

COMMENT ON SENATE BILL 2499/42 USC 1395(y)(b)(8)

There appears to be a conflict concerning exactly when the obligation to provide requested information to Medicare begins. The new law provides that, “[o]n and after” July 1, 2009,

“an applicable plan shall-

(i) determine whether a claimant (including an individual whose claim is unresolved) is entitled to benefits under the program under this title... on any basis; and

(ii) if the claimant is determined to be so entitled, submit the information described in sub paragraph (B) with respect to the claimant to the Secretary in a form and manner (including frequency) specified by the Secretary.

42 USC 1395y(b)(8)(a)(emphasis added).

Shortly after this wording, however, the law indicates that the requested information must be provided to Medicare “within a time specified by the Secretary after the claim is resolved through a settlement, judgment, award, or other payment (regardless of whether or not there is a determination or admission of liability).” 42 USC 1395y (b)(8)(c)(emphasis added).

Therefore, it is not clear if the obligation to determine the status of the claimant and provide notification to Medicare exists for claimants who truly have unresolved claims or whether the obligation to notify Medicare begins after the claim is resolved. **Please clarify whether the obligation to notify Medicare of a claim with a Medicare beneficiary exists for all unresolved claims or only after such claims are resolved.**

It would seem very important that the timing of the duty to report a claim to Medicare be very clear as the penalties for non-compliance are rather significant.

Submitted on August 4th, 2008 by:

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