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STATE FUND EMPLOYERS ALERT

New Medicare Rules Impact \$15,000 Medical-Only Program

State-Fund Employers Beware

State-fund employers participating in the Bureau of Workers' Compensation \$15,000 Medical-Only Program will be subject to onerous Medicare regulations.

Medicare does not want to treat work injuries. As a result, new federal regulations require employers participating in the \$15,000 Medical-Only Program (as well as self-insured employers) to register with Medicare. These employers must also file quarterly reports of all claims they cover when the claimant is a Medicare beneficiary.

This allows Medicare to avoid covering work injuries by cross checking its list of beneficiaries against its list of workers' compensation claimants. Medicare promises to levy staggering fines on any employer that fails to report these claims.

The \$15,000 Medical-Only Program

The new BWC program allows participating state-fund employers to self insure medical-only claims, up to \$15,000. This helps employers avoid increased premiums, and also provides more control over the claim. The employer –

and not the MCO – manages the claim. That means that the employer makes decisions about treatment and payment of bills. However, those advantages may be negated by the costs and effort required by these new Medicare regulations.

Mandatory Registration Began May 1, 2009

Employers in the \$15,000 Medical-Only Program must register with the Center for Medicare Services by June 30, 2009. Employers covered by these new rules must register themselves. Agents, such as third party administrators, cannot register their clients.

Covered employers must go to the Center for Medicare Services Coordinator of Benefits website to register. The web address is www.section111.cms.hhs.gov. During registration, each employer can designate a third party administrator who can serve as Account Manager and submit the quarterly claim reports.

The information required to register includes:

- A Federal Tax Identification Number;
- Company name and address;

MEDICARE AND THE \$15,000 MEDICAL ONLY PROGRAM

- Company Authorized Representative contact information (name, job title, address, email, phone, and fax); and
- All subsidiary company information if applicable.

Each registering employer must designate an Authorized Representative and an Account Manager. The Authorized Representative will have ultimate accountability for compliance with the reporting requirements. The Account Manager manages the overall reporting requirements and actually submits the quarterly reports. This person may be an agent, such as a third party administrator.

Claims that Employers Must Disclose in Quarterly Reports

Generally, employers in the \$15,000 Medical - Only Program must inform Medicare of any claim when the claimant is or was a Medicare beneficiary.

A “Medicare beneficiary” is:

1. A claimant over 65 years old;
2. A claimant who has been on social security disability for more than 24 months; OR
3. A claimant with end-stage Renal Disease (kidney failure and they are on dialysis).

Whether a covered employer has – or anticipates having – any claims to report does not affect the requirement to register. That is,

each employer in the \$15,000 Medical-Only Program must register with the Center for Medicare Services even though the employer may not have workers' compensation claimants in the \$15,000 Medical-Only Program who are Medicare beneficiaries.

Events that Trigger the Reporting Requirement

Employers in the \$15,000 Medical-Only Program must disclose a reportable workers' compensation claim twice – at the time the employer becomes responsible for the claim, and again when the responsibility ends through settlement, court judgment, or claim inactivity. An employer's responsibility would also end when the medical costs reach the \$15,000 threshold. At that point the BWC assumes responsibility for the claim.

Bottom Line

All employers enrolled in the \$15,000 Medical-Only Program must register with Medicare by June 30, 2009, even if there are no employees on Medicare, or any employees who meet the definition of a Medicare beneficiary. Once registered, the employer or its third party administrator must submit the claim data on a quarterly basis. Employers should contact their third party administrators immediately (if not already) to discuss this. Conversely, employers can withdraw from the \$15,000 Medical Only Program by calling 1-800-OHIOBWC.

For a complete explanation of all requirements and deadlines, see the *Users' Guide* at <http://www.cms.hhs.gov/MandatoryInsRep/Downloads/NGHPUserGuide031609.pdf>.