



COMPLETE ACTUARIAL
SOLUTIONS COMPANY

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Medicare Gets Tough

Recent actions by the Centers for Medicare/Medicaid Services (CMS) suggest that Medicare is increasing its enforcement of the [Medicare Secondary Payer Act](#) (MSP Act). Under the act, CMS can recoup medical expenses paid from parties “responsible” for paying the cost of injuries suffered by claimants. In December 2009, CMS filed a first-of-its-kind lawsuit against defendants, insurers, plaintiffs, and plaintiffs’ attorneys in the case of a large 2003 Alabama pollution liability claim, as reported in the January 18, 2010 issue of Business Insurance. CMS also recently sought reimbursement from a CASCO client for costs related to a medical malpractice claim. Actions such as these, as well as other recent anecdotal evidence, suggest that CMS is enforcing the MSP Act more aggressively.

Beginning January 1, 2011, in an effort to eliminate payments that are subject to the MSP Act, CMS is implementing stricter reporting requirements for insurers and self-insurers relating to potentially Medicare-eligible claimants. Information on reporting and other requirements can be found on the [CMS website](#).

Actuarial Perspective

From an actuarial perspective, issues raised by increased enforcement of the MSP Act include:

Claim frequency - The extent to which CMS

successfully steers Medicare-eligible patients who have potential causes of action under workers’ compensation or liability claims towards filing such claims will affect claim frequency.

Claim severity - Claims with significant medical expenses may be affected for a number of reasons. Claimants may be reluctant to settle and/or hold out for higher settlements as a result of the increased involvement of CMS. Also, insurers and self-insurers will likely be less inclined to pursue settlements due to a combination of CMS involvement and the uncertainty in projecting future medical expenses. CMS guarding against under-projection of future medical expenses will reduce the benefits to insurers and self-insurers of early settlement.

Actuaries need to pay close attention to the emerging loss trends and maintain clear lines of communication with our clients to understand their potential exposure to changes in claim frequency and severity considering the line of coverage and the applicable laws and statutes .

Adjustments to historical patterns - Historical patterns provide actuaries with an important tool for making projections. Changes in claim frequency, potential settlement amounts, rates of claim closure, and Medicare reimbursement levels may cause changes in these patterns that need to be taken into account.

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