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## President's Message



It's January 1<sup>st</sup>, 2017 and I'm sitting by the fire at my home looking at our beautiful Christmas tree thinking about how blessed I am. Thoughts about how we pursue our dreams early in life, meeting many people along the way, making personal sacrifices and finding that special place we call work is more than inspirational. My particular path has been extremely exciting throughout my career (which I can share separately), but I would have to say that being involved with RIMS for over 20 years has enlightened me more than anything else professionally.

I am very excited to serve as the new President of the LA Chapter of RIMS. Our Board of Directors (volunteers) and past Presidents who have guided this Chapter for many years have brought so many opportunities for the membership. I love everything we do e.g. Luncheons, Risk Manager Forums, Events – Golf Tournament, Mixers, Holiday Party, Education Day and especially something new we're starting in 2017 called Rising Risk Professionals (see enclosed).

I was especially pleased to see a number of CSU Northridge students at our Holiday Party recently. These programs and our involvement with various Universities offering Insurance & Risk Management Degrees is our future. Our Membership is very strong; we bring a vast array of knowledge, experience and resources from each and every one of you and the companies you represent. I would ask that you make every effort to introduce yourself, share and listen...it's the reason we come together. Keeping our LA RIMS Chapter fulfilling, fun, exciting, educational and rewarding is my goal. It aligns with our mission and I hope every one of you will join us in furthering these efforts.

We've attached a few items with our January 2017 Newsletter, but something else we are very excited to share is the announcement of our NEW LA RIMS Chapter Website which will roll out next week!! Special recognition goes to Richard Morgan (RIMS Board Member) and Charles Wenker (Web designer) for spearheading our fresh new look. We've made quite a few changes that will offer easier navigation, dates of upcoming meetings and events, photo galleries, and special recognition to our valued Sponsors. Please let us know what you think.

LA RIMS members will receive an email with additional details and information about log in and brand new features included in the members only section of the website.

Our Board Members (Jeff, Vinny, Scott, Dennis, Maling, Jonathan, Richard, Ross, Taylor & Adam) are always willing to help and serve. Our pictures and contact info is on the website, please feel free to contact any one of us.

Thank you for your continued support and service, I'm looking forward to 2017...we've got a lot to share! I hope you and your families had a very Merry Christmas, Happy Hanukkah and Happy New Year!

Gratefully,

Manny Chavez  
President, LA RIMS

# 2017 Board Members



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**Manny Chavez**  
Princess Cruises



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Dole Food Co., Inc.



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Rising Risk  
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Rising Risk  
Professional Delegate

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Interested in becoming an LA RIMS  
Board Member?

Click [here](#) for application

# *Holiday Party*

## *Sponsors*

### Gold



### Silver



Arthur J. Gallagher & Co.  
BUSINESS WITHOUT BARRIERS™



**Willis Towers Watson** 

# *Holiday Party & Installation of Officers*

**December 8<sup>th</sup>  
Woodland Hills Country Club**



# *Upcoming Events*

**January 18<sup>th</sup>**  
Educational Luncheon  
Embassy Suites - Glendale, CA



**February 2<sup>nd</sup>**  
Rising Risk Professionals Networking Event  
Salvage Bar & Lounge, Los Angeles, CA



**February 15th**  
Risk Manager Round Table Discussion  
(open to risk managers and their staff)

**March 15th**  
Educational Luncheon  
DoubleTree - Santa Monica, CA



**April 23-26**  
RIMS National Conference  
Philadelphia, PA

**May 17<sup>th</sup>**  
Risk Manager Round Table Discussion  
(open to risk managers and their staff)

**June 7<sup>th</sup>**  
Golf Tournament  
Brookside Golf Club  
Pasadena, CA



# Los Angeles Chapter of Risk and Insurance Management Society



## Rising Risk Professionals (RRP)

**Mission Statement:** The LA RIMS RRP will serve professionals in the risk management and insurance industry community under the age of 37 and/or those with less than 7 years of risk related experience. Our goal is to create networking, career and professional development opportunities and outreach within the Greater Los Angeles area.

### 2016 - 2017 RRP Committee Members:

- Linh Dao, The Walt Disney Company
- Patrick Novack, Avery Dennison Corporation
- Adam Boujida, Knight Insurance Group
- Elaine George, Chubb
- Steve Dubiel, AIG
- Emily Jones, Aon
- Taylor Turney, JLT Specialty



### 2017 Event Schedule:

- Service Day
- Recruitment Day
- Lunch with a Risk Manager
- Risk Management Loss Control Visit
- Education Day Presentation
- Rotating Happy Hours around Los Angeles:
  - February 2<sup>nd</sup> 2017 at Salvage Bar & Lounge 717 W. 7th Street; Los Angeles, CA 90017
  - May, October, and November dates and locations to be announced

Get involved and stay connected on LinkedIn for more information:

<https://www.linkedin.com/groups/13501237>

<http://www.larims.org>



**LOS ANGELES RIMS**  
Rising Risk Professionals  
Insurance Industry Mixer  
All are welcome!

Thursday, February 2<sup>nd</sup> 2017

5 p.m. – 8 p.m.

Cash Bar Available

Drink Specials for Risk Managers

Salvage Bar & Lounge – 717 W. 7<sup>th</sup> St, Los Angeles, CA 90017

*Our goal is to create networking, career and professional development opportunities and outreach within the Greater Los Angeles area*

## Tightening the Recovery Screws: Medicare’s New CRC Process and Effects on Claims

**Author: Mark Popolizio | December 2016**

Just about a year ago, the federal Centers for Medicare and Medicaid Services (CMS) introduced the Commercial Repayment Center (CRC) as an additional contractor in helping with its conditional payment<sup>1</sup> recovery processes against workers compensation, liability (including self-insurance), and no-fault claims payers. As part of this, CMS also made fundamental changes about when it seeks actual reimbursement from claims payers.



While initially slow out of the gate, CMS is now moving quickly to fully implement its new policy. As Medicare tightens the recovery screws, it remains critical for claims payers to understand how the new CRC process is affecting claims—and what can be done to get ahead of the curve. At its core, the new CRC process involves the “how” and “when” of the CMS conditional payment reimbursement process.<sup>2</sup> Key questions include which contractor does CMS use to pursue claims payers and other parties and when does CMS seek actual repayment?

### **New players appear**

Before October 2015, CMS used a single contractor—the Benefits Coordination and Recovery Contractor (BCRC)—to conduct its reimbursement activities. Whether CMS pursued recovery from the claimant or claims payer, the BCRC led the charge.

Much changed on October 5, 2015, when CMS added the CRC to the mix. Thus, CMS is now using both contractors. CMS continues to use the BCRC when it directs recovery against the claimant, but CMS now taps the CRC when it seeks recovery from claims payers.

Perhaps the more significant change relates to when CMS will pursue actual reimbursement against claims payers. Before the new policy, CMS did not typically seek reimbursement until after the case was settled. In fact, when parties engaged CMS before the settlement on interim conditional payment matters, the agency’s correspondence stressed that repayment should not be tendered until after CMS was notified of settlement and issued its final demand. CMS has now changed this long-standing practice.

Specifically, under the new CMS policy, if a claims payer has assumed “ongoing responsibility for medicals (ORM),”<sup>3</sup> CRC is now pursuing the payer for reimbursement before settlement. The key determinant is ORM. If there is ORM, CMS will signal the CRC to pursue a claims payer before settlement—and this can occur regardless of whether the claim can, or will, ever settle.<sup>4</sup> Further, it’s possible that multiple recovery claims could be lodged against the claims payer on a “rolling basis” during the course of the claim.

## Timing in question

When CRC pursues the claims payer in an ORM situation, it issues a Conditional Payment Notice (CPN) that notifies the payer of Medicare's claim. Of importance here, the claims payer then has only 30 days to respond and/or object to the CPN, or it converts into a final demand for reimbursement. In contrast, if CMS directs recovery against the claimant, the BCRC issues a Conditional Payment Letter (CPL), which does not contain a due date for a specific response. In the latter context, an eventual final demand from CMS will contain a specific repayment time period.

Although CMS's CRC policy became effective in October 2015, CMS was slow to implement the changes. In fact, it was not until late spring of 2016 before the first real signs of significant implementation surfaced, when claims payers started reporting that they were receiving an increasing number of CPNs. CMS has since continued to ramp up its efforts.

In terms of impact on operations, claims involving workers compensation, no-fault, and med-pay sit squarely in the bull's-eye, likely because ORM is often assumed as part of these claims. As such, claims payers should be on heightened alert to the increasing likelihood they will now have to deal with CMS recovery claims from the CRC before settlement or, in the no-fault and med-pay contexts, before policy exhaustion or expiration.

On the workers compensation front, the fact that CMS may now seek reimbursement before settlement creates an entirely new landscape. This will hit home particularly hard in Massachusetts, New Hampshire, New Jersey, and Texas—the states where workers compensation cases typically do not (or cannot) settle and where CMS in the past rarely issued conditional payment recovery demands. CMS has now totally flipped this long-standing practice on its head, since CRC is pursuing recovery in ORM situations, regardless of whether the claim can, or will, ever settle.

## Emerging challenges

The new CRC policy also presents other ground-level challenges. For example, CRC's 30-day CPN response time is a short window that can easily be missed. Thus, claims handlers need to carefully monitor all correspondence from CMS and the CRC to ensure that timely responses and/or objections are filed.<sup>5</sup> Another emerging challenge is CMS's new practice of switching the party identified as the debtor pre-and post- settlement in ORM situations. Before adopting the new policy, CMS typically identified a claims payer as the debtor in workers compensation, no-fault, and med-pay claims throughout the life of claim. This practice has now changed.

Specifically, CMS is currently identifying the claims payer as debtor before settlement in ORM situations and then naming the claimant as debtor upon settlement. In real time, this is setting up an interesting



situation in which the CRC pursues the claims payer up until settlement, and the BCRC then chases the claimant upon settlement. This change is particularly affecting workers compensation claims.

Regarding third-party liability cases, the new CMS process should have minimal impact, since ORM is rarely assumed in this context. In these claims, CMS generally continues to follow its long-standing practice of pursuing the claimant upon settlement. Keep in mind, however, that, notwithstanding this CMS practice, Medicare can still pursue the claims payer if it chooses.<sup>6</sup>

## Ten claims tips

In the bigger picture, the new CRC policy is the latest salvo by CMS toward strengthening its recovery efforts. Claims payers may need to “fight fire with fire” and take active steps to meet this new challenge. Below are ten starter tips for consideration:

1. Review how CMS’s new CRC policy fundamentally changes Medicare’s recovery process.
2. Note the roles that BCRC and CRC play, including which contractor handles what and when.
3. Recognize that CMS is now seeking recovery in ORM situations before settlement, regardless of whether the case can, or will, ever settle.
4. Make sure adjusters who are handling states where medicals “stay open” (or claims that will not otherwise settle) understand they will now have to deal with CMS recovery claims.
5. Respond promptly to the CRC’s 30-day CPN timeline.
6. Use correct ICD 9/10 codes to help limit Medicare claims.
7. Obtain and/or dispute conditional payment claims early in the claims cycle.
8. Determine if current settlement practices (and language) need revision.
9. Revisit and/or revise best practice protocols.
10. Provide training for all frontline claims handlers.

As Medicare continues to tinker with its procedural policies to obtain reimbursement, claims payers need to adapt to these changes and develop coordinated and targeted game plans to ensure proper compliance. Building compliance practices around these points may help everyone involved get ahead of the curve as Medicare enters this latest chapter in more aggressively enforcing its recovery rights.



*Mark Popolizio is vice president of MSP compliance policy at ISO Claims Partners, a Verisk Analytics (Nasdaq:VRSK) business, which provides Medicare compliance and claims resolution services to many of the largest property/casualty insurance companies as well as to self-insured companies and third-party administrators.*

<sup>1</sup> A “conditional payment” is a payment made by Medicare for services for which another payer is responsible. See 42 C.F.R. § 411.21. Under the Medicare Secondary Payer (MSP) statute, Medicare has strong and broad conditional payment recovery rights. For example, Medicare can pursue parties that “make” and/or “receive” primary payment. Medicare can also seek “double damages” against primary plans for failure to properly protect its interests. See e.g., 42 U.S.C. § 1395y(b)(2)(B)(ii) and (iii).

<sup>2</sup> CMS’s CRC policy relates to reimbursement claims involving “traditional” or “original” Medicare. Under traditional Medicare, beneficiaries receive their Medicare benefits from the federal government. This new policy does not pertain

to Medicare Advantage, which is a different part of the Medicare program. Under Medicare Advantage, a beneficiary receives his or her Medicare benefits through one of several private insurers.

<sup>3</sup> The term “on-going responsibility for medicals (ORM)” derives from CMS’s Medicare Secondary Payer Mandatory Reporting requirements (also referred to as MMSEA or Section 111 reporting). ORM refers to a Responsible Reporting Entity’s (RRE’s) responsibility to pay, on an ongoing basis, for the injured party’s (Medicare beneficiary’s) medical care associated with the claim. CMS notes that ORM “often applies to no-fault and workers’ compensation claims, but may occur in some circumstances with liability insurance (including self-insurance).” CMS’s Section 111 NGHP User Guide, Version 5.1 (October 10, 2016), Chapter III, p. 6-10.

<sup>4</sup> 42 U.S.C. §1395y(b)(2)(B)(ii) and 42 C.F.R. § 411.24(b) are the provisions generally cited as giving CMS the right to seek repayment before settlement. Under the cited statute, a primary plan “shall reimburse” Medicare if it is demonstrated that such plan “has or had a responsibility” to make payment. The noted regulation provides that “CMS may initiate recovery as soon as it learns that payment has been made or could be made under workers’ compensation, any liability or no-fault, or employer group health plan.”

<sup>5</sup> Claims payers still have an opportunity to dispute CMS’s claim if they miss the CPN’s 30-day timeline. They can do this in response to CMS’s formal recovery demand. However, at this point, the process becomes more formal, as the dispute is now processed as part of Medicare’s five-level administrative appeals process, which involves stringent response times and other evidentiary requirements.

<sup>6</sup> For example, 42 C.F.R. § 411.24(i)(1) states: In the case of liability insurance settlements...workers’ compensation insurance or plan, and no-fault insurance, the following rule applies: If Medicare is not reimbursed [within 60 days from a claimant’s receipt of a primary payment] the primary payer must reimburse Medicare even though it has already reimbursed the beneficiary or other party.

# WELCOME new members

- Estephan Abeja – Cal State University, Northridge
- Erin Anderson – Cal State University, Northridge
- Erin Buchanan – Cal State University, Northridge
- Saengarun Carlisle – Cal State University, Northridge
- Jocelyn Chittum – Cal State University, Northridge
- Chad Coleman
- Michael Dossey – The Salvation Army
- Emily Gilbert – Cal State University, Northridge
- Tokatlian Hovanness – Cal State University, Northridge
- Shannon Kay – DineEquity, Inc.
- Leo Momplet – Sony Corporation of America
- Isela Neri – Cal State University, Northridge
- Siroun Pakadaman – Cal State University, Northridge
- Matthew Pineda – Cal State university, Northridge
- Dan Reichert – The Wonderful Company
- Luke Rimando – Cal State University, Northridge
- Arpine Sislyan – Cal State University, Northridge
- Rojelio Solis – Cal State University, Northridge
- Dina Taian
- Ani Zakaryan – Cal State University, Northridge
- Linda Zechow – Sony Pictures Entertainment

Click [here](#) to apply for a scholarship to help you with your insurance and risk management designations

#### Mission Statement

Los Angeles RIMS is dedicated to be the preeminent association in risk management focused on attracting the leaders in the industry while fulfilling the needs of its members and affiliates. Through education and development, networking, and community outreach, we aim to promote the principles, and highlight the value of risk management to drive the

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✓ Contributing to the eNewsletter?

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