



Scheuer Mackin & Breslin LLC

Workers' Compensation Legal Alert

As SMB previously advised you, the Medicare, Medicaid and SCHIP Extension Act of 2007 ("MMSEA") was signed into law on December 29, 2007. The MMSEA requires self-insured employers to determine whether the claimant is eligible for Medicare benefits and if so, will require the employer to notify Medicare of the claim and provide certain information. Failure to do so will result in a financial penalty up to \$1,000.00 per day.

Medicare has issued its initial regulations governing the disclosure of information by self-insured employers. This mandatory disclosure process will be entirely by electronic reporting and goes into effect on July 1, 2009. The self-insured employer must register on-line with Medicare and will be required to report to CMS on no more than a quarterly basis. All claims must be reported. Reporting of contested claims which have been resolved will be a one-time occurrence. Claims with ongoing payments will require ongoing reporting.

The current timeline for implementation of the new system is as follows:

- 5/1/09 – 6/30/09 Electronic registration with Medicare
- 10/1/09 – 12/31/09 All self-insured employers shall submit their first files based upon a predetermined schedule
- 1/1/10 All self-insured employers shall be submitting reports by this date

The information that must be initially reported will include the claimant's name, address, social security number, date of the injury, how the injury occurred, the types of injuries suffered including the ICD codes, the workers' compensation claim number, and the name and address of claimant's attorney. Once a case is settled, the self-insured employer will be required to report the settlement date, the amount of the settlement, and whether the settlement was a partial or full and final settlement of the claim.

TPAs may submit reports on behalf of self-insured employers, but the self-insured employer remains accountable and responsible. Therefore, if a self-insured employer contracts with a TPA to report claim information to Medicare, the parties should verify that their contract covers this new service as well as the related issues relevant to an employer's penalty liability.

Scheuer Mackin & Breslin will continue to keep a close watch on further developments and update you accordingly. Should you wish to discuss the matter in more detail, please feel free to contact us.

THIS UPDATE IS PROVIDED AS A SERVICE TO OUR FRIENDS AND CLIENTS FOR INFORMATIONAL PURPOSES, AND IS NOT INTENDED TO CONSTITUTE LEGAL ADVICE APPLICABLE TO ANY GIVEN CASE. PLEASE CONTACT ANY OF OUR ATTORNEYS FOR MORE INFORMATION AS TO THIS IMPORTANT DEVELOPMENT IN OHIO WORKERS' COMPENSATION LAW.

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