Preparing for CMS's New TPOC/WCMSA Reporting Requirements

Claims impact and compliance strategies

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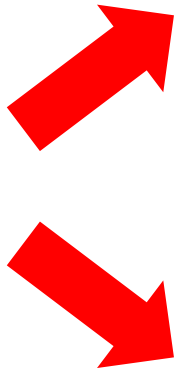
Today's Focus Points

- Breaking down CMS's new TPOC/WCMSA reporting requirements
- To which cases does it apply?
- What data elements must be reported?
- What are the testing and "go-live" timelines?
- Why is this a big deal?
- Takeaways/considerations

Medicare Secondary Payer – The Medicare "Campus"

Our Focus Today



Section 111

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Electronic Reporting of Claims

Conditional Payments Medicare Parts A and B

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Reimbursing Medicare for past payments of medical bills

Future Interests

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Medicare Set Aside

Medicare Advantage (Part C) and Part D (RX Drugs)

↓

Reimbursing MAP and Part D recovery claims

Section 111 Basics

Section 111 Reporting – Reduced to Math!

If you are an RRE – Responsible Reporting Entity

(RRE = insurer, self-insured, other risk bearing entities)

+

Claimant is/was a Medicare beneficiary

(Query process helps determine status)

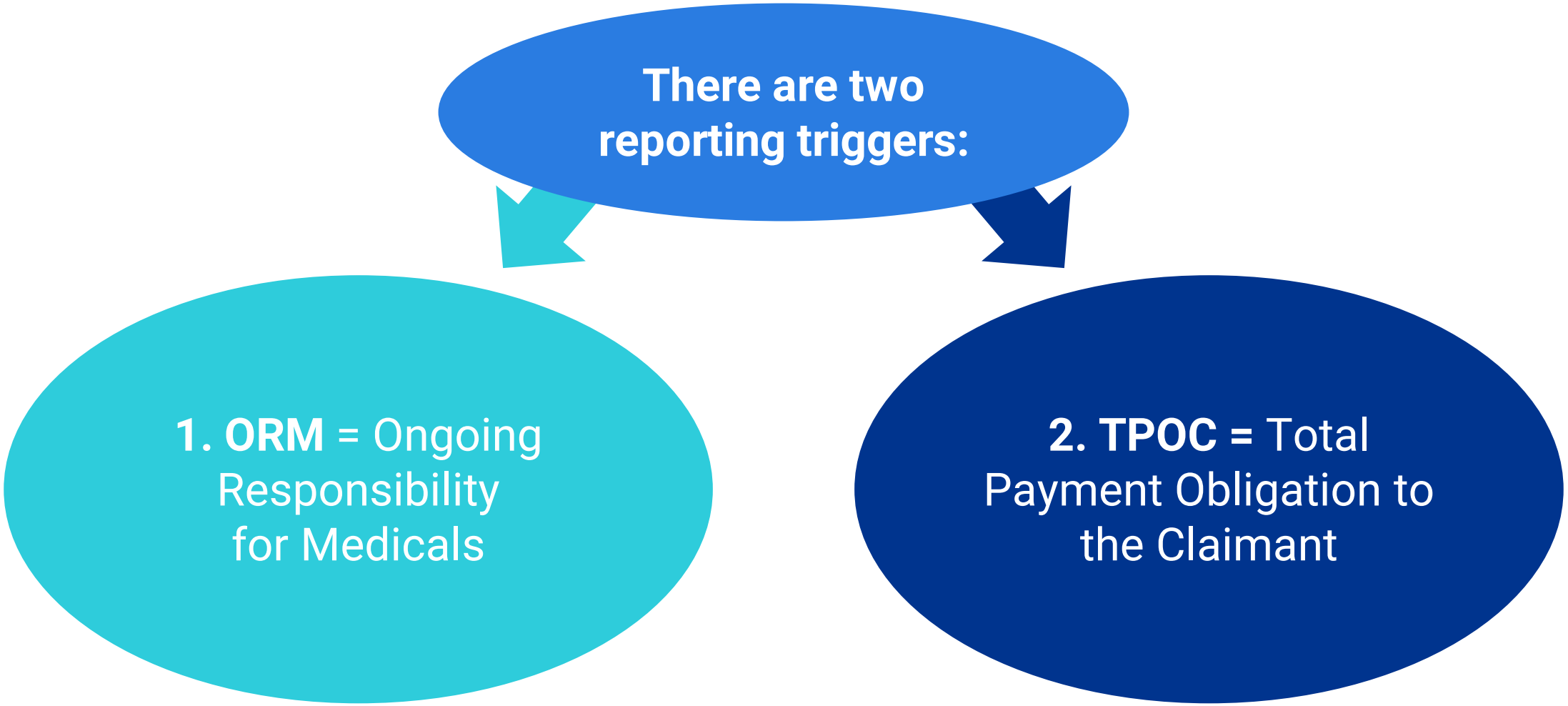
+

Claim meets a "reporting trigger"

(Triggers = TPOC and ORM)

Claim must be reported under Section 111

Section 111 Reporting Triggers



TPOC (Total Payment Obligation to the Claimant)

- **TPOCs** are settlements, judgments, awards, or other payments, **greater than** $750 for *physical trauma-based settlements.*

  - ✓ NOTE: The $750 threshold **does NOT** apply to claims involving *exposure, ingestion or implantation*.

- **TPOCs** involve cases where medicals were claimed, released, or the settlement has the effect of releasing medicals

- **TPOC** reporting is required "in addition to or apart from ORM."

- CMS: "Indemnity only settlements which seek to compensate for non-medical damages, should not be reported. The critical variable to consider is whether or not a settlement releases or has the effect of releasing medicals. If it does, regardless of the allocation (or lack thereof), the settlement must be reported." CMS User Guide (Version 7.5), Chapter III, Sec. 6.5.1.4.

CMS’s New Section 111 TPOC/WCMSA Data Collection

Nutshell – CMS's New Section 111 TPOC/WCMSA Data Collection

1. This only applies to WC cases!

2. RREs will need to report several WCMSA data points for settlements involving Medicare beneficiaries (does not apply to non-beneficiaries).

3. **All WCMSA types are in scope** → WCMSAs submitted/approved by CMS; non-submit MSAs; evidence based MSAs (EBMSAs); and non-threshold MSAs (allocations included in settlements $25k or less). Reporting required regardless of the WCMSA amount. CMS will accept TPOC data with the MSA Amount reported as $0 (but reserves right to review/audit)

4. Required data to be reported regardless of WCMSA amount.

5. New fields will be added to the Claim Input File (no changes to Claim Response File).

6. **October 7, 2024 – Voluntary Testing**

7. **April 4, 2025 – New requirements apply to coverage reports with TPOC dates April 4, 2025, or later.**

8. CMS reserves the right to audit MSA values and reserves all available means to enforce reporting compliance --- including the False Claims Act.

Objective/Purpose

CMS in its February 23, 2024 Alert states, in part, as follows:

Collection of the information is necessary to assist Medicare in making appropriate determinations concerning coordination of benefits under [42] U.S.C. 1395y(b)(8)(ii), since Medicare should not be a primary payer for future medical services related to a WC injury as specified in the WC settlement as per 42 CFR 411.46. All MSA funding for WC settlements shall be reported regardless of whether or not an approval was previously sought from the CMS." (Presenter's Emphasis)

TPOC/WCMSA – 2 for 1 Compliance Special

TPOC

- New Section 111 reporting requirement
- New Claim Input File Fields and Error Codes
- Voluntary testing starts 10/7/2024
- Goes live 4/4/25
- CMPs may be applied if hard error prevents timely reporting of TPOC with dates after October 4, 2025

/

WCMSA

- RREs must report certain WCMSA data points
  - ✓ MSA Amount
  - ✓ MSA Period
  - ✓ Lump Sum/Annuity
  - ✓ Initial Deposit
  - ✓ Annual Deposit Amount
  - ✓ Case Control Number (optional)
  - ✓ Prof. Admin EIN (optional)
  - ✓ See, CMS's Alert
- CMS now has visibility into whether a WCMSA was (or was not) included as part of settlement with a Medicare beneficiary
- Impact, issues, and best practices

TPOC/WCMSA – practical claims view

WC settlement with a Medicare beneficiary

Settlement Greater than $25K "Threshold Settlement"	Settlement $25K or Less "Non-Threshold Settlement"	No WCMSA or $0 Dollar WCMSA
• Settlement meets CMS' voluntary WCMSA "review threshold"	• Settlement does **NOT** meet CMS's WCMSA review threshold	• Applicability
• Submit to CMS?	• What are you doing here?	• Practices?
• Do not submit? ✓ Non submit ✓ Evidence based medicine MSA (EBMSA) ✓ WCMSA Ref. Guide Section 4.3	• Remember, CMS's review threshold are not safe harbors and CMS states its interests still need to be considered. WCMSA Ref. Guide Section 8.1	

CMS will now have visibility into this bigger picture!!

CMS's WCMSA Review Thresholds are NOT "Safe Harbors"

CMS has long stated that its "[review] thresholds are created based on CMS' workload, and are not intended to indicate that claimants may settle below the threshold with impunity. Claimants must still consider Medicare's interests in all WC cases and ensure that Medicare pays secondary to WC in such cases."

- CMS further references its review thresholds as "workload management tool[s] and not … substantive dollar or 'safe harbor' threshold[s]."
- CMS actually gives an example of a $17,000 settlement with a MC bene and the type of allocation it would expect based on the facts of that example.

CMS's WCMSA Reference Guide (Version 4.0, April 1, 2024), Section 8.1.

CMS Example – Settlement with a MC BELOW $25,000 Threshold

- A recent retiree aged 67 and eligible for Medicare benefits under Parts A, B, and D files a WC claim against their former employer for the back injury sustained shortly before retirement that requires future medical care. The claim[ant] is offered [a] settlement for a total of $17,000.00.

- However, this retiree will require the use of an anti-inflammatory drug for the balance of their life.

- The settling parties must consider CMS' future interests even though the case would not be eligible for review. Failure to do so could leave settling parties subject to future recoveries for payments related to the injury up to the total value of the settlement ($17,000.00)."

CMS's WCMSA Reference Guide (Version 4.0, April 1, 2024), Section 8.1.

Impact/Considerations

CMS will use the information to flag their “common working file” (CWF)

CMS will now also have data related to non-submit/EBMSAs, and non-threshold MSAs

CMS reserves the right to audit MSA values submitted through this process (including TPOC data with the MSA Amount reported as $0)

CMS indicated it may use all available means to enforce reporting compliance including the False Claims Act

Claims Impact – Why is this a big deal?

1.

CMS will now have unprecedented data regarding ALL WCMSAs (whether or not submitted to CMS) through Section 111 reporting.

2.

For the first time CMS will be able to see the amount of the MSA (if any) you included on every single claim involving a Medicare beneficiary that settles.

Question: What will your Section 111 reporting data show CMS regarding settlements involving Medicare beneficiaries when viewed at either the claim level or in aggregate?

3.

A significant number of claims settle for under CMS's review thresholds. Now CMS will see how you are handling those claims.

Question: How are you going to handle low dollar cases involving Medicare beneficiaries given CMS's new process?

Timelines

Timelines

Testing started
October 7, 2024

CMS Note

"Records submitted on a test file with a TPOC date on or after October 7, 2024, will be subject to the new edits in the test environment."

Effective Date
April 4, 2025

Prospective Application

These changes will be prospective and the new WCMSA related data will only be required for coverage reports with TPOC dates April 4, 2025, or later.

True or False?

True or False?

1. CMS's upcoming TPOC/WCMSA reporting requirements only apply to workers' compensation claims.

2. This new process only relates to WC settlements involving Medicare beneficiaries.

3. Reporting required for all WCMSAs involving Medicare beneficiaries – WCMSAs submitted to CMS, non-threshold MSAs, non-submit WCMSAs, and evidence based WCMSAs.

4. If no WCMSA will be included, a $0 MSA value must be entered.

True or False?

5. Voluntary testing starts October 7, 2024

6. The new TPOC/WCMSA reporting requirements “go-live” April 4, 2025

7. The new TPOC/WCMSA reporting requirements are “prospective” in nature

8. We should monitor CMS for future Alerts and User Guide Updates

TPOC/WCMSA – Going Forward

1. Understand the changes, impact, and dates.
2. How are you handling settlements involving Medicare beneficiaries that:
    a. meet CMS's $25k review threshold?
    b. are $25k or less?
3. Do you need to revisit your WCMSA reporting protocols?
4. Are you concerned that your front-line claims handlers are following your WCMSA protocols?
5. Make sure your Section 111 reporting platform is ready to capture and report the required data elements.

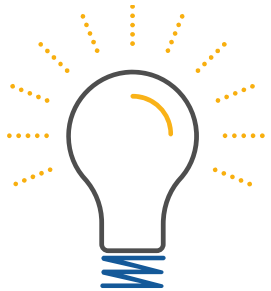
Verisk Article Resources

November 2023 – CMS discusses plans to capture WCMSA data points as part of TPOC reporting during recent Section 111 webinar

February 2024 – CMS releases new information about TPOC/WCMSA data collection process

April 2024 – Summary of April 2024 CMS Q&A session on new process for Section 111 reporting | Verisk

October 2024 – Voluntary testing for TPOC/WCMSA reporting starts October 7, 2024



Questions?

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Thank You!