

# Preparing For the SCHIP Extension Storm

By James Kennedy III, Paul Masterson and Glenn Simpson

In the midst of another hurricane season, we are once again reminded that we must prepare for the storm that *might* come our way. Unfortunately, there is a storm brewing that *will* arrive next year and many are failing to prepare for the impending deluge. There is a new federal law, the Medicare Medicaid SCHIP Extension Act of 2007 (MMSEA), that contains severe penalties for non-compliance and many Responsible Reporting Entities (RREs) are unaware of the law's mandates and have done nothing to prepare.

Within the health-care industry, there is perhaps no single category of providers that is less prepared than physicians. If we polled physicians randomly and asked about MMSEA, we believe that few would know about the law. What, then, is the answer to helping physicians to prepare for the storm that is certain to strike? Perhaps the solution is through a group-sponsored physician plan.

The following are facts surrounding MMSEA and its impact on physicians:

- MMSEA is for real and mandates RREs, beginning in 2010, to report closed claims involving Medicare beneficiaries to CMS.

- The law contains severe penalties for non-compliance (\$1,000 per day per claim) so non-compliance is not a viable option.
- Physicians are, generally, unaware of the law and have not developed a compliance plan.
- If informed of the law, physicians would expect their professional liability insurer to report on their behalf and take no actions to prepare.
- The registration process takes time and waiting until a report must be filed leaves inadequate time to complete the registration process to submit a timely report.

A better approach is to consider creative plans now for the storm certain to arrive.

Why would physicians have to report if they are fully insured? A fully insured physician would be quite reasonable to believe that he/she would never have to report on their own. However, under MMSEA, bill write-offs and private payments are reportable. If the physician's insurer settles a nuisance claim, it's quite possible that the physician might decide to pay the claim himself/herself. That private payment is reportable by the physician. Also, Finally, physicians who are bare

must report all of their claims payments.

A more creative approach to addressing the reporting obligations of physicians might be to develop a group-sponsored plan to report on behalf of all participating physicians. Hospitals could initiate the process in order to assist their valued members of their medical staff with a solution to this impending situation. There are patent economies of scale in this approach that key in to a prudent use of valuable, limited health-care resources. The group can engage the services of an agent to report all claims that become reportable, thus obviating the necessity of retention of additional staff. Since health-care reporting is more complex than reporting in other industries, the reportable information requires substantive review of an expert in order to avoid liability for CMS denials caused by faulty reporting.

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