CMS to Demand Section 111 Reporting of Funds Set Aside for Future Medicals in Workers' Compensation Settlements

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Shannon P. Metcalf

By Shannon P. Metcalf on November 15, 2023

The Centers for Medicare and Medicaid Services (CMS) is expanding the existing Section 111 reporting process to capture information on all workers' compensation claims involving Medicare beneficiaries that receive a settlement (i.e., TPOC) and funding for a Workers' Compensation Medicare Set-Aside (WCMSA), regardless of whether the workers' compensation settlement was reported to CMS under the voluntary WCMSA review process or is a non-approved WCMSA. The implementation date for this updated, mandatory reporting is expected to be early January 2025. CMS will be updating the file layout for reporting in early 2024 and hopes to have testing available in the Fall of 2024. Notification from CMS will be provided when testing can begin.

CMS will add new fields that will allow for reporting of the following:

- Total WCMSA amount;
- WCMSA period (i.e., life expectancy);
- If the WCMSA is being paid via lump sum or structured annuity;
- Initial WCMSA deposit amount (if annuity);
- Annual deposit amount (if annuity);
- CMS Case Control Number (if WCMSA had been approved by CMS); and
- Tax ID of the professional administrator (if applicable).

Once this information is reported, CMS will update the Medicare beneficiary's common working file with a "W" record, which will prevent the payment of medical services related to the injuries described in the diagnosis codes. A notification letter will also be sent to the Medicare beneficiary indicating the process for attestation and exhaustion of the WCMSA.

Hedrick Gardner will continue to monitor any updates in this regard and will provide additional information when available. Please contact Shannon Metcalf with questions regarding this notice, or for any other Medicare inquiries.