



CMS Revises Timeline for Reporting

As you are probably well aware, the Medicare Secondary Payer laws ("MSP") and the Medicare, Medicaid, and SCHIP Extension Act of 2007 ("MMSEA") **reporting requirements have been anything but simple and straightforward** for RREs ("Responsible Reporting Entities"), their attorneys, and others who are concerned about this subject. Indeed, MSP laws and the MMSEA have been aptly described as the metaphorical "bull in the settlement china shop" which can result in the imposition of a harsh \$1,000-a-day penalty and double damages for noncompliance with these convoluted, mind-boggling laws.

Fortunately, **implementation of these laws by the Centers for Medicare & Medicaid Services ("CMS") has been delayed once again.** The CMS just issued an "Alert" which declares a one-year delay or moratorium (without explanation) under certain circumstances. What this means is that reporting (electronic filing) of initial claims involving a so-called Total Payment Obligation to Claimant ("TPOC"), which refers to the dollar amount of a settlement, judgment, award or other payment through liability insurance (including self-insurance) to the Medicare beneficiary is **now scheduled to begin on January 1, 2012, rather than on January 1, 2011** (and applies to cases or disputes resolved on or after October 1, 2011). In cases involving ongoing responsibility for medical ("ORM") payments, however, the timeline for reporting is still January 1, 2011. See separate CMS "Alert" for complete details including an extension of the current dollar thresholds for liability insurance and worker's compensation.

We expect this delay to facilitate faster resolution of disputes in personal-injury liability cases. CMS will also likely suspend issuance of so-called "guidance documents" which have often been a source of contradiction and confusion.

We will continue to keep you updated on any developments concerning this subject.

Chair, Harmonie Group Medicare Sub-Committee
Patrick T. Bergin
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
Patrick.Bergin@butlersnow.com
Phone: (228) 575-3040