

MEDICARE REPORTING DEADLINE DELAYED UNTIL 2011

The deadline has changed once again for compliance with the new Medicare reporting mandates of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA or the "Act"). On February 16, the U.S. Department of Health and Human Services announced that the federal government has extended the deadline for compliance from April 1, 2010, to January 1, 2011. This additional nine months will allow Responsible Reporting Entities (RREs) to better understand the complex requirements of the Act before any penalties for noncompliance take effect.

As a reminder, RREs include any entities that pay, in whole or in part, any settlement, judgment, award, or other sum to a Medicare beneficiary. RREs potentially include insurers with respect to liability, no-fault insurers, workers' compensation insurers, and self-insured entities. RREs must submit required reports online via the Center for Medicare and Medicaid Services' (CMS) online reporting system. Although the deadline for RREs to register with CMS was September 30, 2009, RREs may still register. Entities that do not currently qualify as RREs but that may become RREs in the future should initiate registration now and begin testing claims in order to gain the best possible understanding of the reporting system before the reporting requirements begin.

Prior to the extension of the deadline, RREs were required to submit "test" claims by March 31, 2010, and to begin the first quarter of live claim input on April 1, 2010. Based on the federal government's recent announcement, RREs may now continue testing input of claims until December 31, 2010. Live reports will then begin on January 1, 2011, at which time any failure to timely submit a required report will result in a penalty of \$1,000 per day per claimant. RREs may choose to submit live claims prior to January 1, 2011, as long as they have properly completed testing of the system. Within the first quarter of 2011, RREs must submit a live report for any one-time payment that occurs on or after October 1, 2010, and for any ongoing payment obligation that began on or after January 1, 2010. Consequently, despite the deadline extension, settlements being negotiated now may still be covered by the Act. Parties to current settlement negotiations should ensure that Medicare is paid before disbursing any settlement proceeds to a claimant.

On February 22, CMS published an updated User Guide, which can be accessed online at <http://www.cms.hhs.gov/MandatoryInsRep/Downloads/NGHPUserGuideV3022210.pdf>. The User Guide provides a detailed explanation of the steps for registration and reporting under the Act and includes the updates announced on February 16. Please contact Megan Gammill at (501) 688-8899 or mgammill@mwlaw.com or Todd Newton at (501) 688-8881 or newton@mwlaw.com with questions or for more guidance.