TINs/EINs to replace all "Pseudo-TINs" it had previously been using and reporting.

Requests for a Small Employer Exception (SSE): An RRE will generally be considered compliant with Section 111 process requirements if:

- Prior to or beginning January 1, 2009, a Multi-Employer Plan Administrator submits a valid request for the exception to the BCRC;
- No reply (including approval or rejection) is received from the BCRC;
- No data about the subject Active Covered Individual is submitted on MSP Input Files until a reply (including approval or rejection) is received from the BCRC; and
- Beginning with the January 1, 2010, reporting period and going forward, for all data reportable from the start of January 1, 2009, the RRE includes data about the Active Covered Individual on regular MSP Input Files, whether or not the Multi-Employer Plan Administrator has received a reply (including approval or rejection) from the BCRC.

CMS again affirms that we are focused on working together with RREs and their business partners so that we all produce and exchange Section 111 data that will enable us to respond to and meet our MSP obligations correctly, thoroughly, and smoothly. Our objective is not to make compliance with the Section 111 requirements more difficult than it already is, and we know it will be difficult. Our primary objective is to build a data management system that will be useful to all of us.