



Medicare Secondary Payer Reporting Requirements Spur Requests for Dependent Social Security Numbers

The new reporting mandate under the Medicare, Medicaid and SCHIP Extension Act of 2007 will require group health plan “responsible reporting entities” (RREs) to submit the Social Security numbers of many employees’ covered dependents to the CMS coordination of benefits contractor by October 1, 2009. Although employers are generally not RREs, they may be asked by the RRE to help obtain that information.

Background

The Medicare, Medicaid and SCHIP Extension Act of 2007 amended the Medicare secondary payer rules to impose new mandatory quarterly reporting requirements on group health plans that cover Medicare-eligible individuals. (See our October 9, 2008 [For Your Information](#).) The reporting responsibility falls on RREs, which are insurers, third party administrators, and plan administrators or fiduciaries of group health plans that are both self-insured and self-administered. The mandatory reporting program involves an electronic exchange of group health plan coverage/Medicare entitlement information between an RRE and the CMS coordination of benefits contractor (COBC).

The penalties for not reporting the required information are severe – an RRE may be fined up to \$1,000 per day for each individual for whom information should have been reported to the COBC. This is in addition to any penalties that may be imposed if a group health plan pays secondary to Medicare when it should have paid primary under the Medicare Secondary Payer rules.

Information to be Reported

RREs must report information about “active covered individuals.” Active covered individuals are –

- individuals age 55 (decreases to age 45 on January 1, 2011) through 64 who have coverage based on their own or a family member’s current employment status
- all individuals age 65 and older who have coverage based on their own or a spouse’s current employment
- all individuals who have been receiving kidney dialysis or who have received a kidney transplant, regardless of their employment status or age
- all individuals under age 55 (decreases to age 45 on January 1, 2011) who are known to be entitled to Medicare and have coverage based on their own or a family member’s current employment status.

The RRE must report the individual's –

- Medicare Health Insurance Claim Number (HICN) or Social Security Number (SSN)
- first initial of first name
- first 6 characters of last name
- date of birth
- gender.

The COBC will match this data to Medicare's data to determine whether an active covered individual is a Medicare beneficiary.

BUCK COMMENT. *While the total number of individuals to be reported will likely be significantly smaller than the total covered population in most plans, as a practical matter RREs will want to collect data on all covered individuals.*

Social Security Numbers and HICNs. An RRE is initially required to submit the SSN or HICN of employees who are active covered individuals, and of employees' spouses or family members who are active covered individuals and whose group health plan coverage first became effective on and after January 1, 2009. The RRE has until the first quarter of 2011 to submit records with the SSNs or HICNs for spouses and other family members who are active covered individuals and whose coverage went into effect prior to January 1, 2009.

BUCK COMMENT. *Because many RREs will not have the SSNs of dependents covered under group health plans, they will likely request this information from employers. Employers may also not have this information and may want to develop a plan for obtaining it. One option would be to collect dependent SSNs during the upcoming open enrollment period – even though until 2011, the RRE is only required to report the information for recently covered dependents.*

CMS Model Form

CMS recently posted a [form](#) on its website that RREs can provide enrollees to secure HICN/SSN and other pertinent data. The form includes a space for enrollees to indicate that they decline to provide the information. An RRE will not be subject to the penalty with respect to any individual from whom it collects a signed form at least once every 12 months.

This form could be used to document a number of situations, such as when a spouse does not currently have a HICN or SSN.

BUCK COMMENT. *Unfortunately, there seems to be no relief for RREs when enrollees simply fail to return a signed form.*

Conclusion

As the time for RREs to report required information nears, employers will be asked to help them provide information that might not readily be available. Although the responsibility and penalties do not fall directly on employers, they may find that they will be indirectly penalized through higher fees and charges by insurers and third party administrators if this information is not provided as requested.

Buck's consultants can discuss the reporting requirements with you and help you develop a strategy for obtaining the information your RRE needs so that the process will move efficiently.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.