

Brown & Carlson Insight

Limiting Unnecessary Conditional Payment Disputes

Mandatory reporting to Medicare is now common practice with all workers' compensation claims. As part of this reporting, the insurer must indicate whether it has "ongoing responsibility for medicals" or "ORM." ORM is when the Responsible Reporting Entity ("RRE"), the insurer, assumes obligation to pay for medical benefits associated with a work injury. An ORM is reported as "Y" when the RRE has accepted liability or is required to assume responsibility for ongoing payment of medical associated with the claim. ^[1]

If an employee becomes eligible for Medicare, a 'Y' ORM triggers conditional payment notices from the Center for Medicare Services (CMS). Once Medicare becomes involved, ORM can become a barrier to settlement, especially with minor injuries that occurred several years ago. Terminating ORM can eliminate this barrier by preventing conditional payment liens.

The majority of admitted workers' compensation claims will be reported as 'Y' for ORM. The denoting of 'Y' for ORM indicates that a RRE currently has or at some time had ORM. Once ORM is reported as 'Y' this will remain 'Y' even once the claim is settled or otherwise closed. While there is no basis to change ORM to 'N' an ORM termination date can be added in a number of situations.

It is important to terminate ORM as soon as possible to avoid future liability for ongoing medical treatment once Medicare becomes involved. Providing CMS with the ORM termination date gives a bookend to recovery by Medicare. When the ORM termination date is reported to Medicare, this will alert CMS that it is now the primary payor for that date of injury. If no termination date is provided, then the Commercial Repayment Center (CRC) of CMS assumes the RRE remains liable for injury-related payments indefinitely.

The most common situations for terminating ORM is when there is a finality to the claim, including settlement on a full, final and complete basis, a termination for a legal basis (e.g. statute of limitations, judgement/order), a physician statement in writing that no ongoing medical is needed, and policy limits.

Recently, CMS provided an additional opportunity for termination of ORM in cases that do not fall under any of the above "finality" situations. Specifically, ORM status can be terminated when **ALL** of the following criteria has been met in a prior admitted workers' compensation matter:

1. No claims were paid with any diagnoses codes related to alleged ingestion, implantation, or exposure; and
2. No claims were paid for any medical item or service related to the case within five (5) years of the date of service of any such claim; and
3. Treatment did not include, nor were any claims paid related to, a medical implantation or prosthetic device; and
4. The total amount paid by the insurer, for all medical claims related to the case, did not exceed \$25,000. (See Section 6.3.2 of the NGHP User Guide)

Termination of ORM when these criteria are met is most important when dealing with minor injuries and is imperative to limiting future exposure and possible barriers to future settlement when Medicare is involved. If ORM is terminated prior to Medicare eligibility, then a conditional payment search would not be needed. While these dates would still need to be considered if a Medicare Set Aside is obtained, if ORM is terminated, it is less likely future treatment for these dates of injury would be considered by CMS.

[i] ORM should not be reported as “Y” if it is a medical only claim with less than \$750 in medical being paid directly to the medical provider and there is no more than 3 days of lost time.

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