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Coordination of benefits is an important issue for the Medicare system. The general rule is that employer-provided coverage – when based on current employment – is primary coverage when an individual is also covered by Medicare. In the past, the Centers for Medicare and Medicaid Services (CMS) has tried a voluntary data sharing arrangement with major insurance carriers and plans to enforce the Medicare Secondary Payer (MSP) rules.

Because these voluntary efforts have not been entirely successful, a new law was passed in 2007: the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA). As of January 1, 2009, this law requires all group health plans to report participant data to CMS on a regular basis. Recently, CMS confirmed that the group health plan definition includes Health Reimbursement Arrangements (HRAs) but excludes Health Savings Accounts and Health FSAs.

The MSP reporting duty applies to entities that adjudicate and pay claims. For employers sponsoring HRAs, this means a third party administrator (TPA). A TPA is not permitted to delegate this obligation back to each plan sponsor. Non-compliance is subject to very high penalties.

Here is how the process is supposed to work:

If the TPA is not already in a voluntary data sharing arrangement with CMS, it must register with CMS in April 2009.

The TPA must send an electronic test file to CMS to ensure that the reporting process works.

The first report is due to CMS no later than October 1, 2009. Thereafter, the reporting requirement is quarterly. The MSP report must contain many defined elements of all “active covered individuals.” An active covered individual excludes those who are on COBRA coverage, unless they have been receiving kidney dialysis or received a kidney transplant. An active covered individual includes the following persons covered under the group health plan (e.g., HRA):

Current employees, their spouses and dependents that are age 55 or older (the age limit drops to 45 in 2011)
All employees, spouses and dependents known to have been receiving kidney dialysis or received a kidney transplant, regardless of age

All employees, spouses and dependents known to be on Medicare, regardless of age
A small employer exception (fewer than 20 employees, not participants) exists for all but those who are known to have been receiving kidney dialysis or received a kidney transplant.

Much of the information required for the report may not be currently collected during the enrollment process. Examples include employer size and spouse and dependent information, including social security number. CMS has made it clear that employers and participants must comply with information collection efforts.