



CMS procedural changes may have significant impact upon workers' compensation claims administration

By Michael H. Weier ■ January 21, 2016

The Centers for Medicare and Medicaid Services (CMS) recently implemented procedural and process changes that have significant impact upon the administration of workers' compensation claims in Oregon and Washington.

For dates of injury on or after October 1, 2015, responsible reporting entities, including workers' compensation insurers, self-insured employers (SIEs) and third party administrators (TPAs), are required to use ICD-10-CM codes.¹

Also in October 2015, CMS transitioned a portion of its Non-Group Health Plan (NGHP) recovery responsibility from the Benefits Coordination & Recovery Center (BCRC) to its Commercial Repayment Center (CRC).² For new cases after October 1, 2015, the CRC has assumed responsibility for recovery of conditional payments directly from NGHP entities, including workers' compensation insurers and SIEs. For matters in which CMS is pursuing recovery for conditional payments issued prior to October 1, 2015, the BCRC remains the federal government's conditional payments collections agency.

A workers' compensation insurer, SIE or TPA should report to CMS "ongoing responsibility for medicals" (ORM) for treatment of industrial injuries or occupational diseases for workers' compensation claimants who are also recipients of or eligible for Medicare benefits. Effective January 1, 2016, CMS claims processing contractors will use ORM information to determine whether Medicare will make primary payment for medical treatment.³ Accordingly, CMS has "strongly encouraged" workers' compensation entities to ensure accurate reporting of proper ICD codes. CMS and CRC will rely upon ICD-10 code reporting to make payment determinations.

In the most significant change in procedure, CMS reversed its longstanding position that it typically will not seek reimbursement of conditional payments prior to claim settlement. Under the new procedure, however, CMS may now pursue reimbursement of conditional payment claims in ORM situations during the settlement negotiation or litigation process. CMS can demand reimbursement prior to claim settlement or resolution.

Workers' compensation entities may start to receive conditional payment notices demanding reimbursement even though claims have not settled and may never settle. Claims adjusters and administrators are encouraged to note

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the CMS procedure and process changes and adjust their best practices as necessary. ■

- ¹ CMS Technical Alert: ICD-10 Reminder - October 1, 2015 Reporting Requirements (July 16, 2015). <https://www.cms.gov/Medicare/Coordination-of-Benefits-and-Recovery/Mandatory-Insurer-Reporting-For-Non-Group-Health-Plans/Downloads/New-Downloads/Technical-Alert-ICD-10-Reminder-October-1-2015-Reporting-Requirements.pdf>. See also International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM).
- ² CMS What's New: October 5, 2015 - Transition of portion of the Non-Group Health Plan Recovery Workload to the Commercial Repayment Center. <https://www2b.cms.gov/Medicare/Coordination-of-Benefits-and-Recovery/Coordination-of-Benefits-and-Recovery-Overview/Whats-New/Whats-New.html>
- ³ CMS What's New: December 24, 2015 - Changes to Medicare Claim Payments where Ongoing Responsibility for Medicals (ORM) is Reported. <https://www.cms.gov/Medicare/Coordination-of-Benefits-and-Recovery/Coordination-of-Benefits-and-Recovery-Overview/Downloads/Medicare-Claim-Payments-Where-Ongoing-Responsibility-for-Medicals-is-Reported.pdf>

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