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CMS Data Match and Other Medicare Reporting

Many employers have recently received a letter from the Centers for Medicare and Medicaid Services (CMS) requesting information on their medical plan related to the CMS Data Match project. Employers who receive a Data Match letter must respond within 30 days or risk a CMS civil monetary penalty. Employers are also being asked to work with their insurers and claims processing administrators to assist them, as necessary, in obtaining certain Medicare related information needed for mandatory reporting compliance.

Background

Congress enacted a law in 1989 to provide CMS with better information about Medicare beneficiaries' group health plan (GHP) coverage. The law requires the Internal Revenue Service (IRS), the Social Security Administration (SSA), and CMS to share information that each agency has about whether Medicare beneficiaries or their spouses are working. The process for sharing this information is called the IRS-SSA-CMS Data Match. The purpose of the Data Match is to confirm that claims CMS is paying on a primary basis should in fact be paid on a primary basis, as opposed to paying on a secondary basis, after an employer GHP pays the claim first. CMS has been sending these Data Match requests for many years to employers (they are sent out in batches from time to time). More information on the Data Match project is available on the [CMS Medicare COB](#) page.

Medicare Secondary Payer

The Medicare Secondary Payer (MSP) rules prohibit an employer from offering an incentive of any kind to an individual who is Medicare-eligible to enroll in Medicare in lieu of the employer's GHP. These rules generally apply to employees in current employment status and are applicable to most group health plans with limited exceptions. (There are exceptions for employers with less than 20 employees for age based Medicare entitlement and an exception for employers with less than 100 employees for disability based Medicare entitlement, not including end stage renal disease.)

While there are fines that can be assessed for encouraging or enticing an employee to take Medicare (\$5,000 per situation), the bigger potential is the bill for claims that Medicare paid as primary versus what they should have paid as secondary. This claim represents what the carrier (if fully-insured) or employer (if self-funded) must repay Medicare for the discovered individuals. The three agencies appear to be specifically looking for instances where an employee (or the dependent of an employee) is enrolled in Medicare and is also the employee of a group. The agencies are actively combining resources to see where someone's social security number is

showing up both on the income tax withholding list for an employer and also on the Medicare rolls (the “data match.”)

The Questionnaire

Under the Data Match process, CMS sends a letter and asks the employer to provide eligibility and coverage information, under the employers' GHP, related to certain Medicare-eligible workers and spouses of Medicare-eligible individuals. This information is used to identify the primary and secondary payers for medical services provided to a Medicare beneficiary. CMS identifies the Medicare-enrolled individuals to the employer (through an online portal) and the employer indicates whether the person has coverage through the employer's plan, and if so, whether the coverage is due to the individual's or a relative's (such as a spouse's) “current employment status.” Generally, the law requires that a Data Match be completed upon receipt of a Data Match Personal Identification Number (PIN). There are two submission options available: Direct entry through an [online portal](#) and an Electronic Media [questionnaire](#). Employers must respond within 30 days of the initial inquiry, unless an extension has been requested and approved. To assist with responses, sponsors can view the [Data Match instruction booklet](#). The instruction booklet discusses reasons why CMS is requesting information and explains how to obtain an extension if more than 30 days is needed to complete the Data Match report. Information on the types of questions asked is also provided. CMS can impose a \$1,000 penalty for every individual with respect to whom CMS has asked for information but receives not reply.

Alternative Available

As an alternative to the Data Match, some very large employers enter into an Employer Voluntary Data Sharing Agreement (VDSA) with CMS to exchange GHP and Medicare entitlement data. For more information see the [VDSA](#) page.

Mandatory Insurer Reporting Law

Under a related requirement, the law also requires that GHP arrangements report information that the Department of Health and Human Services (HHS) requires for purposes of coordination of benefits under Medicare. This reporting requirement is in addition to the Data Match program. In general, this reporting is handled by a GHP insurer or claims processing third party administrator (TPA). These insurers and claims processing TPAs, known as Responsible Reporting Entities or RREs, are required by law to report specific information on certain GHP coverage to CMS on a quarterly basis for all individuals where Medicare is the secondary payer. The RRE must report GHP information on all individuals meeting the definition of an active covered individual. The insurers or claims processing TPAs may request this information, and other data related to an insured individual, if that information is not in their files. CMS encourages employers to work with their insurers and claims processing TPAs and assist them, as necessary, in obtaining the information needed for mandatory reporting compliance. For further information on mandatory insurer reporting requirements, please visit the [CMS Web site](#).

Employers should continue to monitor developments and requirements related to Medicare and the secondary payer rules. Contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220 should you have any questions. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).



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