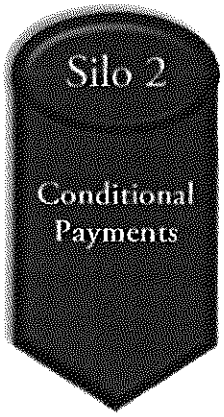
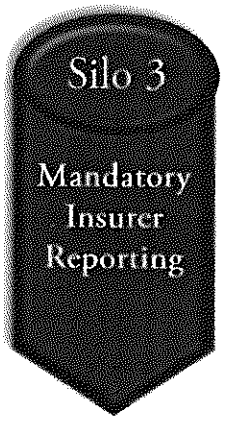
Today, CMS is working on regulations to expand MSAs for the settled liability claim. Liability programs typically settle the entire loss - past and future - so a CMS rule on this point will add complexity. This silo of compliance looks at future medicals and how it should be paid by the settling claim – no more. This compliance area is referred to as "consideration" of Medicare's future interests.

Resolve Silo – Conditional Payments



CMS makes payments to providers that should have been paid by the liability, workers' compensation or no-fault claim. MSP requires immediate reimbursement after a settlement, award or other payment is made to a Medicare beneficiary.[5] At this point in time, CMS payments for such medical items and services are considered **Conditional Payments** and CMS retained contractors identify and manage reimbursement of such payments. If repayment is untimely, the CMS contractor is required to refer the matter to the Department of Treasury for collection as a debt.[6] The Department of Treasury has the power of levy or can refer to the Department of Justice for lawsuit and collect double damages.[7] Conditional Payment compliance proactively identifies these payments, disputes unrelated charges, and manages reimbursement as close in time to the resolution of the claim. This silo of compliance manages only medical charges that occur in the past – nothing else. This compliance area provides for "resolution" of Medicare's payments already paid.

Report Silo – Mandatory Insurer Reporting



Mandatory Insurer Reporting[8] is the most recent CMS program to develop. Insurers and self-insurers must report data or face a penalty of up to $1,000 each day and for each claim not timely reported involving a Medicare beneficiary claimant. The law burdens insurers and self-insurers, which it identifies as Responsible Reporting Entities (RREs), to determine a claimant's Medicare status. If the RRE has an Ongoing Responsibility for Medical (ORM) expense, it must report it and understand how to properly terminate it. The RRE must also report all settlements, judgments, awards or other payments to a Medicare beneficiary as a Total Payment Obligation to Claimant (TPOC) payment. This silo of compliance, manages data about claims and sends information back and forth to CMS and its various contractors– it does not manage MSAs or reimburse conditional payments. This compliance area focuses solely on "reporting" of the claim data.

What CMS Does with Information

CMS can now analyze a complete picture of compliance for each claim as it receives data from each silo of compliance; Report, Resolve, Consider. The insurer and self-insurer's program that is not integrated cannot match CMS ability to process the data it has. An example of this could be the use of the ICD-9 code for each area of compliance. Is that data pulling from a single version of the truth, or identified by each process

[5] 42 U.S.C. §1395y(b)(2)(B)(ii)
[6] 42 U.S.C. §1395y(b)(2)(B)(iii)
[7] 42 U.S.C. §1395y(b)(3)(A)
[8] 42 U.S.C. §1395y(b)(8) a.k.a. Section 111 Medicare & Medicaid SChip Extension Act of 2007

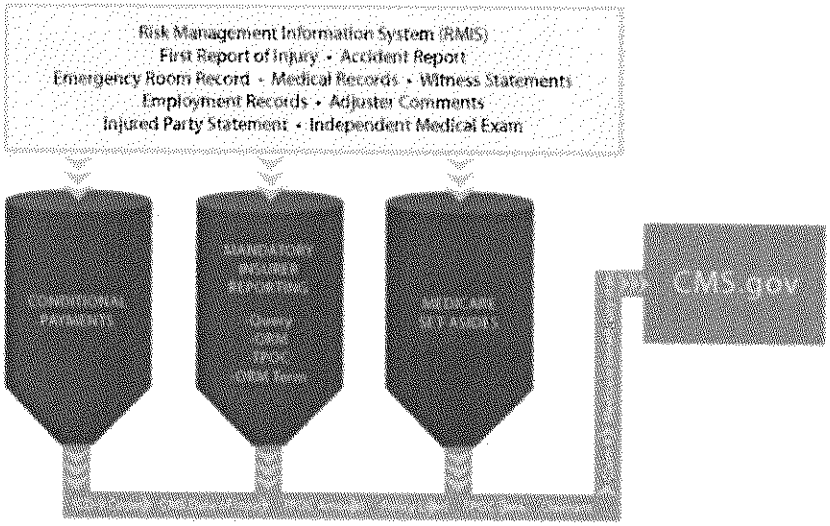
within a silo? If so, how are these issues reconciled, as what started with a strain knee for conditional payment resolution, became leg nerve damage for a WCMSA, and when MIR reported a sciatic nerve condition. To best protect against CMS data mining to improve its coordination of benefits with insurers and self-insurer's and increase the value of its reimbursement claim, these silos of compliance must be integrated to duplicate and anticipate the complete picture that CMS is assembling. Only then, can a compliance program effectively mitigate MSP exposures.

An integrated approach requires an MSP compliance solution that aligns conditional payment resolution, future consideration (Medicare Set Asides) and mandatory reporting of data drawn from the same data source to increase consistency. After each service is processed, the final product is then intercepted for quality control and then submitted to CMS. This allows the insurer or self-insurer responsible for MSP compliance to duplicate the data CMS will assemble and be able to anticipate issues before they occur. Built into the system integration are automatic triggers that coordinate services and provide consistent outcome to minimize surprises. The end result is to bring claims to final conclusion that have little chance for building MSP contingent liabilities.

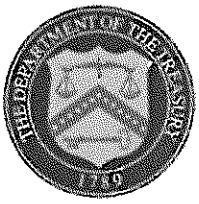
The Real Cost of Not Integrating Your MSP Compliance Silos

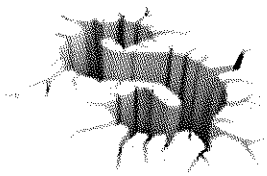
Since late-2012, Franco Signor has audited well over 2 million workers' compensation, liability and no-fault claims for MSP compliance.

Most programs fail because the front-line adjuster is not equipped with the right tools. Systems do not properly prompt for the next service level, information is not coordinated between siloed compliance programs to mitigate gaps; and the adjuster is not able to appreciate MSP compliance. Each part must be assembled into an integrated structure to protect the insurer or self-insurer. The regrettable error is because of silos, compliance may be complete in one area, but left incomplete otherwise. Unless the approach is fully integrated, the error is not detected until it is too late.



Do you currently have the ability to see the whole MSP compliance picture across your entire claims population? If not, the organization is exposed to:

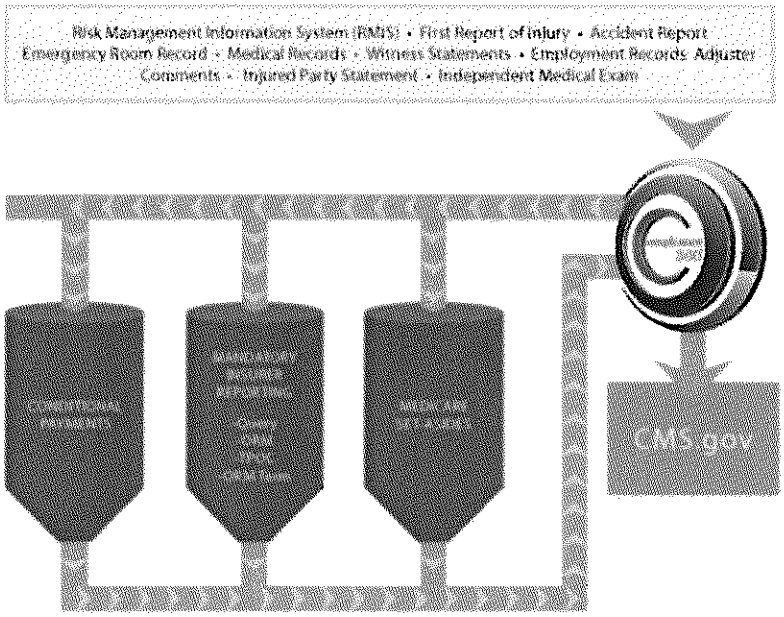




- MSP Penalties
- MSP Recovery Audit Contractor Audits
- Department of Treasury Levies
- U.S. Department of Justice Lawsuits for double damages
- Whistleblower claims

MSP Compliance 360° Integrates Compliance Silos

Franco Signor's ***MSP Compliance 360°*** program with its **SMART Comply™** engine is the answer. Uncertainty because of potential MSP penalty enforcement, MSP RAC audits, and OIG whistleblower claims, can be effectively mitigated with an approach that provides the complete picture of compliance that matches what CMS is looking at. The ***MSP Compliance 360°*** platform is the foundation to identify and manage all MSP exposure situations including the initiation of appropriate Conditional Payment Resolution and Medicare Set Aside Services.



- ✓ The ***MSP Compliance 360°*** platform manages all Medicare beneficiaries to ensure timely reporting and initiate lien resolution services when settling a claim with a Medicare beneficiary or when correspondence is received from Medicare on the claim.
- ✓ Medicare mandatory reporting data is linked to the claim's lien information, resolution status, and final outcome.
- ✓ Proactive alerts are integrated in the platform to identify potential Medicare lien exposure scenarios and initiate the appropriate compliance actions and services.

The technology brings data from all silos of compliance in one area:

- Common database for all necessary data elements (conditional payments, MSAs and MIR reporting).
- Proprietary validation rules that identify potential missed query opportunities.
- Prompts front-line adjuster to report Ongoing Responsibility for Medical (ORM); and suggests ORM termination scenarios.
- Conditional payments are automatically identified, disputed, and resolved when claim is targeted for resolution. Simultaneously, Medicare's interest is considered with a Medicare Set Aside or evaluated in accordance with client risk tolerances and program guidelines.
- ***MSP Compliance 360°*** includes **SMART Comply™** engine that links MMSEA reported claim data with conditional payment and MSA information to provide a complete picture of compliance at the claim level.
- Enterprise wide visibility for MSP compliance through custom reporting tools and real-time dashboards.
- ***MSP Compliance 360°*** creates a centralized repository for all CMS MSP compliance correspondence.

Contact Katie Fox today to schedule a demonstration of the *MSP Compliance 360°* program with its **SMART Comply™** engine.