

Morgan Lewis

seminar

Medicare Secondary Payer Mandatory Reporting

Presented By:

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BACKGROUND

- Medicare Secondary Payer
- Medicare, Medicaid, and SCHIP Extension Act of 2007
- Note: Separate reporting requirements apply to liability insurance programs (including self-insurance), no-fault insurance, and workers' compensation programs. This presentation focuses on group health plan requirements.

REPORTING REQUIREMENTS

- Who is required to report?
 - Responsible Reporting Entity (RRE)
 - *insurance carrier;*
 - *third party administrator (TPA); or*
 - *plan administrator of employer-sponsored group health plans that are both self-funded **and** self-administered.*

REPORTING REQUIREMENTS

- What information must be reported?
 - Required data elements
 - Optional data elements
 - *“Active Covered Individual”*
 - (1) are between age 45 and age 64 and have coverage based on their own or a family member's current employment status;
 - (2) are age 65 or older and have coverage based on their own or a spouse's current employment status;
 - (3) have been receiving kidney dialysis or have received a kidney transplant, regardless of their own or a family member's current employment status; or
 - (4) are under age 45 and known to be entitled to Medicare, and who have coverage under the plan based on their own or a family member's current employment status.

REPORTING REQUIREMENTS

- What is the registration process?
 - Voluntary Data Sharing Agreements (VDSA) / Voluntary Data Exchange Agreements (VDEA)
 - *October 2008*
 - Not participating in VDSA or VDEA
 - *April 2009*

REPORTING REQUIREMENTS

- When is reporting required?
 - **VDSA / VDEA**
 - *First quarter 2009 (January – March) during assigned submission timeframe.*
 - **Not VSDA / VDEA**
 - *Third quarter 2009 (July – September) during assigned submission timeframe.*
- Failure to comply \$1,000 per day per individual.

IMPACT ON PLAN SPONSORS

- Insurers and TPAs will need to implement internal policies and adequate procedures to identify, collect, and submit data on all Medicare-eligible participants and to make the appropriate benefit determinations.
- This process will add an additional administrative expense, which the insurer or TPA will likely want to pass on to the plan sponsor along with a requirement that the plan sponsor indemnify the insurer or TPA for any failures to identify and report all Medicare-eligible participants.
- Plan sponsors should request adequate assurances in writing that their insurers or TPAs are assuming responsibility for the data collection and reporting process. Plan sponsors currently in negotiations with service providers should negotiate the cost and responsibility for the data collection and reporting process and ensure that the responsibility for the process is clearly stated in the service agreement.

RESOURCES

- CMS WEBSITE:
 - http://www.cms.hhs.gov/MandatoryInsRep/04_Whats_New.asp