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MEDICARE SECONDARY PAYER: CMS RAISES THRESHOLD FOR HRA REPORTING

The Medicare, Medicaid, and SCHIP Extension Act of 2007 created mandatory reporting requirements with respect to Medicare beneficiaries who have coverage under group health plans (GHPs). The mandatory reporting requirements allow the Centers for Medicare & Medicaid Services (CMS) and GHPs to determine their respective payer status and coordinate benefits for Medicare beneficiaries. Responsible reporting entities (RREs) for GHPs include insurers, third party administrators and plan administrators or fiduciaries of self-insured/self-administered plans.

A health reimbursement arrangement (HRA) is a GHP and is subject to the mandatory reporting requirements, regardless of whether or not the HRA has an end-of-year carry-over or roll-over feature. On Sept. 27, 2011, CMS issued new guidance on the mandatory reporting requirements for HRAs, increasing the reporting threshold from \$1,000 to \$5,000. This new guidance should significantly reduce the amount of HRA coverage that must be reported to CMS.

This Legislative Brief, brought to you by Alan Benoy Insurance Services, summarizes the new CMS guidance on mandatory reporting requirements for HRAs.

BACKGROUND

Most GHPs were required to comply with mandatory reporting requirements effective Jan. 1, 2009. A delayed effective date applied to HRAs to provide RREs with additional time to gather the information needed for HRA reporting. RREs were required to include HRA coverage in mandatory reporting beginning with files submitted in the 4th Quarter of 2010 (October – December 2010) for HRA effective dates of Oct. 1, 2010, through Dec. 31, 2010, and in the 1st Quarter of 2011 (January – March) for HRA effective dates of Jan. 1, 2011, and later. No retroactive reporting is required for HRA coverage. Only HRA coverage with effective dates of Oct. 1, 2010, and later must be reported.

ANNUAL BENEFIT LEVEL- REPORTING THRESHOLD

Initially, only HRA coverage with an annual benefit level of **\$1,000** or more was required to be reported. In its Sept. 27, 2011, guidance, CMS announced that the \$1000 threshold increases to **\$5,000**, effective **Oct. 3, 2011**. Thus, effective Oct. 3, 2011, only HRA coverage with an annual benefit level of \$5,000 or more is required to be reported. Amounts rolled over from the previous plan year's coverage must be included when calculating the current year's annual benefit level.

The \$5,000 reporting threshold applies to all new or renewing HRA coverage which becomes effective on or after Oct. 3, 2011. RREs reporting existing coverage should continue to do so at the \$1000 threshold until the employer's HRA benefit period is renewed on or after Oct. 3, 2011.

NOTICE OF TERMINATION

CMS's new guidance on HRA reporting also addresses when an RRE should submit a notice of termination to CMS in connection with HRA coverage. Effective immediately, a notice of termination must be submitted when an insured has exhausted his or her HRA coverage and no additional funds will be added to the HRA for the remainder of the current benefit coverage term. A notice of termination must also be submitted when the covered individual loses or cancels coverage. Once the HRA benefit period is renewed, the RRE must report coverage for each Medicare beneficiary who is an active covered individual with an HRA annual benefit level of \$5,000 or greater.



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PENALTIES

An insurer, plan administrator or fiduciary that fails to comply with the mandatory reporting requirements will be subject to a civil money penalty. The amount of the penalty is **\$1,000 per day** of noncompliance for each individual for which the information should have been submitted.

MORE INFORMATION

Detailed CMS guidance about how to comply with the mandatory reporting requirements is contained in a CMS User Guide. A copy of the MMSEA Section 111 MSP Mandatory Reporting GHP User Guide (Version 3.2, 4/20/11) is located at: www.cms.gov/MandatoryInsRep/Downloads/GHPUserGuideV3.2.pdf. Changes to HRA reporting were made after the current version of the User Guide was released, and will be incorporated into the next version of the User Guide.

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