Legislation Would Smooth Insurer Reimbursements To Medicare

By Arthur D. Postal

March 17, 2011

WASHINGTON—Legislation has been introduced in the House that would clarify industry reporting requirements under an existing controversial law that requires reimbursement to Medicare for payments made to people who are also paid later through workers' compensation or liability claims.

The bill, H.R. 1063, The Strengthening Medicare and Repaying Taxpayers Act, was introduced Tuesday by Rep. Tim Murphy, R-Pa., and Rep. Ron Kind, D-Wis.

The bill is supported by large insurance trade groups, including the American Insurance Association and the Property Casualty Insurers Association of America.

Other insurers and self-insureds are also behind the legislation, designed to amend the Medicare Secondary Payer Act, a provision added to a 2007 law that provided an interim extension to the State Children's Health Insurance Program.

Melissa Shelk, AIA vice president of federal affairs, said the legislation is needed to help insurers deal more effectively with the problem of getting timely information to the Centers for Medicare and Medicaid Services regarding payments made by insurers to people who have also been paid for their injuries through Medicare.

Currently, the reporting requirements under the law only deal with payments under no-fault auto insurance claims as well as workers' compensation claims.

The problems in dealing with the current law will be exacerbated as of Jan. 1 because the reporting provisions will be extended to include payments under liability insurance, such as auto accidents.

The industry also believes the current penalties imposed for providing inaccurate data to CMS are punitive, Ms. Shelk said. Moreover, she said, CMS still hasn't promulgated rules dealing with enforcement actions regarding information provided to CMS.

She said that under current rules, insurers and self-insureds can be penalized per day for inaccurate information, even though the data is only required to be submitted quarterly.

Under the current law, she said, penalties of $1,000 per day per claim can be imposed.

The proposed legislation would change the penalty to "up to" $1,000 a day, according to Ms. Shelk and David Farber, a lawyer with Patton Boggs in Washington, D.C. who represents a coalition of interested parties called The Medicare Advocacy Recovery Coalition.

Additionally, according to the legislation, communication between Medicare and insurers designed to speed settlement will be eased by allowing insurers and self-insureds to obtain information from CMS on the Medicare repayments owed before settlement, rather than after, Mr. Farber said.

The bill would also create a right to appeal for all parties. Currently only the Medicare beneficiary can appeal, according to Mr. Farber.

The legislation would ease the mandatory requirement to disclose the Social Security number of the recipient to only the last four digits, and establish a threshold for settlements designed to ensure that CMS does not spend more on collecting small claims than it stands to recover, Mr. Farber said.