

RISK UNDER
ONE **ROOF**

2024 **Kōnnect**

Where the
magic
happens

Where the
Magic
happens

Medicare Reporting Update: How to Avoid Penalties

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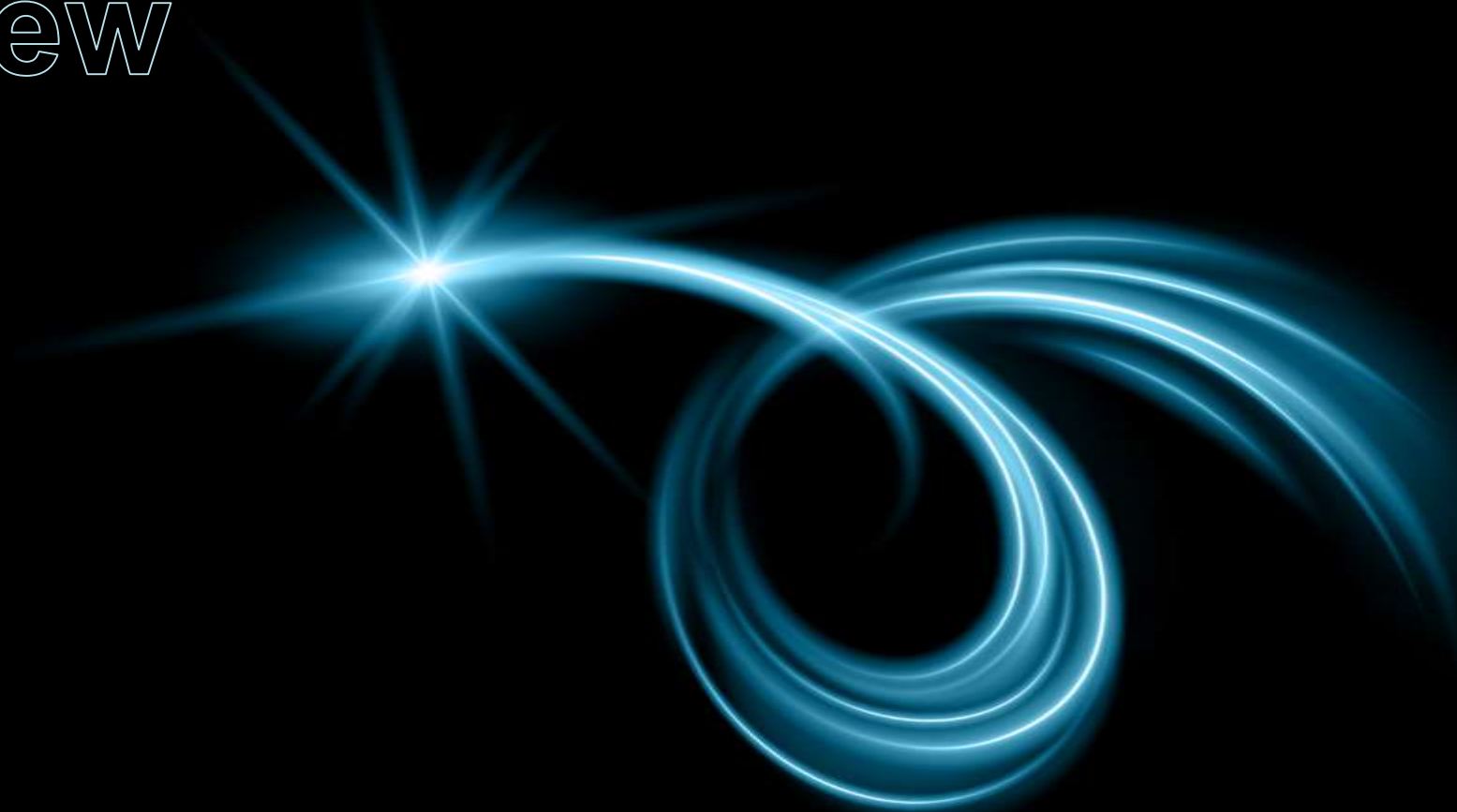
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SVP Technology
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- MMSEA Section 111 Overview
- MSP Refresher
- Updates Since October 2023
- Civil Money Penalties Process
- How to be Penalty-Free



MMSEA Section 111 Overview





MMSEA Section 111 Overview



- Discover Billions in Unresolved Conditional Payments
- Cease Making Payments Where a Primary Payer Exists
- Ensure Settlement Adequately Consider Medicare's Interests
- Generate Billions in Revenue for SCHIP Through Fines

MMSEA Section 111 Overview



MONTHLY ELIGIBILITY CHECK

- Yes vs. Undetermined
- MAP Data Returned
- Recheck Active Claims Every Month for Updated MAP Data



QUARTERLY CLAIM REPORTING

- Workers' Comp & NoFault
 - Initial Report, followed by updates as claim progresses
- Liability Claims
 - Generally “one-and-done”



MMSEA Section 111 Overview

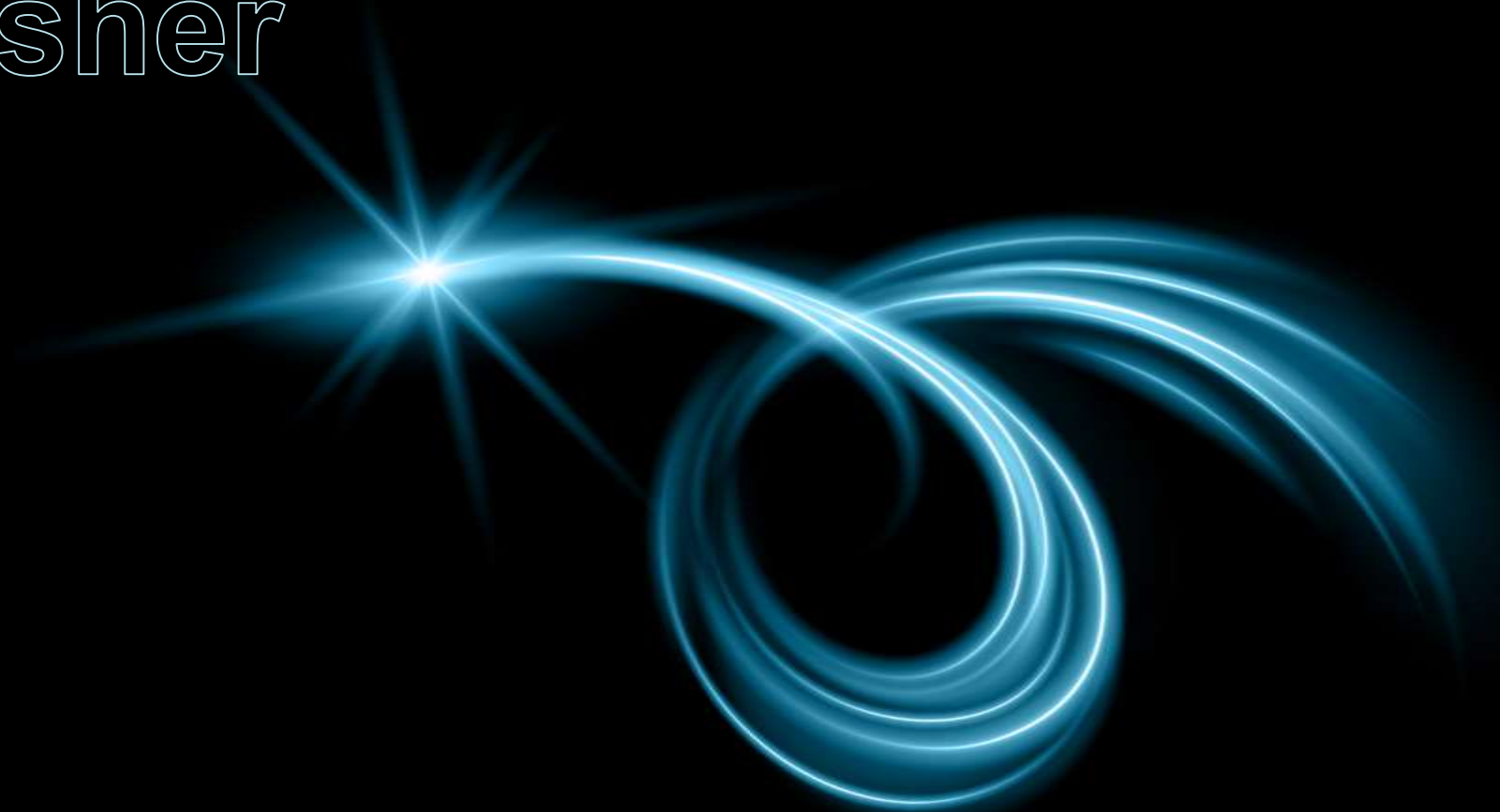
RKCS and ECS Data Exchange

- Eligibility File
 - Claim is in this file first, with “Big5 data”
- Claim File
 - Full Section 111 data is provided for Medicare eligible claims

All files are sent twice weekly

ECS returns validation warnings twice weekly

MSP Refresher



Medicare Secondary Payer Refresher



Medicare is the national health insurance program administered by the federal government and providing coverage for:

- People over the age of 65
- Disabled people entitled to SSDI for more than 24 months
- People diagnosed with “End Stage Renal Disease” or “Lou Gehrig's Disease”

“PART”	SERVICE / ORGANIZATION
Part A	Federally paid medical care for inpatient, skilled nursing, hospice
Part B	Federally paid preventive care, outpatient, doc visits
Part C	Privately run Medicare HMO (plus added services)
Part D	Privately administered prescription drug benefit

Medicare Secondary Payer Refresher

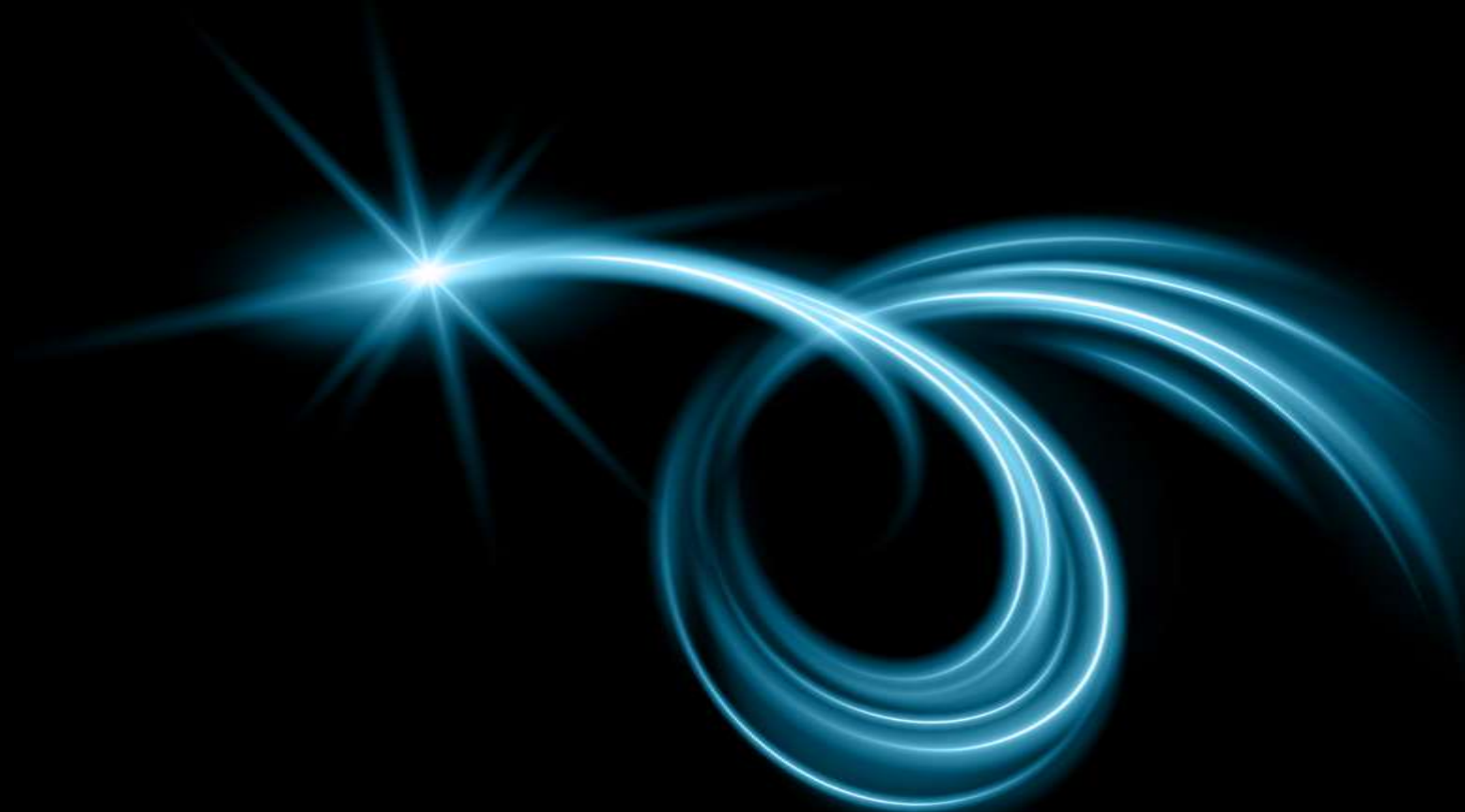


The Medicare Secondary Payer Statute ensures that Medicare is not responsible for paying first on a health care claim

- Allows parties to Coordinate Benefits
- Medicare can Recover from anyone
- Avoid Improperly Shifting the Burden to Medicare

Part of MSP	Brief Overview
Conditional Payments	Medicare payments are always “conditioned upon later reimbursement to the Trust Fund”
Section 111	CMS now knows about every open accepted case and every settlement with a Medicare Beneficiary
MSAs	Ensure funds are available to offset future medical expenses

Updates Since Last Year



Updates Since October 2023 - NOINJ

NOINJ is No More

“ Note: In cases where reporting of a liability record only meets the criteria for reporting a ‘NOINJ’ diagnosis code in Field 18, the reporting of the record is no longer required. ”

No injury, but effectively releases non-existent medical claims

Updates Since October 2023 - ORM

ORM Trigger Clarification

“ The trigger for reporting ORM is the assumption of ORM by the RRE, which is when the RRE has made a determination to assume responsibility for ORM **and when the beneficiary receives medical treatment related to the injury or illness.** ”
(new language in bold)

NoFault claims where treatment may never have been received

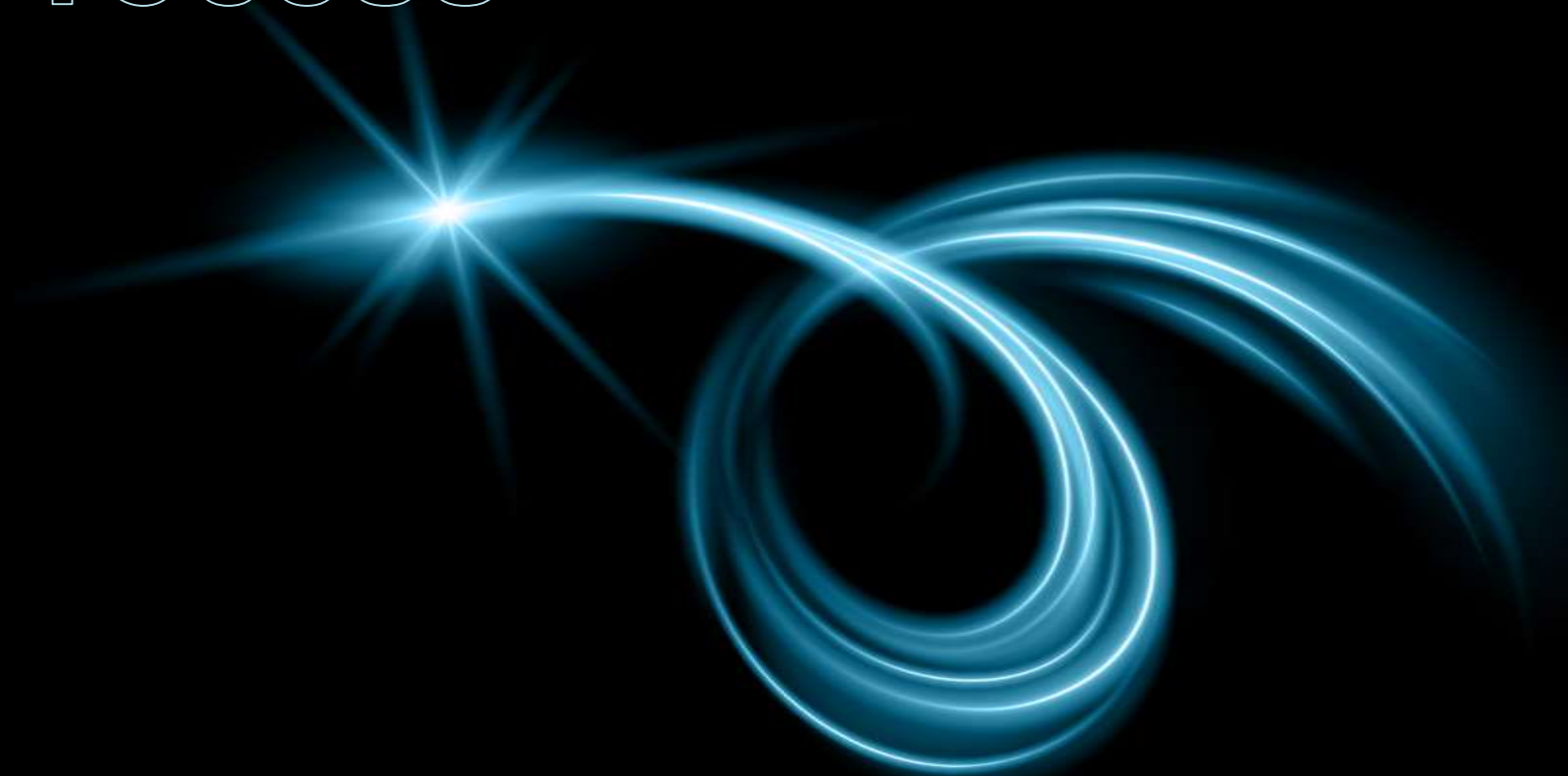
Updates Since October 2023 - WCMSA Data



- Required for WC TPOCs (settlements) as of April 4, 2025
 - Even if the settlement is below CMS review thresholds
- Provides Medicare with...
 - Improved ability for coordination of benefits
 - Insight into how much of the TPOC (settlement) is for medical expenses
 - Illuminate the number of settlements occurring below the \$25k review threshold

Field	Details
MSA Amount	Required for all WC TPOCs
MSA Period	Required for all WC TPOCs
Lump vs. Annuity Indicator	Required for all WC TPOCs
Initial Deposit Amount	Required if Annuity is indicated
Anniversary Amount	Required if Annuity is indicated
Case Control Number	Optional (ECS will not validate nor report to CMS)
Professional Administrator's EIN	Optional (ECS will not validate nor report to CMS)

Civil Money Penalties Process



Updates Since October 2023 – CMPs



- Civil Money Penalties
 - CMS will “only impose penalties where the initial report was not received in a timely manner.”
 - “Timeliness” = within 1 year of the settlement, judgement, award, or other payment; or the date when ORM became effective
 - Safeharbors:
 - Technical or system issue outside the control of the RRE, or the result of an error by CMS or its contractors
 - The “2 and 1 Rule” (2 attempts via mail or email; 3rd attempt via other reasonable method)



Updates Since October 2023 – CMPs



- Applicable October 10, 2024
(one year after publication)
- Prospective in nature
- Five-year statute of limitations from the date of the instance of noncompliance
(i.e., 6 years from TPOC Date)



Updates Since October 2023 – CMPs



- Quarterly Audit Process
 - Pro-rata count of NGHP & GHP submissions
 - Evaluated for late report of TPOC -OR- late report of ORM acceptance
- Tiered Penalty Structure
 - \$250*/day if > 1yr but < 2yrs late
 - \$500*/day if > 2yrs but < 3yrs late
 - \$1,000*/day if > 3yrs late
 - Total for a single claim will not exceed \$365,000*



Updates Since October 2023 – CMPs



EXAMPLE

- RRE in Submission Group 5 (2/1; 5/1; 8/1; 11/1)
- TPOC Date = 11/6/2024
 - Claim lacks ICD Code and cannot be reported to CMS
- Data corrected and submitted on 2/1/2026
- Potential CMP of \$21,750
 - 87 days late x \$250/day (87 days between 11/6/2025 and 2/1/2026)

The maximum penalties imposed in 2022 would have been **\$42.4MM**

Updates Since October 2023 – CMPs



If Your Claim Is Audited

- If all is good, then you will not be told
- Claims that are potentially late will receive a letter of inquiry
- An informal dispute process, followed by a formal appeals process, is available to any RRE whose claim is initially determined by CMS to be reported late (or not at all)

Updates Since October 2023 – CMPs



Why Risk It By Reporting At All?

- CMS knows; they always know
- “Self-Report” process for Conditional Payments informs CMS that a primary payer exists
- If not submitted via Section 111, then the CMP parameters apply

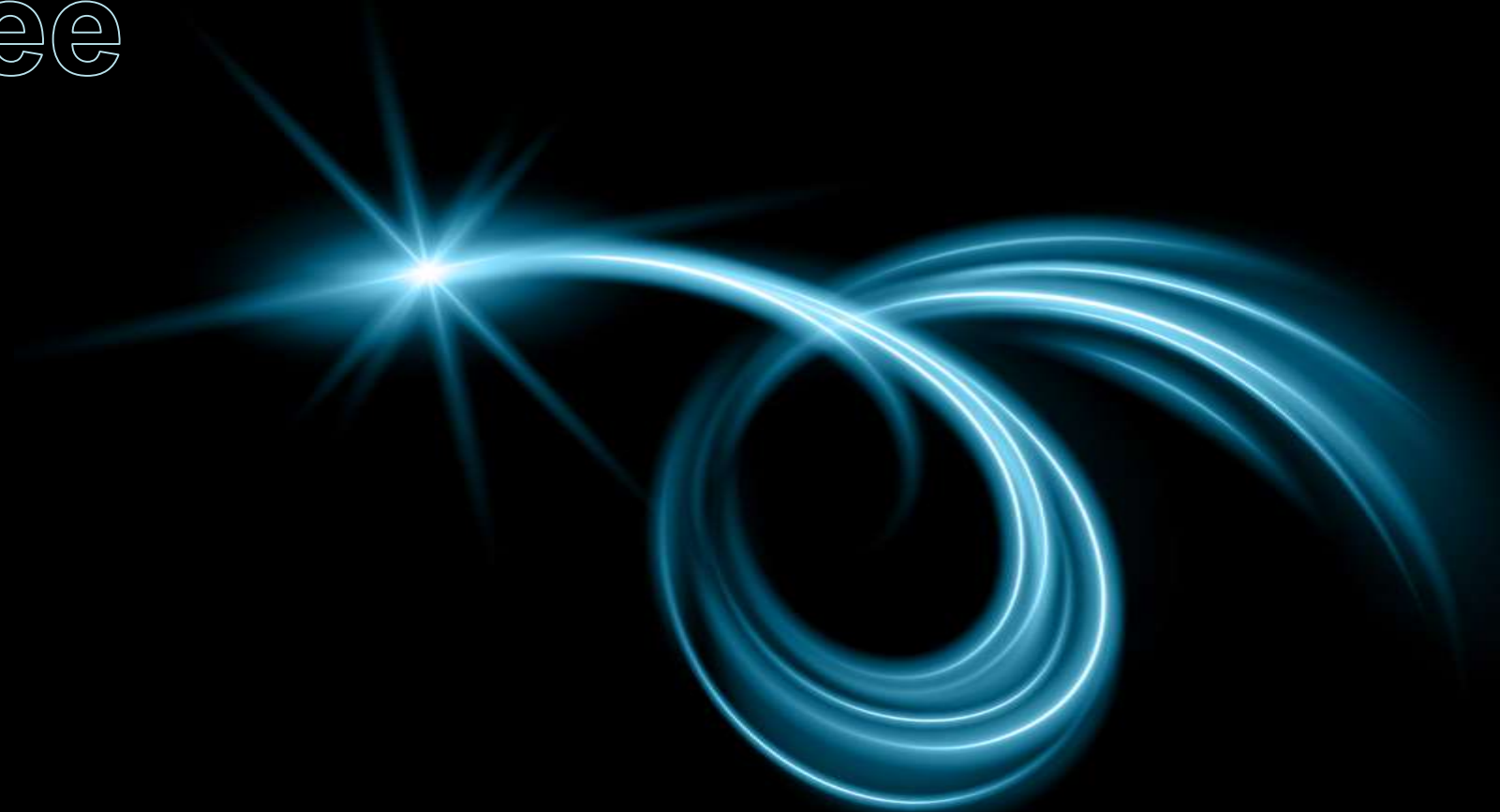
Updates Since October 2023 – CMPs

“

It is not our intent to penalize RREs for honest, infrequent mistakes, but instead to only resort to penalty when an RRE fails to report or submits reports in an untimely manner. We acknowledge that the overwhelming majority of RREs report correctly and timely a majority of the time and commend those entities for working with CMS to provide accurate data. It is, therefore, CMS’s shared opinion with commenters that the focus shall not be to punish and impose consequences but instead to motivate proper reporting and maintain compliance with existing statute and regulation.

”

Must-Do's to be Penalty Free



Must-Do's to be Penalty Free



Keep It Simple

- Stick to the “Best Code” and don’t over-report ICD Codes
- Ignore Optional fields

The screenshot shows a web-based form titled "CMS Data - 305066" with the subtitle "Injury/Incident/Illness Information". The form includes a "Summary" button in the top right. Below the title bar is a toolbar with buttons for "Save", "Save and Close", "Cancel", "Validate", and "Request MSP Service". On the right side of the toolbar is a "Close Folder" button. A left-hand navigation menu lists several sections: "Injured Party Information", "Injury/Incident/Illness Information" (which is selected), "Self-Insurance Information", "Plan Information", and "Injured Party's Attorney or Other Representative Information". The main content area is titled "Injury/Incident/Illness Information" and contains the following fields:

- CMS Date of Incident (DOI):** 1/26/2020
- Industry Date of Incident (DOI):** 1/26/2020
- State of Venue:** Alaska
- ICD Codes:**
 - ICD-9 Diagnosis Code 1:** (empty field)
 - ICD-10 Diagnosis Code 1:** S52336A
 - ICD-9 Diagnosis Code 2:** (empty field)
 - ICD-10 Diagnosis Code 2:** 987654

An "ICD Code Lookup" link is located to the right of the ICD-10 code fields.

Must-Do's to be Penalty Free

- Make use of the “5 / \$25k” Rule to clean-out old claims
 - No treatment in 5 years?
 - Less than \$25,000 in medicals spent?
 - Not an exposure / ingestion / implant claim?

If yes to all three questions, then populate ORM Termination Date as 5 years from last treatment, and be done with them

(repeat every 6-12 months)



Must-Do's to be Penalty Free



Claims with TPOCs

- Must be reported within 1 year of TPOC Date
- Who is responsible for populating TPOC fields?
- New requirement for WCMSAs when TPOC is reported

CMS Data - 305066
Settlement, Judgment, Award or Other Payment Information [Summary](#)

[Save](#) [Save and Close](#) [Cancel](#) [Validate](#) [Request MSP Service](#) [Close Folder](#)

Settlement, Judgment, Award or Other Payment Information

ORM Indicator	<input type="text" value="Yes"/>	ORM Termination Date	<input type="text" value="M/d/yyyy"/>
TPOC Date 1	<input type="text" value="10/1/2020"/>	TPOC Amount 1	<input type="text"/>
TPOC Start Date	<input type="text" value="M/d/yyyy"/>	TPOC Date 2	<input type="text" value="M/d/yyyy"/>
TPOC Amount 2	<input type="text"/>	TPOC Start Date 2	<input type="text" value="M/d/yyyy"/>
TPOC Date 3	<input type="text" value="M/d/yyyy"/>	TPOC Amount 3	<input type="text"/>
TPOC Start Date 3	<input type="text" value="M/d/yyyy"/>	TPOC Date 4	<input type="text" value="M/d/yyyy"/>
TPOC Amount 4	<input type="text"/>	TPOC Start Date 4	<input type="text" value="M/d/yyyy"/>
TPOC Date 5	<input type="text" value="M/d/yyyy"/>	TPOC Amount 5	<input type="text"/>
TPOC Start Date 5	<input type="text" value="M/d/yyyy"/>		

Must-Do's to be Penalty Free



Claims with ORM

- Must be reported within 1 year of ORM acceptance or Medicare eligibility

CMS Data - 305066
Settlement, Judgment, Award or Other Payment Information

Save Save and Close Cancel Validate Request MSP Service

Settlement, Judgment, Award or Other Payment Information

ORM Indicator	Yes
TPOC Date 1	10/1/2020
TPOC Start Date	M/d/yyyy
TPOC Amount 2	
TPOC Date 3	M/d/yyyy
TPOC Start Date 3	M/d/yyyy
TPOC Amount 4	
TPOC Date 5	M/d/yyyy
TPOC Start Date 5	M/d/yyyy

Must-Do's to be Penalty Free

Review Response Data



CMS Data - 305066
Response Fields

Summary

Save Save and Close Cancel Validate Request MSP Service Close Folder

Response Fields

First Eligibility Check Date		Medicare Eligibility Flagged Date	
MIR Reportable Flag		MIR Response Received Date	
First MIR Report Date		Last ECS Validation Date	10/18/2023 8:15 AM

ECS Result Warnings

ECS Error Code		ECS Valid Status	Warning
ECS Error Description			

ECS Status Warnings

ECS Status Description	CI06:ICD Code 2 invalid code/content.		
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CMS MIR Errors

Applied Error Code 1		Applied Error Code 2	
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Must-Do's to be Penalty Free

Ensure appropriate Workflows are set up



The screenshot displays a workflow configuration interface. On the left, a sidebar shows 'Event Details', 'Condition', and 'Actions'. The main area is divided into two sections: 'Condition' and 'Actions'.

Condition Section:

Event Details
Condition
Actions

Event
Condition

Save Save and Close Delete Copy Cancel Close Folder

Event Details
Condition
Actions

Condition

All of the following is true

Add Condition Add Group Condition

CMS Data MC Eligibility

is equal to Y

And

CMS Data MC Eligibility

is changed

Actions Section:

New Action Add Action Delete

<input type="checkbox"/>	Action Name	Type	Entity
<input type="checkbox"/>	Injured Party is Medicare Eligible - Autofix	Autofix	CMS Data
<input type="checkbox"/>	CMS Injured Party is Medicare Eligible - CMS L...	Task	CMS Data
<input type="checkbox"/>	CMS Injured Party is Medicare Eligible - Claim ...	Task	CMS Data
<input type="checkbox"/>	Vince Injured Party is Medicare Eligible	Note	CMS Data
<input type="checkbox"/>	Injured Party is Medicare Eligible - Email	Email	CMS Data

Must-Do's to be Penalty Free



Timely error corrections – use the “Validate” API button for immediate error review and correction

The screenshot displays a software interface for 'CMS Data - 305066'. At the top, there is a header bar with a menu icon and the text 'CMS Data - 305066' and 'Response Fields'. Below the header is a toolbar with buttons for 'Save', 'Save and Close', 'Cancel', 'Validate', and 'Request MSP Service'. The main content area is divided into a left sidebar and a right main panel. The sidebar contains a list of menu items: 'representative Information', 'Settlement, Judgment, Award or Other Payment Information', 'Claimant and Attorney/Other Representative Information', 'Strategic Service Provider Additional Fields', 'MAP Data', 'Response Fields' (which is highlighted), 'Claim Transfer', and 'Quick Entry'. The main panel is titled 'Response Fields' and contains several input fields and sections. The 'Response Fields' section includes: 'First Eligibility Check Date', 'MIR Reportable Flag', 'First MIR Report Date', 'Medicare Eligibility Flagged Date', 'MIR Response Received Date', and 'Last ECS Validation Date' (with a value of '9/19/2024 1:21 PM'). Below this is the 'ECS Result Warnings' section, which includes 'ECS Error Code', 'ECS Error Description', and 'ECS Valid Status' (with a value of 'Warning'). The 'ECS Status Warnings' section includes 'ECS Status Description' with a value of 'CI06:ICD Code 2 invalid code/content,CJ03:TPOC 1 Date Invalid Content,CJ04:TPOC 1 Amt Invalid Content.'

Must-Do's to be Penalty Free

Request MSP Compliance Services via the Referral API Button



CMS Data - 305066
Injured Party Information

Save Save and Close Cancel Validate **Request MSP Service**

Examworks MSP Service Request

Select the appropriate MSP Service and ensure all referral contact information is correct. Selecting "OK" will send the referral to Examworks.

* MSP Service:

Referral Contact Information

* Name:

Phone Number:

* E-mail Address:

Description	Code
Claim Settlement Allocation	CSA
Evidence Based MSA	EBMSA
Legal Nurse Review	LNR
Liability Medicare Set-Aside	LSA
Life Care Plan	LCP
Medicaid Conditional Payment Negotiation	Medicaid CPN
Medicaid Conditional Payment Research	Medicaid CPR
Medical Bill Analysis	Medical Bill Analysis
Medical Cost Projection	MCP
Medicare Advantage Plan Conditional Payment Negotiation	Medicare Adv CPN
Medicare Advantage Plan Conditional Payment Research	Medicare Adv CPR
Medicare Conditional Payment Dispute (CPD)	CPD

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Questions?

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