



Office of Financial Management/Financial Services Group

Medicare Secondary Payer (MSP) Mandatory Reporting Provisions in
Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA)
(See 42 U.S.C. 1395y(b)(7)&(b)(8))

ALERT

**Reporting Exception Related to Certain Liability Insurance (Including Self-Insurance),
No-Fault Insurance, and Workers' Compensation
Total Payment Obligation to the Claimant (TPOC) Settlement,
Judgments, Awards, or other Payments,
Where the Funds At Issue Have Been Paid Into a Qualified Settlement Fund (QSF)
Under Section 468B of the Internal Revenue Code (IRC) Prior to October 1, 2011**

This ALERT is to announce a limited MMSEA Section 111 reporting exception related to Qualified Settlement Funds (QSFs). This exception is applicable for Responsible Reporting Entities (RREs) for certain liability insurance (including self-insurance), no-fault insurance, and workers' compensation TPOC settlements, judgments, awards, or other payments, where funds have been paid into a QSF under Section 468B of the IRC prior to October 1, 2011. (Note: QSFs under Section 468B of the IRC are not RREs.)

Under this exception, MMSEA Section 111 reporting is not required when **ALL** of the following criteria are met:

- The settlement, judgment, award or other payment is a liability insurance (including self-insurance) TPOC amount; where there is no Ongoing Responsibility for Medicals (ORM) involved; and
- The settlement, judgment, award, or other payment will be issued by a QSF under Section 468B of the IRC, in connection with a State or Federal bankruptcy proceeding; and,
- The funds at issue were paid into the trust prior to October 1, 2011.

The content of this ALERT supersedes the content of the existing User Guide (Version 3.2) and will be incorporated into the next version of the User Guide. Information related to the MMSEA Section 111 MSP reporting requirements, including a discussion of who is an RRE, can be found at www.cms.hhs.gov/MandatoryInsRep.

MEMORANDUM

DATE: September 30, 2011

FROM: Acting Director
Financial Services Group
Office of Financial Management

SUBJECT: Medicare Secondary Payer—Liability Insurance (Including Self-Insurance)
Settlements, Judgments, Awards, or Other Payments and Future Medicals --
INFORMATION

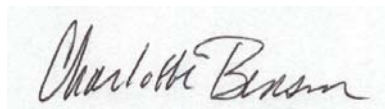
TO: Consortium Administrator for Financial Management and Fee-for-Service
Operations

The purpose of this memorandum is to provide information regarding proposed Liability Medicare Set-Aside Arrangement (LMSA) amounts related to liability insurance (including self-insurance) settlements, judgments, awards, or other payments (“settlements”).

Where the beneficiary’s treating physician certifies in writing that treatment for the alleged injury related to the liability insurance (including self-insurance) “settlement” has been completed as of the date of the “settlement”, and that future medical items and/or services for that injury will not be required, Medicare considers its interest, with respect to future medicals for that particular “settlement”, satisfied. If the beneficiary receives additional “settlements” related to the underlying injury or illness, he/she must obtain a separate physician certification for those additional “settlements.”

When the treating physician makes such a certification, there is no need for the beneficiary to submit the certification or a proposed LMSA amount for review. CMS will not provide the settling parties with confirmation that Medicare’s interest with respect to future medicals for that “settlement” has been satisfied. Instead, the beneficiary and/or their representative are encouraged to maintain the physician’s certification.

The above referenced guidance and procedure is effective upon publication of this memorandum.



Charlotte Benson