

Medicare Secondary Payer (MSP) Reporting May 2009 Update

FREQUENTLY ASKED QUESTIONS

Q: What's changing?

A: Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 replaces the voluntary data exchange agreement (VDEA) in which Anthem Blue Cross (Anthem) currently participates. Section 111 removes the voluntary label associated with the VDEA by requiring participation via the MSP reporting initiative. Mandatory participation for group health plan (GHP) enrollees coupled with requirements for social security numbers (SSN), group tax identification numbers (TIN), employer group size and penalties for noncompliance comprise the majority of the mandate.

Q: What is "MSP"?

A: "MSP" refers to "Medicare Secondary Payer." According to Medicare law, there are situations in which another payer — primarily an insurance company or self-funded group health plan — must pay first (primary) for services rendered to a Medicare beneficiary before Medicare pays as "secondary". The purpose of the law is to save Medicare money, since it will enable the Centers for Medicare and Medicaid Services (CMS) to pay claims accurately the first time by determining primary versus secondary payer responsibilities. When Medicare is "secondary payer," it will only pay after the member's "primary" payment has been exhausted or if it does not exist.

Q: Why is CMS requiring this reporting?

A: The new mandatory reporting requirements are all intended to identify Medicare beneficiaries who have "primary" payers such as employer GHPs. CMS hopes to redirect a significant amount of cost to the carriers that have enrollees in a GHP who are Medicare eligible but are actively working. Anthem will benefit as well by having accurate Medicare information for its GHP enrollees and eliminating the cost associated with adjudicating claims multiple times.

Q: Will the report Anthem provides to CMS fulfill all of the account's obligations related to the mandatory MSP reporting requirement?

A: Anthem will provide to CMS the required information about commercial members covered under the group health plan that we maintain for the group. Groups may have other reporting requirements under the new law, so we strongly encourage them to seek legal advice from their own attorneys or Human Resources consultants.

Q: Who is required to provide reports to CMS?

A: Fully insured and self-funded GHPs, insurers and plan administrators are primarily responsible for providing these reports. Anthem will provide this reporting on behalf of its GHP enrollees and accounts.

Q: What information is required by CMS?

A: Beginning in January of 2009, the MSP mandates that all GHPs report specific member eligibility data for members who meet certain age or disability criteria as well as those members' SSNs and/or health insurance claim numbers (HICN), group TIN and employer group size. The mandate applies to active covered individuals age 45 and older for groups with 20 or more full or part-time employees, excluding retirees. This includes both fully and self-insured business.

The key data elements for CMS reporting for Active Covered Individuals include:

- Subscriber, Spouse and Dependent Social Security Numbers (SSNs)
- Health Insurance Claim Numbers (HICNs)
- Group Tax Identification Numbers (TINs/EINs)
- Employer Group Size (defined as the total number of full-time or part-time employees and not the number of participants in a policy or group plan option)

The SSN and TINs/EINs timelines are as follows for Active Covered Individuals age 45 and older:

- **For new subscribers** with effective dates of January 1, 2009, or later, we must report subscriber, spouse and dependent Social Security numbers by January 1, 2009, or by the effective date, if later than January 1, 2009.
- **For existing subscribers** with effective dates prior to January 1, 2009, we must report subscriber Social Security numbers by January 1, 2009. Spouse and dependent Social Security numbers must be reported by January 1, 2011.
- Valid TINs/EINs must be reported by January 1, 2010.

Q: Does Anthem intend to comply with the federal MSP mandatory reporting requirement?

A: Anthem intends to comply with the mandatory MSP reporting law beginning in 2009 in accordance to the CMS timelines. Our ability to comply with the reporting required for our groups will depend on the group's cooperation in providing Anthem with the necessary data elements for each member (subscriber, spouse and domestic partner) for whom reporting is required. The required data elements are outlined in our communication which will be delivered May 2009.

Anthem collects the majority of the required data via the existing VDEA process, but we recognize that it may be necessary to collect additional data in accordance with the mandatory requirement. For example, we have a high percentage of subscriber SSNs but a much lower percentage of dependent SSNs.

Q: What is Anthem's responsibility?

A: Anthem is responsible for gathering the data elements, compiling them in the required format and transmitting the report electronically to CMS according to the timeline and frequency established by CMS. In addition, Anthem is responsible for updating its records with any applicable corrections identified by CMS.

Q: When will Anthem begin gathering the data?

A: The required data elements have been specified in our May communication and we are prepared for data collection.

Q: How will CMS utilize the data?

A: CMS will compare data supplied by the group health plans with its master file of Medicare beneficiaries to determine whether any commercial group member is entitled to Medicare and if Medicare is primary or secondary for the member. CMS wants to ensure that if Medicare is billed for services provided to the member, Medicare pays as primary or secondary accordingly.

Q: How does data collecting and transmitting benefit the group?

A: Anthem's collection and transmission of the data will ensure that CMS has accurate information about each group's members, and can pay the members Medicare claims correctly. If CMS pays for services as primary for the member and thereafter confirms that Medicare was actually secondary, CMS can seek recovery of its payments from the group. This occurrence will be prevented if accurate group information is transmitted correctly and in a timely manner.

Q: How does data collecting and transmitting benefit the member?

A: It will ensure that CMS has accurate information about them in order to pay their claims correctly.

Q: What about state laws that prohibit the use and collection of SSNs?

A: These laws do not apply. Provisions of the federal Medicare as Secondary Payer (MSP) or Medicare Modernization Act (MMA) regulations or the “permitted use” provisions of the HIPAA privacy rules allow the collection and use of SSNs to help providers and insurers manage their operations.

Q: Will Anthem continue its current VDEA?

A: No, MSP replaces the VDEA beginning January 1, 2009. Existing VDEA participants will convert to the new MSP process and associated file formats. Those not participating in the VDEA that provide GHPs will be required to start reporting during the third quarter of 2009. Anthem will provide this reporting on behalf of its GHP enrollees and accounts.

Q: When does the reporting requirement become effective?

A: The effective date for existing VDEA participants ranges between January 1, 2009 and March 31, 2009. The implementation dates are system generated by CMS and reflect our current VDEA plan numbers and enrollment and billing systems. For those not currently participating in the VDEA, the requirements call for project activities to be addressed between April 1 and September 30, 2009. Anthem will provide this reporting on behalf of its GHP enrollees and accounts.

Q: What do Anthem employer groups need to do?

A: Anthem will continue its current reporting practice, which will encompass a conversion of the VDEA file format to the new MSP format. The required data elements have been defined in the data collection communication distributed in May 2009. The necessary information should be provided for each member (subscriber, spouse and domestic partner) within 45 days of receipt.

Q: What dependent eligibility data will Anthem collect?

A: Anthem will collect eligibility data for domestic partners and spouses. Medicare disabled information will not be collected as apart of this initiative as it is being reported and captured under our existing enrollment processes. In addition, child dependent information will not be collected. The purpose of the Medicare law is to determine primary versus secondary payer responsibilities. Anthem will not collect child dependent information at this time since the Medicare scenario is atypical and the risk of non-collection is minimal.

Q: Why is Anthem requesting eligibility data for all subscribers regardless of age?

A: The CMS guidelines, effective January 1, 2009, require the eligibility data for all covered individuals age 55 or older be provided. This age threshold moves to 45 or older as of January 1, 2011. We are requesting that the eligibility data for all subscribers now to reduce the number of follow-ups as enrolled members become Medicare eligible or reach the reporting age.

Q: Should eligibility data for retired members be submitted?

A: No. The mandate applies to all active covered individuals enrolled in the Anthem plan. Retirees are excluded from the mandate and do not need to provide eligibility data at this time.

Q: Are there non-compliance fines?

A: Failure to report the full set of required eligibility data may subject Anthem and potentially the groups to a civil penalty of \$1,000 for each day of noncompliance for each individual for which the information should have been submitted.

Q: Who should groups contact if they have additional questions?

A: Groups should review the federal requirements in consultation with their own legal counsel to determine whether any other requirements apply or any other actions are needed on their part. This guidance should not be considered legal advice.

Additional information on the CMS requirements is available at www.cms.hhs.gov/MandatoryInsRep.