

# Potential Client Packet

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**Proposal**  
To provide Compliance Services  
Under the  
**State Children's Health Insurance Program**  
Section 111

# G&L

## SCHIP

### Section 111

# Compliance Solution

## **Historical Overview**

First suggested in 1945 by President Harry Truman, Medicare was signed into law by President Lyndon Johnson on July 30, 1965. The program was initially designed for Social Security beneficiaries (persons 65 years of age or older) but in 1972 was amended to include persons under the age of 65 with disabilities and certain diseases.

By 1980 concerns about the financial viability of the program caused Congress to include, as part of the Omnibus Budget Reconciliation Act, the Medicare Secondary Payer Act (MSP). The MSP defined Medicare as a “secondary payer” in cases where a primary payer (group health plan, Workers Compensation Plan, Liability plan or no-fault auto plan) existed. As a secondary payer Medicare was given a priority right of recovery in cases where Medicare paid for services that were the responsibility of the primary payer. The MSP also created an obligation for primary payers in workers compensation and tort claims to show adequate consideration of Medicare’s interest in such cases.

The MSP was widely ignored by the insurance industry and in 1999 the Government Accountability Office produced a report indicating that Medicare was paying billions of dollars for treatment that was the responsibility of primary payers. The result of the report was a memo issued by Medicare to the insurance industry (the Patel memo) outlining MSP compliance procedures effective January 1, 2002. For enforcement reasons the Patel memo (and most subsequent memos and policies) focused on Workers Compensation but the MSP remains in place (and indeed

strengthened by Title III, section 301 of The Medicare Prescription Drug Improvement and Modernization Act 2003) with regard to other lines of insurance.

## **State Children's Health Insurance Program**

In December 2007 The State Children's Health Insurance Program Extension Act (SCHIP) was passed by Congress with overwhelming bipartisan support. President George Bush signed the bill into law on December 29, 2007. While the purpose of the law (children's health insurance) has no application to the MSP, Section 111 of the bill, is designed to provide a funding vehicle for the program by establishing a series of reporting requirements and a civil money penalty of \$1000 per day per claim for non-compliance. The Congressional Budget Office estimates the law will generate \$1.1 billion in non-compliance fines in the first five years (to be used to fund children state health insurance). Section 111 requirements are applicable to Group Health Plans and Workers Compensation, Liability and No-Fault Auto plans (collectively referred to as non-GHP).

## **MSP and SCHIP: Understanding the Difference**

It is vitally important to understand that MSP and SCHIP are two separate programs independently administered. While certain aspects of SCHIP have an indirect relationship to MSP compliance, one does not replace the other. In general, everything a carrier or self-insured entity has been doing with regard to MSP compliance should remain the same; SCHIP simply adds another layer. It must be noted that while **all** settlements should contain an allocation for future care of the related injury (to protect the carrier, to protect the claimant/plaintiff's settlement proceeds, the claimant/plaintiff's future Medicare benefits and Medicare) **there is no requirement and indeed no reason to provide an MSA in non-Workers Compensation cases.** G&L has developed a low cost alternative to the MSA, the Claims Settlement Allocation (see attachment 1) that meets all statutory and industry needs at a fraction of the cost of an MSA.

**The purpose of SCHIP is three-fold: to gather information on claims involving a Medicare eligible person in order to recover conditional payments that have been made, to identify claims involving Medicare eligible persons to flag them in order to preclude the possibility of**

**conditional payments being made in the future and to ensure that all settlements involving a Medicare eligible person adequately protect Medicare's interest.**

## **SCHIP Requirements**

While Medicare had originally set a compliance date for non-GHP as July 1, 2009, they revised the requirement to 10/1/09 in a memo dated 9/15/08. The law mandates that 100% of claims owned by a non-GHP entity be examined to determine if the claimant/plaintiff is currently Medicare eligible. If the claimant/plaintiff is currently Medicare eligible up to 180 distinct data points must be collected and reported to Medicare on an on-going, quarterly basis until such time as the claim is settled by judgment, award or payment. In "contested" cases (i.e. a case where the non-GHP has never made **any** payment to or on the behalf of the claimant/plaintiff); a single report will be required at time of settlement/judgment/award (SJA). It is important to remember that a \$1,000 per day per claim penalty is imposed for failure to report in a timely manner. Note that requirements for GHP are similar but reporting was mandated to begin January 1, 2009 but revised to July 1, 2009.

## **The G&L Solution**

G&L began preparing for SCHIP in late 2007 and has made a \$3,500,000 investment in infrastructure, technology, platforms and personnel to allow us to meet all our client's needs and requirements under the law. Our Case Management System is built on the industry leading Oracle Siebel CRM application platform which has standards-based integration options for exchanging data between applications. This open architecture and generalized toolset can accommodate various data formats, including CSV (comma separated values) and XML (extensible markup language), and connection methods such as Web Services and FTP (file transfer protocol). This will allow G&L to support the transfer of data from our clients and the transfer of data to the government. G&L is equipped to ensure timely reporting of claims data so that our customers can avoid monetary penalties. This data exchange is designed to reduce reliance on the human element as much as possible.

G&L will assume the burden of identifying Medicare eligible claimants/plaintiffs, gather the data to report to Medicare on an ongoing basis, identify and negotiate conditional payments, produce the proper type of allocation at time of SJA and make the required reporting on an ongoing basis. **Additionally and perhaps most importantly, G&L will provide the full array of SCHIP data gathering and reporting free of charge to our clients and will assume all responsibility for any penalties levied as a result of failure to report in a timely manner.**

\* In exchange, G&L seeks to be engaged as the client's sole provider for conditional payment negotiations and allocations services (MSA and CSA) on a fee basis.

To accomplish this certain steps must be taken:

**1. Complete and return to G&L the Client Questionnaire**

- The Client Questionnaire must be completed shortly after the Letter of Intent is made. It provides information needed to begin to evaluate and define the implementation program. (see attachment 3)

**2. The technology divisions of G&L and client communicate**

- The two IT divisions examine the claims operating systems, mapping requirements and data exchange abilities.

**3. Execute a contract for SCHIP Reporting services**

- Negotiate and execute a contract for G&L to provide SCHIP reporting and assume all risk for failure-to-comply penalties. Implementation programs are defined with timelines.

**4. Post-IT findings review by G&L and client**

- G&L and client make determinations as to the feasibility and cost effectiveness of G&L assuming reporting responsibilities and taking the risk for any future penalties as a result of a failure to report.

**5. Begin the IT work**

- The two IT divisions review the File Specification documents and map-out the IT-related timeline

\*This offer of "free" services is contingent upon Medicare implementing an electronic reporting process as has been indicated / proposed. Should, and only if, other means of reporting be implemented, G&L will establish and advise of any charges for the services outlined herein.

## **6. Rollout and initial report.**

- Systems and training is completed, testing finalized and results verified.

It is necessary to note that the time line to accomplish steps 3 and 6 above can not be clearly defined in advance but can reasonably be expected to be 60-90 days.

## **Service Provided**

G&L's OneSource solution provides our clients with unparalleled flexibility regarding submission of SCHIP data.

OneSource accepts fixed width flat files or tab delimited files containing records of varying length and content.

OneSource recognizes and processes short records such as Medicare Eligibility Queries and fully populated Mandatory Insurer Reporting (MIR) Claim Input records.

G&L also offers a solution for clients constrained by claim systems which are inalterable or may not be timely modified to provide all MIR required data.

G&L iServices is a data entry web portal which works in conjunction with OneSource.

iServices enables clients to merge manually entered data to partially populated electronic records for the creation of a MIR compliant record.

Below are services inclusive of and in addition to those provided by OneSource and iServices.

- Provide comprehensive MIR training to claims handling professionals
- Provide MSP Compliance Alerts to claims handling professionals
- Provide MSP compliance products and services
- Provide on-going in person support for claims handling professionals
- Create interface allowing data transfer

- Receive client's claim data via secure electronic method (SFTP or HTTPS) Transmit data to MQF for eligibility verification
- Receive MQF verifications and log
- Transmit MQF verification to client
- Transmit MIR data to Medicare
- Receive MIR verification and log
- Provide Client verification of MIR
- Transmit CPR data to Lead Recovery Contractor
- Receive CPR data
- Transmit CPR information to client
- Receive S/J/A status from client's claim system
- Transmit S/J/A information to Medicare

**Time is of the essence in defining and establishing your SCHIP Section 111 compliance program. G&L has the solution that removes all financial risk and is offered free of charge; however, demand for this service can potentially tax even the most robust system. To ensure availability, please act now.**

DISCLAIMER: All services offered by G&L pursuant to this Proposal, including the "Free" charge, are subject to the terms of the final Medicare reporting requirements, and any deviations, additions, deletions, or modifications of Medicare from its preliminary definitions or requirements for SCHIP reporting and compliance may result in the appropriate changes to the services provided by G&L. Any changes, of any type, to the G&L services shall be within the sole discretion of G&L, but any such changes will be submitted to the Client in writing as a Supplement or Addendum to this Proposal."

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## OneSource Questionnaire

In order to determine how G&L may best meet your needs to insure SCHIP MIR and MSP compliance please provide the following information.

1. The total number of Field Claims Offices: \_\_\_\_\_
2. Total number of Responsible Reporting Entities: \_\_\_\_\_  
**and / or**
3. Total number of Third Party Administrators: \_\_\_\_\_
4. The total MSA/CSAs you did in 2008: \_\_\_\_\_  
**and / or**
5. The total number of settlements you had in 2008: \_\_\_\_\_
6. Lines of business you handle:  
  
Work Comp:       Liability:       Auto / No Fault:
7. Number of open claims by line of business:  
  
Work Comp: \_\_\_\_\_ Liability : \_\_\_\_\_      Auto / No Fault: \_\_\_\_\_
8. Number of claims involving lost time (WC Only): \_\_\_\_\_
9. Number of open claims at PTD status (WC Only): \_\_\_\_\_
10. Number of open claims with individuals over age 65: \_\_\_\_\_
11. Are you able to add fields required by both CMS and G&L?  
  
Yes       No
12. Are you able to export claim data as Fixed-Width Flat File or Tab-Delimited File?  
  
Yes       No

## Useful Links

Gould & Lamb has published a number of information Industry Bulletins regarding SCHIP MIR and related topics. G&L Industry News Bulletins are free of charge and are only published as new developments in our industry dictate, are free of marketing and may be obtained by clicking on the attached link:

<https://www.gouldandlamb.com/latest/news-updates.html>

Here are past INB and other reference material you may find useful you may view:

**Order Against Attorney, 04/08/2009:**

[https://www.gouldandlamb.com/images/stories/pdfdocs/inb/2009\\_04\\_08\\_inb\\_attorney\\_liability\\_order.pdf](https://www.gouldandlamb.com/images/stories/pdfdocs/inb/2009_04_08_inb_attorney_liability_order.pdf)

**MIR News, 03/19/2009:**

[https://www.gouldandlamb.com/images/stories/pdfdocs/inb/2009-03-19\\_-\\_mir\\_insurer\\_reporting\\_news.pdf](https://www.gouldandlamb.com/images/stories/pdfdocs/inb/2009-03-19_-_mir_insurer_reporting_news.pdf)

**SCHIP and Conditional Payments 01/19/2009:**

[https://www.gouldandlamb.com/images/stories/pdfdocs/inb/2009\\_01\\_19\\_schip\\_conditional\\_payments.pdf](https://www.gouldandlamb.com/images/stories/pdfdocs/inb/2009_01_19_schip_conditional_payments.pdf)

Below are links to Medicare memos, bulletins and SCHIP MIR information:

**ALERT for Reporting Multiple TPOC Amounts, 04/07/2009:**

<https://www.cms.hhs.gov/MandatoryInsRep/Downloads/NGHPAlertTPOC.pdf>

**ALERT for Liability, No-Fault, Workers Comp Insurance, 03/20/2009:**

[https://www.cms.hhs.gov/MandatoryInsRep/Downloads/Alert\\_UserGuideSupp\\_NGHP.pdf](https://www.cms.hhs.gov/MandatoryInsRep/Downloads/Alert_UserGuideSupp_NGHP.pdf)

**NGHP User Guide, 03/20/2009:**

<https://www.cms.hhs.gov/MandatoryInsRep/Downloads/NGHPUserGuide031609.pdf>

**Attachment A – Definitions and Reporting Responsibilities:**

<https://www.medallocators.com/Documents/CMS%20Definitions%20of%20an%20RRE.pdf>