

## MEDICARE REPORTING - FAQ FOR LLOYD'S COVERHOLDERS

### What does the Medicare Secondary Payer legislation affect?

Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA) requires mandatory reporting by insurers, of liability, medical expenses, workers compensation and personal injury claims to the Centre for Medicare and Medicaid Services (CMS). This applies to all US liability payments involving bodily injury and is not restricted to health care insurance.

MMSEA s111 affects all property & casualty insurers. Surplus lines insurers are also obliged to fulfil the above obligations as are reinsurers who make a direct payment to the claimant or his representative.

### What types of claims need to be reported?

Insurance classes which are affected are Liability, No-Fault and Workers' Compensation which are termed by CMS as "Non Group Health Plans (NGHP)"

**Liability Insurance (including self-insurance)** Includes but is not limited to: Property liability, Automobile liability, product liability, malpractice liability

**No-Fault** Insurance pays for health care services resulting from injury to an individual regardless of who is at fault for causing the accident. Includes but is not limited to: Certain forms of automobile insurance, certain forms of homeowners insurance, commercial insurance plans, Medical payments coverage, personal injury protection and medical expenses coverage. In addition, CMS has advised that no-fault also includes accident & health, short term travel and occupational accident products.

**Workers Compensation** is a law or plan of the United States or any state that compensates employees who get sick or injured on the job.

### What type of claims data will need to be reported by insurers?

The amount of data fields required for reporting will vary between individual claims. Some fields are mandatory for every claim. It is recommended that claims data should be reported as early as possible. Types of data that are required include but are not limited to:

- Identifying information for claimants, including social security number or Medicare Health Insurance Claim Number, age, gender, and name.
- Total payment obligation to claimants (TPOC) information. This data refers to the dollar amount of a settlement, judgement or award and when it was paid. TPOC settlements generally are one time or "lump sum" payments.
- Whether the insurer has an ongoing responsibility for medicals (ORM)
- Information which identifies the alleged cause of injury or illness, such as ICD-9 diagnostic codes.

A full list of data fields can be found in Appendix D of the CMS NGHP user guide on the CMS website (see below)

### What happens if an insurer fails to report Medicare claims data?

Failure to report the resolution of claims can incur fines and penalties for insurers. This includes fines for late notifications which can be as much as \$1,000 per day per claim. Even if the actual reporting task is delegated to a third party entity such as a coverholder or TPA, it is the insurer who remains liable for failures to report as well as late or inaccurate reporting of data to CMS.

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### How is Medicare claims data reported?

Insurers must register with CMS before they can begin to report claims data. CMS will then assign a registered reporting entity (RRE) ID to an insurer. This RRE ID will be a unique identifier for the reporting process.

There are two stages to reporting to CMS:

- First Stage: Determining Eligibility - This is a monthly query to CMS to determine whether a claimant is a Medicare beneficiary. The data fields required are: first name, last name, gender, date of birth and Social Security number.
- Second Stage: Mandatory Insurer Reporting – If the result of the eligibility query on a claimant is positive, then full reporting of the claim will be required with the inclusion of further data fields. Claims files are submitted once per quarter to CMS.

### How does Medicare reporting affect Lloyd's?

All Lloyd's syndicates writing US casualty business and reinsurers who make direct payments to claimants or their representatives are obliged to report claims to CMS. Over sixty syndicates have already been identified as having potential Medicare claimant exposure.

### Who is the Lloyd's Registered Reporting Entity (RRE)?

In the context of the Lloyd's market the registered reporting entity (RRE) will be a Managing Agent on behalf of a lead syndicate. (E.g. Catlin Underwriting Agencies on behalf of syndicate 2003)

Lloyd's will be reporting claims with Medicare claimant exposure to CMS on a "leader-only" basis. This means that the lead syndicate on a binding authority risk is responsible for reporting the entire Lloyd's portion of a binder claim under their own RRE ID. Following syndicates will not be reporting separately.

### Are all NGHP Claims in scope for Lloyd's?

Lloyd's will only be reporting liability and no-fault claims with Medicare exposure. The Lloyd's market does not currently underwrite workers' compensation.

### What has Lloyd's been doing to prepare?

Lloyd's Managing Agents have registered with CMS and are currently in the process of implementation of Medicare reporting services with the vendor 'Gould and Lamb'

### Who are Gould and Lamb?

Gould and Lamb are the vendor of choice for Lloyd's Medicare reporting and MSP compliance services. Gould and Lamb are the reporting agent for all Lloyd's RREs and therefore Managing Agents, coverholders and TPAs who are performing the reporting task will need to implement and use a Gould and Lamb reporting solution. All vendor fees are paid for by Lloyd's Managing Agents in accordance with the Terms of Service contract between Managing Agents, Lloyd's and Gould and Lamb.

### How are coverholders involved in Lloyd's Medicare reporting and compliance?

In many cases, the task of Medicare claims reporting is being delegated to TPAs and coverholders involved in the management and settlement of claims. There may also be instances where coverholders may be asked to manage and administer non-reporting services such as Medicare Set-Asides.

### How will coverholders know whether they have been delegated Medicare responsibilities?

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Lloyd's Managing Agents will have notified all of the relevant TPAs and Coverholders of their Medicare-related responsibilities. This notification may come direct from Managing Agents or through a broker.

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### **Coverholders have received confirmation that they are required to report Medicare claims - what should they do next?**

Coverholders who have received communications from Lloyd's Managing Agents confirming that they have a responsibility to report Medicare claims should ensure they liaise with the Lloyd's vendor Gould & Lamb to receive appropriate training and implementation of Medicare reporting services.

### **What Medicare training is available?**

The Lloyd's vendor Gould and Lamb provides training webinars which are tailored towards the needs of the Lloyd's Market. Circular emails with webinar dates are distributed to the coverholder and broker contacts provided to Gould and Lamb by Managing Agents. Ad-hoc webinars can also be arranged on request. Gould and Lamb's website also contains useful information about Medicare legislation, case law and Medicare Secondary Payer compliance services.

### **Do Gould and Lamb technology solutions cater for a range of technology capabilities?**

There should be no technology barrier for coverholders in respect of implementation of Gould and Lamb reporting services. Implementation options range from manual direct claims data entry into a web portal right up to full integration with existing claims systems.

### **What responsibilities do coverholders have who have NOT been given authority to report Medicare Claims**

Coverholders who are not reporting Medicare claims on behalf of Lloyd's, but are involved in the claims management process of such claims may be requested to assist with the collection of Medicare reporting data or communicating information between parties involved in a claim.

### **What are the limits on coverholder authority in respect of Medicare?**

Coverholders should ensure they understand and act within any authority given to them by Managing Agents relating to reporting and MSP Compliance tasks they perform on behalf of a Lloyd's Managing Agent.

Reporting should not be sub-delegated to third parties without consent from a Managing Agent. Likewise MSP compliance services should not be initiated if settlement authority has been withdrawn to London. Examples of MSP compliance tasks are the initiation of Medicare conditional payment research or allocation services such as Medicare set-asides (MSAs).

### **A coverholder disputes delegation of Medicare reporting / compliance tasks: How can this be resolved?**

A coverholder may receive notification that they are required to report claims on behalf of a Managing Agent(s), however the coverholder may not agree they are the most appropriate entity to perform this task for various reasons such as limits on authority or lack of resources. Coverholders should communicate any disputes in respect of Medicare delegation to the relevant Managing Agent either directly or via a broker as soon as possible.

### **Where can I find out more?**

Any Coverholder queries in respect of Medicare responsibilities should be directed to Lloyd's Managing Agents. Queries in relation to training and implementation of Gould & Lamb reporting services can be sent to [loyds-mir@gouldandlamb.com](mailto:loyds-mir@gouldandlamb.com)

For more information on Medicare reporting and MSP compliance please visit the following:

[www.loyds.com/medicare](http://www.loyds.com/medicare) Dedicated Medicare webpage for Lloyd's

[www.cms.hhs.gov/MandatoryInsRep/](http://www.cms.hhs.gov/MandatoryInsRep/) CMS Mandatory Insurer Reporting homepage

[www.gouldandlamb.com](http://www.gouldandlamb.com) Homepage of the Lloyd's Medicare vendor Gould and Lamb.