

Concerns with new Section 111 Reporting Update

In the new revisions to the WCMSA users guide, CMS is asking that RREs report information from other claims on the earliest reported claim. See NGHP User Guide Chapter III Policies v8.2 October 2025. RREs will be required to provide information known to be unrelated to the earliest reported claim (and therefore wrong information for that claim). Requiring data from one claim to be reported on unrelated claims seems to be a recipe for confusion and legal disputes. The applicable language is in Section 6.5.1.3

Single settlement resolving multiple incidents (different Dates of Incident) – Where there are multiple incidents (multiple dates of incident) being resolved with one TPOC, the RRE shall report the earliest date of incident and include all diagnosis codes being settled for all dates of incident. This applies regardless of the timing of the subsequent dates of incident, the nature of the injuries, or any allocation made to each date of incident in the settlement documents. This ensures that all medicals that were released by the settlement are accurately recovered while still affording the beneficiary a dispute and administrative appeal process if any claims are erroneously identified. • Medicare Set-Asides – As it relates to multiple dates of incident, an MSA, if applicable, shall be reported under the same guidance as above. That is, the earliest date of incident, if only one TPOC is made. If multiple TPOCs are submitted, but only one MSA is reported, the 6-22 Section 111 NGHP User Guide Chapter 6: Responsible Reporting Entities MSA shall be reported on the first TPOC only. Where there are multiple defendants (RREs) reporting in this scenario, the same guidance applies to MSAs as it does to TPOCs.

The new Guidelines efficiently create a likelihood that there would be assertions of conditional payment recoveries based on claim data that is, by definition, incorrect.

This will create confusion and inaccuracies, not only for payers, but also for beneficiaries and their representatives.

Example of Impact

Current Process When settling 3 WC claims for \$40,000 total (same injured worker, different dates of injury), RREs report each claim separately:

1. Claim #1 – DOI 1/1/2025 – Settlement \$40,000 – Body Part: Right Knee
2. Claim #2 – DOI 12/13/2020 – Settlement \$40,000 – Body Part: Left Leg
3. Claim #3 – DOI 8/3/2011 – Settlement \$40,000 – Body Part: Back

New CMS Process (Effective Immediately) CMS now requires:

1. Claim #1 – Do not report settlement

2. Claim #2 – Do not report settlement

3. Claim #3 – Report \$40,000 settlement with body parts: Right Knee, Left Leg, Back

The new CMS policy has indicated that all settlements are to be combined into one report tied to the earliest claim, listing all body parts—even if those injuries were not sustained on that date. The injured worker did not suffer all of those injuries on the same date. The specific concerns include

Concerns and Issues

1. Inaccurate Data

- o Reporting injuries to dates where they did not occur creates inaccurate records.

2. Medicare Lien Errors

- o CMS uses reported data to calculate conditional payment recovery. With incorrect dates, they could seek reimbursement for treatments that predate the actual injuries.

- o Their software for vetting conditional payments is already unreliable; this change will make accurate lien resolution nearly impossible.

3. Statutory Cap Risk

- o Federal law caps CMS recovery at the settlement amount or lien amount (whichever is lower). By not reporting settlements for Claims #1 and #2, it could be argued that there is no cap—creating theoretical exposure beyond the total settlement.