



Medicare Secondary Payer

The Medicare, Medicaid, and SCHIP Extension Act enacted in late 2007 added new information reporting requirements for purposes of coordination of benefits under Medicare Secondary Payer requirements.

NAMIC opposes an overly broad application of the new reporting requirements for insurers under the Medicare Secondary Payer and has been working with the Centers for Medicare and Medicaid Services (CMS) to streamline the reporting procedure.

NAMIC supports access to the Medicare eligibility database for claimant identification and the ability to use third-party data reporters, but **opposes** holding insurers responsible for false or inaccurate information provided by beneficiaries.

Background

The Medicare, Medicaid, and SCHIP Extension Act enacted in 2007 added new information reporting requirements for purposes of coordination of benefits under Medicare Secondary Payer requirements.

Section 1862(b) of the Social Security Act of 1980, 42 USC Section 1395y(b)(5), established Medicare payments as secondary to other payments for health care. The Tax Equity and Fiscal Responsibility Act of 1982 expanded and clarified Medicare as the secondary payer to additional primary plans (group health plans, workers' compensation plans, liability insurance, or no-fault insurance). Both underinsured motorists and uninsured motorists are included in the definition of liability insurance for Medicare reimbursement purposes. Personal Injury Protection and medical payments are considered no-fault insurance. The statutes provide a right of subrogation for payments made on behalf of those insureds and grant CMS the right to recover funds from any primary payer even if the third party payer has already reimbursed the beneficiary or provider.

As the 2007 reporting requirements began, an applicable plan (including self-insurance, automobile, homeowners' insurance, no-fault insurance, and workers' compensation) had to determine whether a claimant (including an individual whose claim is unresolved) was entitled to benefits under Medicare and submit information as directed by the federal government with respect to the claimant. The Secretary of the Department of Health and Human Services was directed to establish the information to be collected, and the timing and method of reporting. Failure to comply with requirements is punished by civil money penalties of \$1,000 per day with respect to any claimant.



Federal and Political Affairs Department

Jimi Grande
Senior Vice President –
Federal & Political Affairs
jgrande@namic.org

Matt Gannon
Assistant Vice President –
Federal Affairs
mgannon@namic.org

Jon Bergner
Federal Affairs Director
jbergner@namic.org

Irica Solomon
Political Director
isolomon@namic.org

Matt Brady
Media Relations Director
mbrady@namic.org

Kristin Eichhorn
Congressional Contact
Program Director
keichhorn@namic.org

122 C Street, N.W.
Suite 540
Washington, D.C.
(202) 628-1558

www.namic.org

NAMIC is the largest and most diverse national property/casualty insurance trade and political advocacy association in the United States. Its 1,400 member companies write all lines of property/casualty insurance business and include small, single-state, regional, and national carriers accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. Since its inception in 1895, NAMIC has been advocating for a strong and vibrant insurance industry.

Reporting was initially required to begin in April 2010, but was delayed until first quarter 2012. This delay was due, in part to objections raised by NAMIC and others regarding a lack of clarity in the rules for who should be reporting and what should be reported.

In addition to the postponement of the reporting deadline, during this interim NAMIC was successful in working with the CMS to rectify a number of problems created by the reporting requirements. NAMIC was also able to ensure that the reporting would be on a quarterly basis instead of a monthly basis and would be permitted – at the discretion of the company – either on an individual company or consolidated basis, either directly or through a third-party reporting agent. Agency officials further indicated they would develop a self-certification form that insurers could use to collect information from claimants.

To help answer questions and assist NAMIC member companies with the registration and new reporting requirements, NAMIC created a special Medicare Secondary Payer Resource Center at NAMIC Online.

For more information on Medicare Secondary Payer go to <http://www.namic.org/federal/fedissues.asp>, or contact



Jonathan Bergner
Federal Affairs Director
jbergner@namic.org