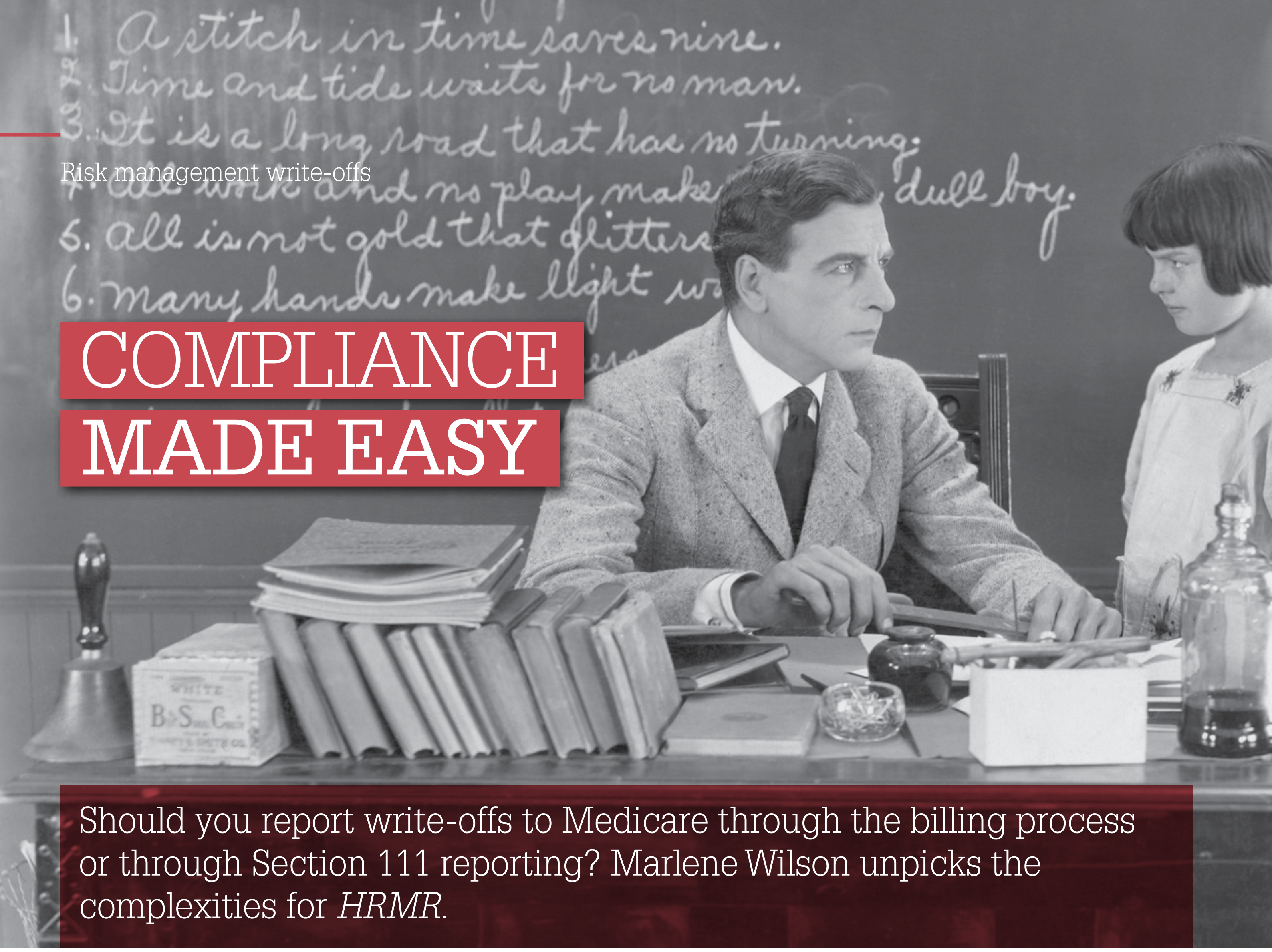

COMPLIANCE MADE EASY

Should you report write-offs to Medicare through the billing process or through Section 111 reporting? Marlene Wilson unpicks the complexities for *HRMR*.

When a healthcare provider writes off a medical expense, The Centers for Medicare and Medicaid Services (CMS) needs to know about the write-off. The Medicare billing requirements have not changed for risk management write-offs as a result of the mandatory reporting provisions under Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA), but due to the inclusion in the Non-Group Health Plan User Guide for when Section 111 reporting is required, healthcare providers have begun to question whether they are properly billing Medicare in cases involving medical expense write-offs.

CMS recognizes that entities may reduce charges for items and services or provide something of value to the injured party to lessen the risk of additional liability in the future, or to promote goodwill. So, do you know what should be reported to Medicare through the billing process and what should be reported to Medicare through Section 111 reporting?

REDUCTIONS OR WRITE-OFFS OF CHARGES

Have you ever had a Medicare-enrolled patient enter your facility for surgery, and while they are in the hospital they fall out of bed and break a leg? The risk management department makes the decision that the hospital should absorb the cost of the medical expenses associated with the broken leg as a goodwill gesture or as a means to avoid future liability.

Of course, the hospital is billing Medicare for the costs associated with the surgery, but what do you do about the costs associated with the broken leg? Medicare requires that the medical costs related to the broken leg be billed to Medicare, but you will also show a write-off of those expenses. Billing Medicare for the costs and writing off the appropriate costs allows Medicare to know that Medicare should not become the primary payer for any costs related to the broken leg.

The User Guide states that where a "provider, physician, or other supplier (a provider) has reduced its charges or written off some portion of a charge for items or services provided to a Medicare beneficiary as such a risk management tool, the provider, physician or other supplier is expected to submit a claim to Medicare reflecting the unreduced permissible (eg, limiting charge) charges and showing the amount of the reduction provided or write-off as payment from liability insurance (including self-insurance)".

Based on this guidance, in the above scenario, the provider should bill to Medicare all of the services and the related charges associated with the broken leg and should show the write-off amount as a primary insurance payment on the forms such as the UB04 or CMS 1500. Since Medicare is protected through the billing procedure, the reporting entity is not required to report this risk management write-off under the Section 111 provisions.

PROPERTY OF VALUE PROVIDED

The User Guide also addresses those cases where property of value is provided to a Medicare-enrolled individual: "In instances where a provider has provided property of value (other than a reduction in charges or write-off) to a Medicare beneficiary as such a risk management tool when there is evidence, or a reasonable expectation, that the individual has sought or may seek medical treatment as a consequence of the underlying incident giving rise to the risk, the entity shall report the value

of the property provided as a Total Payment Obligation to Claimant (TPOC) from liability insurance (including self-insurance)."

Examples of property covered by this provision could include such items as wheelchairs, crutches, hospital beds, etc. Importantly, however, the provider must report this information only if the property's value exceeds the MMSEA Section 111 TPOC reporting threshold in force on the TPOC date. As you are probably aware, the mandatory reporting thresholds for liability insurance (including self-insurance), have been gradually decreasing since the reporting became effective for settlements agreed to on or after October 1, 2011.

The mandatory threshold at October 1, 2011 was an amount greater than $100,000. The current mandatory threshold for any settlement agreed to on or after October 1, 2013 is greater than $2,000; however the mandatory threshold will be reduced to an amount greater than $1,000 on or after October 1, 2014.

ADDITIONAL INFORMATION GLEANED FROM CMS MMSEA TOWN HALL CALLS

If the provider has assumed ongoing responsibility for medicals (ORM), then the reporting entity should open a record for ORM under Section 111. In this case, if the provider has also written off medical expenses, then the provider will bill Medicare for those expenses and show the write-off, as well as opening the ORM record under Section 111.

If the provider agrees to a lump sum settlement in addition to writing off medical expenses, then the provider will bill Medicare for

"Entities may reduce charges for items and services or provide something of value to the injured party to lessen the risk of additional liability in the future."

the expenses written off, show the write-off, and then report a TPOC under Section 111.

CMS has stated on a town hall call **what does this mean ?** that these provisions do not apply to those purely financial write-offs when it is determined that the individual will never pay the balance on his/her invoice. Care must be taken to make sure that the write off is being done only for reasons such as (1) the individual does not have the resources to pay the invoice; or (2) the individual cannot be located to pay the balance of the bill. This write-off cannot be in any way related to a risk management decision.

STEPS YOU CAN TAKE TODAY

The following steps will help to evaluate whether controls are in place to properly report risk management write-offs and property provided to Medicare enrollees:

- Confirm who has been given the authority to authorize a reduction or write-off or to decide that property of value will be provided.
- Are all actions being sent to this person for approval?
- If the risk management department is not the party with this power, is it currently notified of a reduction, write-off, or provision of property of value?
- Is there a formal process to identify reportable events?
- Has training been done to notify the appropriate employees that approval is needed before reductions or write-offs are taken
- What is the billing department's current procedure for billing Medicare when there is a reduction, write-off, or provision of property of value?

This reporting is for notice purposes only, not reimbursement, but if not properly handled, penalties will apply. With a well-documented process and proper training, a compliant risk management program is easily achieved. ■

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