



Office of Financial Management/Financial Services Group

September 25, 2008

Implementation of Medicare Secondary Payer Mandatory Reporting Provisions in Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (See 42 U.S.C. 1395y(b)(7))

Group Health Plan (GHP) Data Elements: Who Must Be Reported?

Note: The GHP User Guide for Section 111 reporting is still under review. The information set forth below will be incorporated into the GHP User Guide and this document will be removed from www.cms.hhs.gov/MandatoryInsRep at that time.

Active Covered Individual:

A GHP Responsible Reporting Entity's (RRE) first initial file submission must contain information for all individuals meeting the definition of an active covered individual, as set forth below. Active covered individuals are to be reported on the RRE's MSP Input File for Section 111. In many cases the GHP coverage being reported will be primary to Medicare. Subsequent quarterly file submissions are to contain only new or changed coverage information using add, update, and delete transactions.

For purposes of Section 111 reporting, active covered individuals are:

- All individuals covered in a GHP age 45 through age 64 who have coverage based on their own or a family member's current employment status.
- All individuals covered in a GHP age 65 and older who have coverage based upon their own or a spouse's current employment status.
- All individuals covered in a GHP who have been receiving kidney dialysis or who have received a kidney transplant, regardless of their own or a family member's current employment status.
- All individuals covered in a GHP who are under age 45, are known to be entitled to Medicare, and have coverage in the plan based on their own or a family member's current employment status. When reporting on these under age 45 individuals, you must submit their Medicare Health Insurance Claim Number (HICN).

An active covered individual is someone who may be Medicare eligible and currently is employed, or the spouse or other family member of a worker who is covered by the employed individual's GHP and who may be eligible for Medicare. Medicare may be a secondary payer for these individuals. On the MSP Input File, CMS is requiring the RRE to include all of the individuals covered by the GHP for whom, if they had Medicare, Medicare would be a secondary payer of their GHP benefits. The COBC will determine if the active covered individual is a Medicare beneficiary and whether Medicare is the primary or secondary payer. The results of this determination are then provided on the MSP Response File returned to the submitter.

Other Factors:

- RREs must have Social Security Numbers (SSNs) for all spouses and other family members who are active covered individuals, in addition to having SSNs for the subscribers. RREs must submit the SSNs for all spouses and family members who are active covered individuals and whose initial date of coverage is January 1, 2009, or later, in their initial file submission for Section 111 reporting and all subsequent submissions. However, RREs have until their file submission in the first quarter of 2010 to submit the SSNs for spouses and other family members who are active covered individuals and whose initial date of coverage was prior to January 1, 2009. CMS considers the term “family member” to include any individual covered by the plan because of his/her association with the employed individual.
- RREs’ initial file submissions must report on all active covered individuals with coverage as of January 1, 2009, regardless of the assigned date for a particular RRE’s first submission.
- If the start date or termination date for coverage for a particular individual occurs within the 45 days prior to the first day of the RRE’s submission window for the quarter, the RRE is compliant for Section 111 reporting from a timeliness standpoint if the report for that individual is delayed for one quarter. (The GHP User Guide will provide an example of how to calculate the 45 days.)
- Employer size (the number of full or part-time employees, not the number of covered lives under a particular GHP) is critical to determining primary vs. secondary payment responsibility. Under the law, Medicare is a secondary payer to GHPs for those beneficiaries:
 - Who are age 65 or older and working and covered under an employer-sponsored and/or contributed to GHP (or 65 or older and covered under a working spouse’s GHP) for an employer with 20 or more employees (or if it is a multiple/multi-employer plan where at least one employer has 20 or more full or part-time employees).
 - Who are disabled and have coverage under their own or a family member’s GHP for an employer with 100 or more full or part-time employees (or if it is a multiple/multi-employer plan where at last one employer has 100 or more full or part-time employees).
 - Who have End Stage Renal Disease (ESRD) and are covered by a GHP on any basis (Medicare is secondary for a 30 month coordination period.).

RREs must report all active covered individuals for all employers who are part of a multiple/multi-employer GHP regardless of the number of full or part time employees for a particular employer. RREs must have employer size information for all of the employers in a multiple/multi-employer GHP.