

Council Meeting of
April 28, 2009

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Human Resources- Adopt RESOLUTION appointing the position of Risk Manager as the Authorized Representative of the City of Torrance for the purpose of complying with the Medicare, Medicaid and SCHIP Extension Act of 2007 Section 111

RECOMMENDATION

Recommendation of the Human Resources Director that the City Council adopt a RESOLUTION appointing the position of Risk Manager as the Authorized Representative for the purpose of complying with the Medicare, Medicaid and SCHIP Extension Act of 2007, Section 111.

BACKGROUND

Medicare is a government program that provides medical insurance for individuals 65 years and older, individuals under 65 with certain disabilities and those regardless of age with end-stage renal disease. In 1980, Congress passed the Medicare Secondary Payer as a cost-cutting measure, to prevent Medicare from paying claims for which other insurance (including liability) was already responsible, thus making Medicare the "secondary" payer if there is a "primary plan" that is responsible. Workers' compensation has been considered a "primary payer" since 1965 and has procedures in place that require approval of lump-sum settlements of future medical care by Medicare prior to settlement.

Section 111 of the Medicare, Medicaid and SCHIP extension Act of 2007 was enacted for the purpose of the mandatory reporting of Medicare beneficiaries who receive personal injury settlements, judgments, awards or other payments from liability insurance (including self-insurance), no-fault insurance and workers' compensation. The reporting process enables the Center for Medicare/Medicaid Service to determine if they are the secondary payer and when necessary, to seek reimbursement from the primary payer for those services that Medicare is not responsible to pay.

MMSEA Section 111 mandates that the Required Reporting Entity (RRE) submit information electronically when an injured party is a Medicare beneficiary.

The City has "applicable plans" as defined in 42 U.S.C, 1395y (b) (8) and is therefore an RRE and must comply with the mandatory reporting for liability and workers' compensation, which takes effect July 1, 2009. There is an enforcement penalty of \$1,000 per day per claim for failure to report. Each RRE must assign or name an Authorized Representative. This individual must have the legal authority to bind the City to a contract and the terms of MMSEA Section 111 requirements and processing. The Authorized Representative has ultimate accountability for the RRE's compliance with MMSEA Section 111 reporting requirements.

ANALYSIS

The position of Risk Manager has been identified to fulfill the obligation of Authorized Representative on behalf of the City because both the liability and workers' compensation programs report directly to that position.

Based on the above analysis the Human Resources Department has determined that the role of Authorized Representative for the City of Torrance be appointed to the position of Risk Manager to comply with the Medicare Secondary Payer Mandatory Reporting Provision.

Respectfully submitted,


 Donna M. Rizzo-Administrator
 Workers Compensation Program

CONCUR:


 Elaine M. Winer
 Human Resources Director

CONCUR:


 LeRoy J. Jackson
 City Manager

Attachment: Resolution Appointing the Risk Manager as the City's Authorized Representative for Complying with Medicare Reporting

RESOLUTION NO. 2009 - _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
APPOINTING THE CITY'S RISK MANAGER AS THE AUTHORIZED
REPRESENTATIVE OF THE CITY OF TORRANCE FOR THE
PURPOSE OF COMPLYING WITH THE MEDICARE,
MEDICAID AND SCHIP EXTENSION ACT OF 2007 SECTION 111**

WHEREAS, THE CITY OF TORRANCE (herein referred to the City) is a self-insured entity for the payment of workers' compensation and liability claims.

WHEREAS, the Medicare, Medicaid and SCHIP Extension Act of 2007 Section 111(MMSEA Section 111) adds mandatory reporting for Medicare beneficiaries who receive settlements, judgments, awards or other payment from liability insurance (including self-insurance), no-fault insurance or workers' compensation. MMSEA Section 111 requires Required Reporting Entity (RRE) to submit information electronically as stated above where in injured party is a Medicare beneficiary to the Centers for Medicare Medicaid Services (CMS) Coordination of Benefits Contractor.

WHEREAS, the City has "applicable plans" as defined in 42 U.S.C, 1395y(b)(8) and is therefore a RRE and must comply with the mandatory reporting which takes effect July 1, 2009. Each RRE must assign or name an Authorized Representative. This individual must have the legal authority to bind the City to a contract and the terms of MMSEA Section 111 requirements and processing. The Authorized Representative has ultimate accountability for the RRE's compliance with MMSEA Section 111 reporting requirements.

WHEREAS, THE CITY COUNCIL OF THE CITY OF TORRANCE has determined upon legal advice that it may appoint authority under Section 21173 of the Government Code to assign the role of Authorized Representative to the incumbent of the position of Risk Manager.

NOW, THEREFORE, the City Council of the City of Torrance does hereby resolve as follows:

That the CITY COUNCIL OF THE CITY OF TORRANCE appoints and it does hereby assign the incumbent of the position of Risk Manager to the role of Authorized

Representative under 42 U.S.C. 1395y(b)(7) & (b)(8) on behalf of the Agency, for the purpose of complying with the Medicare Secondary Payer Mandatory Reporting Provision in MMSEA Section 111.

BE IT FURTHER RESOLVED:

That such incumbent be and he/she has the legal authority to bind the Agency to a contract and the terms of MMSEA Section 111.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2009.

Mayor Frank Scotto

APPROVED AS TO FORM:
JOHN FELLOWS III, City Attorney

ATTEST:

by _____
Ronald T. Pohl, Assistant City Attorney

Sue Herbers, City Clerk