

July 1, 2010

CMS Addresses Section 111 Mandatory Reporting For Non Group Health Plans (NGHP)

On June 30, 2010, the Center for Medicare & Medicaid Services (CMS) held another Town Hall Teleconference to address Section 111 Mandatory Reporting for Non Group Health Plans (NGHP). The following were some highlights of the same:

- CMS has stated in the past that in asbestos cases, if exposure ended before December 5, 1980, Medicare will not pursue a recovery claim. However, CMS representatives once again highlighted that simply stating this in a pleading or via stipulation is not enough, and there must be concrete evidence to support this conclusion.
- If a plaintiff will not provide his/her social security number or Medicare ID, the parties involved in the claim should document this in the event of a later recovery action by Medicare. CMS representatives did not address exactly how this would impact these rights. Further, they did not address whether a claim should be settled or paid in the first instance without this information.
- A loss of consortium claim which is resolved and includes the closing out of all medicals is a reportable event if the same involves a Medicare beneficiary. This specific issue caused much debate as the claim of loss of consortium does not, in and of itself, involve medical damages. CMS representatives noted that they would try to address this issue further, but the discussion did illustrate some of the disconnect that can occur between the practice of law and the administration of Section 111.
- CMS has yet to address the issues surrounding Section 111 reporting for mass tort cases and will be scheduling another Teleconference in July to address the same.
- CMS intends to issue additional alerts regarding cumulative trauma cases.

The above are some of the highlights of this particular NGHP call. In the near future, CMS will have post an official transcript of the teleconference on its website at:

https://www.cms.gov/MandatoryInsRep/07_NGHP_Transcripts.asp#TopOfPage

For further information or for Medicare compliance assistance, please do not hesitate to contact the Dickie, McCamey & Chilcote, P.C. Medicare Compliance Group at the numbers listed below.

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