

Mandatory Insurer Reporting and Its Effect on Claims Handling and Settlement

By Kaija Blalock

The Medicare Secondary Payer Statute (MSP) has demanded the attention of insurance carriers since 1980, when its provisions made Medicare “secondary” to liability, workers’ compensation, no-fault insurance, as well as to group health plans in most situations. Medicare’s “secondary” status means that Medicare is prohibited from paying for covered services if a “primary” payer exists. The prohibition extends as far as future medical costs in settlements and has changed the settlement of workers’ compensation claims in particular. Insurers must now revisit Secondary Payer compliance and once again re-tool their handling of claims. As many already know, the MSP was amended in 2007 to require mandatory reporting by group health, liability, workers’ compensation and no-fault insurers. The Mandatory Reporting requirement takes effect for all entities this year. (New statutory language is codified at 42 U.S.C. 1395y(b)(7)

& (b)(8) and is often referred to as “MMSEA Section 111.”) Insurers are advised to review instructions and posted materials available on CMS’s website, www.cms.hhs.gov/MandatoryInsRep/, particularly the “User Guide” posted March 16, 2009. This article presents general highlights of the requirement.

Group Health Insurers have already begun reporting via the Coordination of Benefits Secure Web Site (COBSW). Beginning July 1, 2009, electronic reporting by workers’ compensation, liability and no-fault insurers will also be required. These entities must first register on the COBSW. Following registration, insurers will be assigned an Electronic Data Interchange Representative (EDI Rep) to assist with ongoing communication and data exchange, as well as a timeframe for testing and submittal. All entities will report on a quarterly basis.

Responsible Reporting Entities, or RRE (and in most cases, the insurer), will be required to report only on claims that involve Medicare

beneficiaries. “Reportable Events” are: 1) the assumption of responsibility for medical costs and 2) the termination of the responsibility for medical costs. RREs must also report “ongoing responsibility for medicals” (ORM) assumed before July 1, 2009, for current Medicare beneficiaries. In response to carrier concerns, CMS recently issued thresholds eliminating the reporting requirement for some (though, unfortunately, not many) claims. CMS has defined these thresholds as follows:

■ Workers’ compensation ORM claims meeting all of the following criteria are excluded (through December 31, 2010):

- ♦ “Medicals only”
- ♦ “Lost time” of no more than seven calendar days
- ♦ All payment(s) has/have been made directly to the medical provider
- ♦ Total payment does not exceed \$600.

A second reporting threshold addresses settlements. For these,

CMS coined a new term, Total Payment Obligation to the Claimant, or TPOC. TPOC refers to the dollar amount of a settlement, judgment, award or other payment in addition to/apart from “ongoing responsibility for medicals.”

■ Initial liability and workers’ compensation TPOCs with dates of July 1, 2009, through December 31, 2010, and TPOC amounts of \$0 – \$5,000 are exempt from reporting. (Where multiple TPOCs are reported by the same RRE on the same record, the combined TPOC amounts must be considered in determining whether or not the reporting exception threshold is met.)

The threshold for TPOC amounts decreases yearly after December 31, 2010.

CMS labels both of these “interim” thresholds, underscoring that procedures for mandatory reporting are still evolving and subject to change. Insurers and other interested parties are encouraged to comment on the reporting re-

quirement and its implementation through the CMS website listed above. Comments have already led to one welcome change. CMS will allow RREs to query monthly for their claimants’ Medicare entitlement status. Details on how to query can be found in the User Guide. Very briefly, the query function will involve submitting an “input file” containing claimant identifying information. Submitters will receive a “response file” from CMS providing a “yes” or “no” reply as to Medicare entitlement. CMS will not provide dates of entitlement or reasons for entitlement, just the “yes” or “no” reply.

Be aware that MMSEA Section 111 only adds a reporting requirement. There is no change to existing statutory provisions or regulations. This means that there is no change to the Centers For Medicare and Medicaid Services (CMS) existing policy on settlements that include funds for future

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Cloud Computing: Stormy Weather or Silver Linings?

By Heinan Landa

Imagine this: You receive a bill from an IT company. It is not for consulting hours or a server installation, though. It is a monthly bill that comes along with your electricity bill and bank statement – and it covers your organization’s usage of equipment, software and managed network support services for the month. Sound futuristic? It’s not, and you’ve likely already heard about it – cloud computing. It has been identified in *eWeek*, *Fortune* and other publications as a “top tech trend to watch in 2009.” But what is it, is it right for you, and how could it potentially change the landscape of technological services?

What Exactly is Cloud Computing?
Cloud computing refers to

the practice of delivering software, computer applications and other IT-related capabilities to end users by a third entity – or “the cloud.” This delivery method could refer to the Internet or any other existing “mystery” provider. The idea is that you have no knowledge of where or how the provider is actually delivering these capabilities and that you pay for these services according to usage. Great examples of a cloud service can be found in the many photo-sharing sites. The reason that photo-sharing sites are a good example is because you don’t actually have any knowledge of where the photos are stored, how they are backed up, protected from viruses or even delivered to your computer. It is all “up in the cloud somewhere” – hence, “cloud computing.”

Benefits of Cloud Computing
■ *Removes the guesswork that impacts the bottom line.* Business owners no longer need to fret

over choosing the right hardware brand or configuration. They subscribe to receive the necessary hardware to run their business for a monthly fee based on usage. Plus, with cloud computing, if the organization’s number of employees increases or decreases, the organization is never left with excess hardware inventory, software licenses and/or support for the delivery of storage space and applications. And, there is no need to replace computers and servers every three years.

■ *Removes limitations.* Cloud computing frees business owners previously limited by the capabilities of local computers, servers or IT infrastructure. There is no more stressing over adequate storage space or access to certain applications or programs.

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ing through empty pews hours before Easter Service.

When the doors open though, hesitation is cast aside.

Some volunteers take the clientele's meal orders (veggie or regular). Some refill their water glass. Some clean tables after clients have left. Some quickly wash dishes and utensils, while others jaunt the clean tools back to the servers. But all feel the same sense of accomplishment.

After 1 p.m., the volunteers sit and eat the meal they served to Daily Bread clients. Halpin, who stocked groceries in the kitchen's back pantry for three hours, thanked Siri for organizing the event and told him he'd definitely be back to volunteer with friends and family.

"That's what it's all about," said Siri, his short, black spiky hair waffling through the mandatory hairnet. "The goal is to get people coming back on their own."

Different personal goals were set on March 17 for the group of attorneys running Baltimore's Shamrock 5k, which has donated proceeds to the Leukemia & Lymphoma Society in the past.

The Young Lawyers then found themselves on a farm, hoping to prevent runoff that does the Chesapeake Bay harm.

"This was a little different cause its geared towards the environment and not an individual," says Michael Hudak, who brought his own shovel to YLS's Save The Bay project on Saturday, April 4. "It helps everybody, especially in our region."

But neither Tracey Steedman, a YLS member and leader of the Section's fourth "One Bar, One Community" event in 2009, nor the handful of other YLS volunteers

at Newcomer Farm thought a Save the Bay event would take them to the Appalachian Mountains.

Over 100 total volunteers planted 1,000 trees in a 2,000 foot stretch of farm land along Beaver Creek, just north of Boonsboro, Maryland. Native shrubs and trees were added to the terrain to help solidify the river bank and prevent algae blooms from ripping the oxygen out of the water, killing the trout and other aquatic life. The group of lawyers, boy scouts and local residents finished the day's work within a few hours.

The YLS volunteers at the final public service event of the Bar calendar year did, however, put in a full day with Habitat for Humanity.

It was DEMO-day on May 2, and besides Siri wielding a yellow handle pick-axe, the other attorneys used everything from pipecutters to sledgehammers to demolish the burnt-out interior of a WWII-era townhouse in south Baltimore.

"This is the world's best piñata," smiles attorney Laura Pacanowsky while she blasts her hammer through plasterboard a few feet away from a bathtub filled with debris.

Purchasers of Habitat homes put in 200 working hours per working adult before they own the home. After just eight hours, the 16 YLS volunteers understand only a sliver of what many indigent Baltimoreans experience, but that seems to be the project's intention.

Siri wanted non-YLS Section Council members to step up and provide a more personable kind of service through "One Bar, One Community", which he intends to join with MSBA's Public Awareness Committee next year.

"It just makes sense," he says.

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Workplace". Led by William McComas, the "MySpace, Facebook, YouTube and More" session was highlighted on a WBAL-TV news segment later that evening.

"We look for topics that would be interesting to teens," said Alice Chong, Chair of the MSBA Public Awareness Committee. "We wanted to educate teens on their credit rights, their rights in the legal system, as well as the dangers of the Internet."

"This is an opportunity to educate young people and teachers about the legal system," commented Rick Miller, Executive Director of CLREP, which co-sponsored the program.

Following lunch, the Gandhi Brigade (which produced MSBA's promotional video for the YouTube contest) addressed attendees regarding "Youth Advocacy Through Media". The group then presented its recently-produced video "Second Chances", which stressed the importance of offering fresh opportunities to people with criminal records.

Finally, it was time for the MSBA "Law in Your Daily Life" video contest People's Choice Awards. The contest, launched in January, asked youth and adults from throughout the state to sub-



WBAL-TV reporter Tim Tooten (left) interviews MSBA President Katherine Kelly Howard. Tooten's report on Law Day 2009 aired on WBAL's evening news broadcast.

mit a one- to three-minute video showing how the law impacts their lives. The 10 submitted videos were screened for the attendees, who were then asked to vote for their top three. Mark Burchick, a student at River Hill High School, took first place in the People's Choice competition, his musical rendition of law in his life drawing both laughter and applause from the audience. Second place went to four girls, aged 10-13 years old, who attend McDonogh School, and their mock-newscast video.

Third place went to students at Thomas Johnson Middle School, who showed how the law impacts middle school students.

After the announcement of the winners, a panel discussion fielded questions from the audience. Finally, the program ended with a raffle drawing, thanking the students for attending.

"Leave here today with an understanding in how the law interacts with practically everything you do in your daily life, and your daily routines," said Howard.

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■ *Cost-effective.* Cloud computing reduces in-house IT infrastructure costs. With cloud computing, there is no capital expenditure, less investment risk and a consistent average monthly fee based on usage (as opposed to financing a big software purchase and installation up front). This means predictable operating expenses and easier budgeting.

Is Cloud Computing Right for the Small-to-Mid-Sized Organization?

In a word, no. Cloud computing technologies as they exist now are only beneficial for medium and large businesses with multiple servers, and high availability application needs. The cost savings from these technologies will be realized in these types of environments first.

If your organization has three, five or seven servers, the technology as it exists today isn't ready for you. It will be more expensive, riskier and you won't realize the added value just yet. Not to worry, though, your time is coming. Right around the corner is a technology that combines cloud computing and virtualization – a hardware and software as a service combination.

On the Horizon...

Small and mid-sized businesses need not feel left out. The technology is coming that will allow you and your technology partner to implement cloud computing in your environment – for your scale. This means that you will be charged on a per usage basis for hardware and software services *within your own network*. It will combine cloud computing and virtualization technologies, making them relevant for the small-to-mid-sized organization – and be worth waiting for.

Last Word

The technology service provider and user landscape is

changing. Offices without server rooms, complex equipment installations facilitated by a simple email or phone call, reasonable bills for services based on usage – all of these changes are in the near future for the small-to-mid-sized organization. Hardware and software as a service will provide access to enterprise-class technology that is affordable and easily scalable.

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medical costs. CMS reiterates that mandatory reporting is part of an effort to "coordinate benefits" in keeping with the Medicare Secondary Payer Act for Medicare beneficiaries. Keep in mind that this effort previously led to the widespread use of Workers' Compensation Medicare Set-Aside Arrangements (WC-MSAs) in workers' compensation

settlements. Mandatory reporting may soon lead to a more prominent role for CMS in the evaluation of other types of settlements.

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