

May 20, 2009

## Deadline for Complying with Medicare Secondary Payer Reporting Rules Approaching

Effective July 1, 2009, all liability insurance plans (including self-insurance), no-fault insurance plans, and workers' compensation plans, including non-subscribers to the Texas Workers' Compensation Act ("Insurance Plans"), must comply with the mandatory electronic reporting requirements of the Medicare Secondary Payer rules, as mandated by the Medicare, Medicaid and SCHIP Extension Act of 2007 ("MMSEA"). While group health plans ("GHPs") generally have been required to comply with such reporting requirements since January 1, 2009, in most cases, the insurer or third party administrator handles compliance for GHPs. However, *employers* will have the responsibility for these reporting requirements for Insurance Plans if the Insurance Plans are self-funded (e.g., self-funded workers' compensation plans).

Under MMSEA, Insurance Plans must electronically report on a quarterly basis any settlement, judgment, award, or other payment made with respect to a Medicare beneficiary. The reports must include the identity of the Medicare beneficiary (including Social Security number). The new electronic reporting requirements under MMSEA provide more information to the Center for Medicare and Medicaid Services ("CMS") to ensure that Medicare has timely data to consider when making payments or seeking recovery of amounts paid by Medicare.

In addition, MMSEA requires that all entities responsible for reporting requirements (including employers with respect to self-funded Insurance Plans) must register online with the CMS by June 30, 2009.

The penalty for non-compliance is \$1,000 per day for each day of noncompliance for each individual for whom information should have been reported. As the penalty for any omission could be significant, all employers that sponsor an Insurance Plan should carefully review these rules to determine whether they are responsible for this new reporting obligation. If you need assistance in complying, please contact one of the attorneys listed below.

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