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For quarters beginning on and after January 1, 2020, the Centers for Medicare and Medicaid Services (CMS) will require Responsible Reporting Entities (RREs) to include information on prescription drugs in their Section 111 quarterly reporting. Prior to 2020, reporting on prescription drugs was voluntary.

Self-funded group health plans that separately contract with a pharmacy vendor (i.e., a pharmacy benefit manager (PBM)) should be aware that it may be the PBM (and not the medical third-party administrator (TPA)) who is the RRE for prescription drug coverage. PBMs may be reaching out for additional information from employers/plan sponsors in order to meet these reporting requirements.

Employers sponsoring fully insured plans or self-funded plans where prescription drug benefits are provided as part of a medical, hospital, and pharmacy benefit contract through a TPA will likely experience little to no impact as a result of this change.

## Background

Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 created reporting requirements for group health plans to CMS. These requirements were effective January 1, 2009. In most cases, the insurance carrier and TPA are the RREs. An employer may be the RRE when it both sponsors and administers the group health plan (not common). This reporting requirement was implemented in order to better facilitate Medicare Secondary Payer requirements, identifying instances where the group health plan should have paid primary to Medicare.

## What's New

The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act) imposes additional reporting requirements related to prescription drug benefits on RREs, effective January 2020. Specifically, the law requires reporting for Medicare beneficiaries who have prescription drug coverage (other than or in addition to Medicare Part D) which is primary to Medicare. This includes prescription drug coverage for someone who may be Medicare-eligible and currently is employed or is the spouse or family member of a worker who is covered by a prescription drug plan.

Which entity is considered to be the RRE for the purpose of reporting primary prescription drug coverage will depend on how the employer/plan sponsor structures its contracts for medical, hospital, and prescription drug coverage. It should not be assumed that the RRE will be the entity that has direct responsibility of processing and paying the prescription drug claims.

In general, the RRE will be the entity that has the direct relationship with the employer/plan sponsor regarding the prescription drug coverage. The following entities are most likely to be RREs for the purpose of reporting primary prescription drug coverage to CMS:

- Carrier. If the group health plan is fully insured, the insurance carrier is the RRE.
- TPA. If the group health plan is self-funded and the employer/plan sponsor directly contracts with a TPA to provide medical, hospital, and pharmacy benefits, the TPA is the RRE. This is the case even if the TPA separately contracts with a PBM for pharmacy benefits.
- PBM. If the group health plan is self-funded and the employer/plan sponsor directly contracts with the TPA to provide medical and hospital benefits and the employer/plan sponsor independently contracts with a separate third party (such as a PBM) to administer prescription drug coverage, the PBM is the RRE for purposes of the prescription drug reporting. The TPA remains the RRE as it pertains to reporting on medical and hospital benefits.

## Employer Action

In most instances, employers sponsoring health plans are not considered RREs and therefore not responsible for compliance with the Section 111 reporting to CMS, including the new requirement related to prescription drugs.

However, particularly as it relates to group health plans with a carved-out pharmacy benefit, the PBM may be undertaking new reporting responsibilities and may be requesting additional information from an employer/plan sponsor. CMS strongly encourages employers to cooperate with RREs so they can fulfill their reporting responsibilities.

