



IronHealth[®]

Medicare Secondary Payer
Mandatory Insurer Reporting



Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 added mandatory reporting requirements for any payment, settlement, judgment or award involving a Medicare beneficiary as the injured party. The reporting requirement applies to liability insurance (including self-insurance), no fault insurance and workers' compensation plans (collectively non group health plans or "NGHPs") when there is a claim, allegation and/or release of a claim related medical liability. In addition, reporting is required for claims involving a Medicare beneficiary as the injured party for which an ongoing responsibility to pay for claim related medical expenses exists. The Medicare Mandatory Insurer Reporting (MIR) requirement imposes significant monetary penalties for the failure of a statutorily defined Responsible Reporting Entity (RRE) to properly report qualifying claims.

Ironshore is committed to complying with these requirements in a manner that fully satisfies all of Ironshore's reporting responsibilities as an RRE while minimizing the compliance burden on its insureds. Toward this goal, Ironshore is offering to provide its insureds with a full service Medicare reporting and Medicare compliance solution for instances where our insureds are an RRE.

The following guide, although not all-inclusive, is intended to answer many of the more common questions about MIR reporting obligations and to introduce the Ironshore reporting system.

Medicare Mandatory Insurer Reporting 101

Medicare Mandatory Insurer Reporting (MIR) requires Responsible Reporting Entities (RREs) to properly report qualifying claims to CMS/Medicare in a timely and accurate manner. A company is categorized as an RRE by the type of risk structure that it assumes.

Consider two common types of risk transfer policies: (1) a deductible policy; and (2) a self-insured retention (SIR) policy. For Ironshore's insureds that have deductible policies, Ironshore will almost always be the RRE. For Ironshore's SIR policyholders, the insured will be the RRE for the amount up to the SIR and then Ironshore will become the RRE thereafter.

If an insured is statutorily defined as an RRE, then it must comply with all of the information contained in the Medicare Mandatory Insurer Reporting User Guide that can be found at <http://www.cms.hhs.gov/mandatoryinsrep/>. The information contained in this document is based upon our current understanding of the guidance that has been made available from the User Guide and the additional disclosures from CMS/Medicare on the topic. Please note that the information and guidance on this topic continue to evolve. To keep Ironshore and our insureds fully compliant, Ironshore will stay abreast of any developments and updates as they are issued by CMS/Medicare.



Which entities must report and comply with the MIR requirement?

The MIR requirement applies to "Responsible Reporting Entities" ("RREs"), which include:

- Liability insurers
- No-fault insurers
- Workers' compensation insurers
- Entities that are completely or partially self-insured (including self-insured retention policies)

If an insured falls into any of the above categories, it may be an RRE subject to the MIR reporting requirements.

When does a payment trigger an MIR requirement?

RREs must report to the Centers for Medicare and Medicaid Services ("CMS") any claim involving a Medicare beneficiary and a qualifying full or partial payment, settlement, judgment or award and/or cases where the RRE has an ongoing responsibility for medical payments.



Deductible Policies

If Ironshore makes a payment of deductibles on behalf of its insureds, then Ironshore retains the RRE designation. However, as noted, if an insurer pays on a claim outside of the deductible, then it may "self-insure" itself for purposes of the MIR requirement. Working outside of the deductible could include, paying on a claim directly, writing off medical charges and/or proceeding in a manner outside of the policy deductible that, in any way, results in compensating the injured party and/or assumes a responsibility to pay for claim related medical care.

If Ironshore issues payment on behalf of an insured, Ironshore will report the payment to CMS instead of the insured. However, if there are any questions about actions on a case that may make the insured an RRE as a deductible policyholder, Ironshore will be available to answer any questions that will assist the insured in ensuring full compliance with the MIR requirement.

Self-Insured Retention (SIR) Policies

SIR entities are the statutory RRE for the self-insurance amount. If the payments in a claim reach the SIR coverage, then Ironshore becomes the RRE for reporting amounts in excess of the SIR coverage. This means that the insured and Ironshore may both have to report the same case.

To assist insureds with SIR policies, Ironshore can assume the responsibility to report on behalf of the SIR policyholder as an MIR agent. Retaining Ironshore as an MIR agent will ensure that there is seamless reporting in the self-insured portion and the coverage portion of a claim.

What are the consequences of failing to properly report?

Penalties of \$1,000 per day may be imposed for each qualifying claim that is not reported. As such, it is imperative that insureds are certain of their responsibilities and their status as an RRE.

Will Ironshore assist its insureds with the process of reporting settlements, judgements and other payments to Medicare beneficiaries?

Insureds can retain Ironshore to assume the responsibility for reporting claims under the MIR statute. Ironshore will then report the self-insured, deductible and coinsurance amount in the settlement, judgment, award or other payment amount, and relieve the insured of the responsibility for reporting full compliance with the MIR require.

Are there situations wherein Ironshore is unable to act as an RRE for insureds?

Yes. Ironshore can always serve as an MIR agent for an insured but Ironshore cannot assume the statutory RRE designation for an insured.



Insureds that retain a TPA

Ironshore can always assume the responsibility to report for its insureds as a MIR Reporting Agent. However, insureds that hire a TPA may want to keep the reporting function with their TPA for multiple reasons. Ironshore can help insureds evaluate the best route to take in regard to having a TPA or Ironshore report as any such insured's MIR Agent.

Payment made by prior carriers

Insureds that reasonably expect to make payment to claimants under policies issued by a prior carrier should contact those carriers directly to inquire how those carriers intend to handle the reporting requirements.

Payments made directly by insureds if self-insured or without insurance

If Ironshore is retained as a MIR agent, it can only report payments on behalf of insureds that are made during a time when the insureds were previously self-insured or without insurance. Ironshore cannot assume the role, or liability as an RRE for the insured. If an insured has qualifying claims that were not properly reported and that are delinquent, it should get all delinquent claims current and seek legal advice.



Are there contacts at Ironshore who can provide more information?

Ironshore can assist Insureds in evaluating their responsibilities as a Responsible Reporting Agent under the MIR statute and assist Insureds with an MIR solution. If you have questions about this information or Ironshore's reporting plans, you may contact:

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