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11/20/2018 | Articles

CMS Announces Section 111 Reporting Thresholds for 2019

The Centers for Medicare & Medicaid Services ("CMS") has announced the Section 111 reporting thresholds for non-group health plans for 2019, electing to maintain the 2018 threshold of $750. Any trauma-based liability settlement or workers' compensation or no-fault insurance settlement where the carrier will not have ongoing responsibility for medical care will require reporting if the total settlement value of the claim is above $750. No reporting will be necessary for claims settling below the threshold, and CMS will not pursue recovery of conditional payments in claims settling below the announced threshold. A copy of the announcement can be accessed here.

The Medicare Secondary Payer Act prohibits Medicare from paying for a Medicare beneficiary's covered medical expenses when payment can be made from a primary payer such as a liability, no-fault, or workers' compensation insurer. Medicare may pay for covered medical services on a conditional basis, with the expectation that Medicare's conditional payments will be reimbursed once a primary payer's responsibility is established through Section 111 reporting. In the context of a workers' compensation or no-fault claim, this may be through the carrier reporting the claim to CMS and acknowledging ongoing responsibility for medical ("ORM"). When liability is disputed, primary payer status will not be established until the claim has reached a settlement or there has been a judgment or award. However, once the claim is resolved, the settlement, judgment, or award must be reported to CMS if the claim meets the threshold requirement, and CMS will then demand reimbursement for outstanding conditional payments they have made in relation to the case.

As noted in the above-referenced alert, CMS has determined that the process of identifying and collecting conditional payments in cases that settle for below $750 does not make financial sense, as the administrative costs associated with recovery often exceed the recoveries themselves. However, CMS does review the threshold on an annual basis and is always looking for ways to increase efficiencies and maximize recoveries in order to protect the trust fund. As such, carriers and self-insureds should make sure that they are aware of the annual threshold and that their compliance programs are up to date.

The Dickie, McCamey & Chilcote Medicare Compliance Group is available to your organization for all aspects of MSP compliance, including establishing a compliance program for your entity or reviewing an existing program, preparing Medicare Set-Asides, obtaining CMS approval of MSAs, and resolving conditional payment issues. If you have any questions regarding the information outlined above, or any other inquiries, please feel free to contact us.

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