

Client Alert

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Section 111's New Direct Data Entry Option for Small Reporters

According to a recent Alert published by the Centers for Medicare and Medicaid Services ("CMS"), the agency responsible for administering Medicare, a new Direct Data Entry option will be available for Section 111 mandatory reporting. As reported in more detail in our August 2009 and March 2010 Bulletins, Section 111 is the newest amendment to the Medicare, Medicaid and SCHIP Extension Act of 2007 ("MMSEA") pursuant to which companies and insurers are required to report to the U.S. government when they find themselves liable for an illness, injury or accident to individuals receiving Medicare benefits.

Generally, Section 111 reporting must be done through an electronic file transmission (HTTPS, SFTP or Connect:Direct) established for each particular reporting entity upon registration and submitted quarterly to the Coordinator of Benefits Secure Website (www.Section111.cms.hhs.gov). CMS, however, recently advised that "Small Reporters" can manually submit individual reports online at the Secure Website. Small Reporters are entities that will submit 500 or fewer claim reports in a calendar year.

Small Reporters are still required to submit the same amount of information for each claim; however, the Direct Data Entry option is a less onerous way of reporting for entities that anticipate a low volume of reports. Registration for the Direct Data Option begins October 1, 2010. Previously registered reporting entities may switch to the Direct Data Entry option on or after October 4, 2010.

Advantages to the Direct Data Entry option are that Small Reporters are not required to participate in the testing phase of the file

transmission process through the Secure Website. Rather, direct reporting will begin for Small Reporters January 3, 2011. Further, Small Reporters do not have to submit reports on a quarterly basis like other reporting entities. Instead, Small Reporters will submit reports on an as-needed basis, although a report is due 45 days after the claim becomes reportable.

A disadvantage of the Direct Data Entry option is that Small Reporters will be unable to submit a Query File to CMS. An entity cannot rely on the plaintiff/claimant's word alone whether he is a Medicare beneficiary, and CMS has advised that a Medicare beneficiary's assertions to the contrary will not protect an entity against penalties for failing to report an applicable claim. Accordingly, CMS has provided entities through the Query File process the opportunity to independently verify whether an individual is a Medicare beneficiary. An entity therefore can be sure whether its reporting obligations are triggered. A Query File may only be submitted through the electronic file transmissions, which are not available under the Direct Data Entry option.

A Small Reporter can obtain verification of a plaintiff/claimant's Medicare beneficiary status at the time of submitting a report. In the event the Small Reporter submits an erroneous report involving a plaintiff/claimant who is not a Medicare beneficiary, that submission nonetheless will be counted towards one of the 500 reports allotted under the Direct Data Entry option.

CMS has not provided information as to penalties for underestimating the number of reportable claims in a year and choosing the Direct Data Entry option when the number of reportable claims for an entity in fact exceeds 500 per year. It is clear, however, that an entity choosing the Direct Data Entry option has the same reporting obligations and liabilities under Section 111 as reporting entities submitting electronic file transmissions.

The August 2009 Client Bulletin, [Additional Responsibilities for Those Liable to Medicare Beneficiaries](http://condonlaw.com/newsletters/cbaug2009.pdf), can be found at: <http://condonlaw.com/newsletters/cbaug2009.pdf>; and the March 2010 Client Bulletin, [Updates to MMSEA Section 111 Reporting Requirements](http://condonlaw.com/newsletters/cbmar2010.pdf), can be found at: <http://condonlaw.com/newsletters/cbmar2010.pdf>.



If you would like more information regarding the MMSEA's Reporting Requirements or the topics discussed in this Client Alert, please contact:

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