



P  
A  
R  
T  
N  
E  
R  
S  
H  
I  
P



ACCURACY

internal audit • erm • project risk mgmt • bcr • health & safety • rms • claims admin • esg • tprm • compliance • policy mgmt

**RISK** UNDER  
**ONE ROOF**

Confidential

# Medicare Fines are Looming; Get Your House in order Now

**Vince Homer**, Riskonnect

**Buffy Brewington**, ExamWorks Compliance Solutions

**Scott Huber**, ExamWorks Compliance Solutions

**Lou Porrazzo**, ExamWorks Compliance Solutions



# Agenda

- Section 111 Primer
- Status of Civil Money Penalties
- Recent CMS Changes
- Best Practices
- What CMS Does With Your Data
- How You Can Protect Yourself

# Section 111 Primer

- Signed into law in December 2008
- Requires reporting of Workers' Compensation, Liability and No-Fault claims to Medicare
- Serves four main purposes
  - Discover billions in unresolved Medicare liens (Conditional Payments)
  - Cease making ongoing Conditional Payments where a primary payer exists
  - Ensure that all settlements "adequately consider" (allocate) Medicare's interests as required by law
  - Potential of up to \$1,000 per day per claim penalty (adjusted annually)
- Initially estimated at \$1.1B in fines to fund SCHIP

# Status of Civil Money Penalties

- Proposed Penalty Structure
  - Complete failure and disregard
  - Repeatedly hitting Error Threshold with quarterly files (ECS prevents this)
  - Report of TPOC > 365 days late
  - Contradictory data between Section 111 submissions and Conditional Payment negotiations



# Status of Civil Money Penalties

## Examples

- Late Report of TPOC: Workers' Compensation claim reported as "Open ORM" on **July 1, 2023**. Claim settles for \$26,750 on **September 7, 2023**, but no Update Record with TPOC has been submitted as of **September 7, 2024**. (CMP of \$365,000+?)
- Contradictory Data: ORM Terminated on April 1, 2023 but ORM Termination Date not reported. Conditional Payment process in April 2024 uncovers lack of ORM Termination report. Pay the unrelated charges, or the CMP (\$365,000+)?

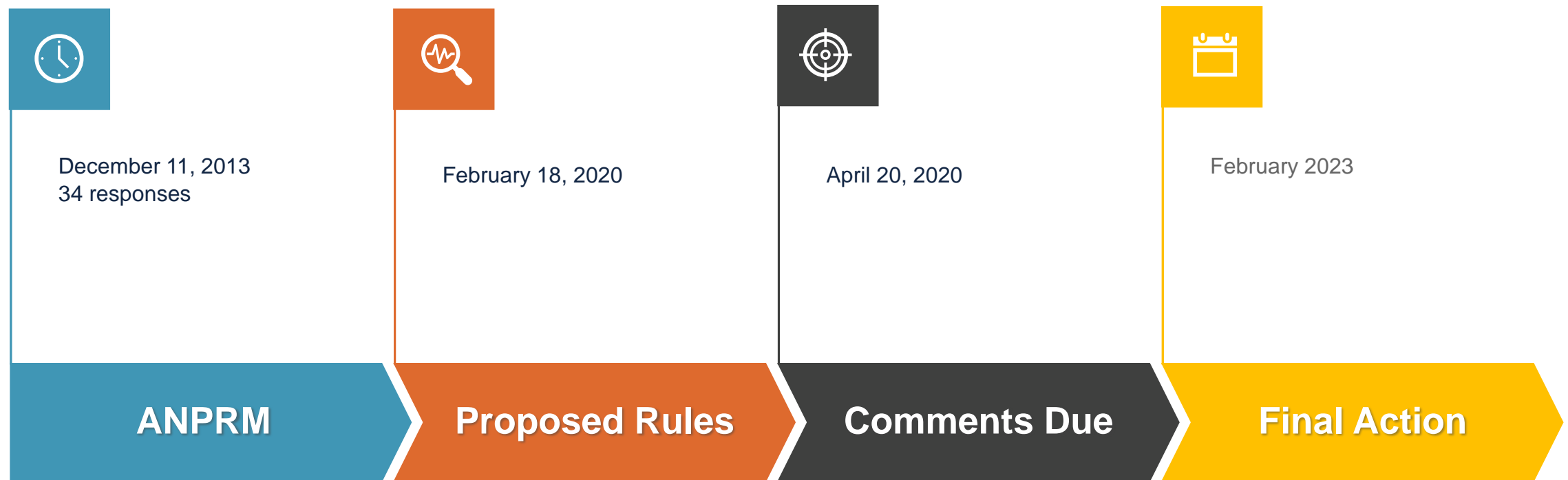
# Status of Civil Money Penalties

- Enforcement per the Proposed Rules
  - Prospective from date of publication
  - 5 year Statute of Limitations from the date non-compliance was identified by CMS
  - Informal notice, followed by 30 day period to respond with mitigating information before formal notice is issued
  - Appeals Process with ALJ hearing



# Status of Civil Money Penalties

## Timeline





# Recent CMS Changes

- **SOFT EDITS:** Inconsequential fields no longer trigger rejections (Phone Extension; Zip+4; Middle Initial)
- **ORM TERM 75 YRS OUT:** Advanced population of ORM Termination Date to ease claims handling procedures
- **5YR/\$25K ORM TERM:** If <\$25,000 in medicals AND no treatment in the last 5 years AND not related to implant/exposure/inhalation, then you may submit ORM Termination Date.
- **INDEMNITY VS. MEDICALS TPOC CLARIFICATION:** If only Indemnity settles, then do NOT report as TPOC. If Medicals & Indemnity settle together, then you can combine into one TPOC, but not required.



# Best Practices

## Accurately

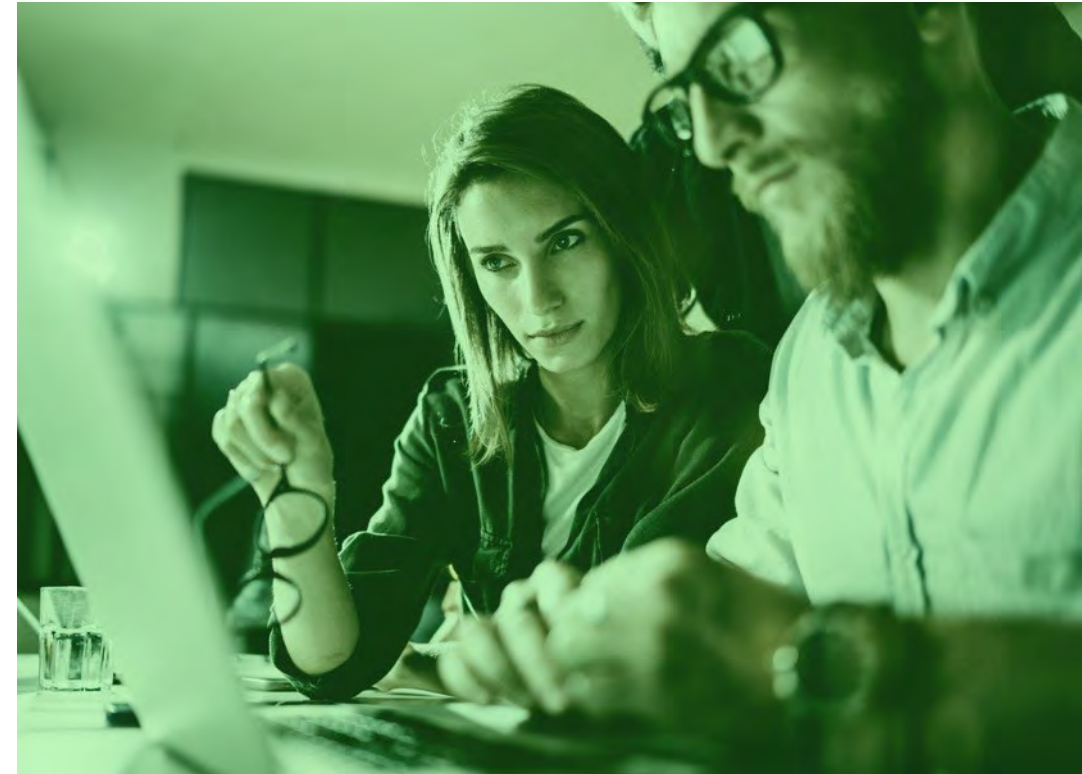
- Report compensable ICD Codes

## Completely

- Report ORM Indicator; ORM Term Date; TPOC Amount; TPOC Date

## Timely

- Report TPOC  
(within 1 year of Settlement Date)





## MIR VALIDATION API

- Use to update a claim to ECS immediately
- Receive real-time, on-demand validations for error correction

The screenshot shows the 'Claims Administration' interface. The main window is titled 'CMS Data (Blank) Response Fields'. A red arrow points to the 'Validate' button in the top toolbar. The form contains several fields for data entry, including 'First Eligibility Check Date', 'MIR Reportable Flag', 'First MIR Report Date', 'Medicare Eligibility Flagged Date', 'MIR Response Received Date', and 'Last ECS Validation Date' (which is set to 8/26/2022 11:35 AM). Below the form, there are sections for 'ECS Result Warnings' and 'ECS Status Warnings'. A red arrow points to an error message in the 'ECS Status Warnings' section: 'CI05:ICD Code 1 invalid code/content,CJ01:Reqd.ORM Ind mst be Y/N'.

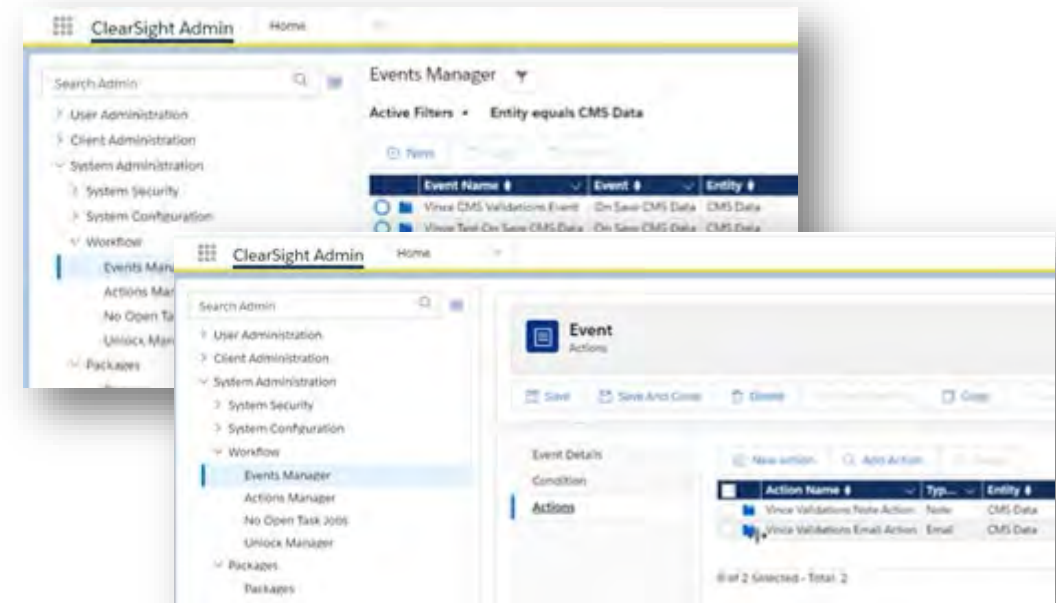
# CMS Workflow Events & Actions

- **Workflow Event / Actions after:**

- Saving the CMS Data in the Application
- Imports are received from ECS
- Real Time Validations with ECS

- **Business Value**

- Workflow improvements
- Better compliance and entry efficiencies
- Notification of critical CMS events that need action



# CMS Workflow Events & Actions

## Set Event Conditions:

Condition

All of the following is true:

+ Add Condition    + Add Group Condition

CMS Data    MC Eligibility

is    changed

And

CMS Data    MC Eligibility

is    equal to    Y

## Select Actions:

Event Details

Condition

**Actions**

+ New Action    + Add Action    Delete

<input type="checkbox"/>	Action Name	Typ...	Document Typ...
<input type="checkbox"/>	CMS Validations Task Action	Task	CMS Data
<input type="checkbox"/>	CMS Validations Email Action	Email	CMS Data
<input type="checkbox"/>	CMS Validations Autofix Action	Autofix	CMS Data
<input type="checkbox"/>	CMS Validations Note Action	Note	CMS Data

0 of 4 Selected - Total: 4

*Tasks and notes can be attached to the CMS and/or the Claim record*

# CMS Workflow Events & Actions

- Key Events Accommodated
  - Injured Party Identified as Eligible for Medicare
  - Claim Identified as MIR Reportable
  - Client specified error code(s) are returned from ECS
  - Claim contains one or more validation errors from ECS
  - Claim cannot be loaded into ECS system
  - MIR Response File Received
  - Errors returned from CMS on Quarterly Response file
  - Unlimited additional CMS Events and Actions

# Access to MAP Data

- New folder on CMS Page – MAP Data
- Select “Get MAP Data” and “Export MAP Data” Buttons
- Attach export to claim automatically

The screenshot shows the 'CMS Data (Blank) MAP Data' interface. The sidebar on the left contains navigation options: Home, Claims, Incidents, Occurrences, Parent Occurrences, Tasks, Payment Processing, Text Messages, Reports, Data Discovery, and Manage. The main content area is titled 'CMS Data (Blank) MAP Data' and includes buttons for Save, Save And Close, Cancel, Validate, and Request MSP Service. Below these buttons, there is a message: 'To receive the latest MAP data, please click on the 'Get Map Data' button'. The 'Injured Party Information' section contains fields for Injured Party HICN, Injured Party SSN (842-65-8246), Injured Party Last Name (Homer), Injured Party First Name (Ian), and Map Data Flag (Y). The 'MAP Data' section has buttons for 'Get MAP Data' and 'Export Map Data'. Below these buttons, there is a table with columns: Part A, Most Recent Effective Date, Most Recent Termination Date, and Part B, Most Recent Effective Date, Most Recent Termination Date. The table also includes a detailed view with columns: Plan Type(C or D), Active Plan, Enrollment Date, Termination Date, Contract Number, Contract Name, PBP Number, and Plan Address.

Part A	Most Recent Effective Date	Most Recent Termination Date	Part B	Most Recent Effective Date	Most Recent Termination Date
	07/20/2021	08/08/2022		07/20/2021	08/08/2022

Plan Type(C or D)	Active Plan	Enrollment Date	Termination Date	Contract Number	Contract Name	PBP Number	Plan Address
C	Y	09/01/2021		12345	Contract 1	123	100 Main-Address
C	N	01/01/2019	02/01/2019	12377	Plan Contract Name	123	100 Main-Address
C	N	05/01/2019	06/01/2019	12377	Plan Contract Name	123	100 Main-Address
C	N	05/04/2019	10/01/2019	12377	Plan Contract Name	123	100 Main-Address
C	N	08/01/2019	09/01/2019	12377	Plan Contract Name	123	100 Main-Address
C	N	01/01/2020	02/01/2020	12345	Contract 1	123	100 Main-Address
C	N	02/01/2020	03/01/2020	13214	Contract 2 Name	223	999 Main-Address
C	N	04/01/2020	05/01/2020	12345	Contract 1	123	100 Main-Address
C	N	05/01/2020	06/01/2020	13214	Contract 2 Name	223	999 Main-Address
C	N	07/01/2020	08/01/2020	12345	Contract 1	123	100 Main-Address

Total: 24

# What CMS Does with Your Data

- Claims reported via Section 111 create the Common Working File (CWF) at CMS and...
  - Ceases payments for treatment relative to the ICD Codes submitted
  - Initiates Conditional Payment recovery process
- CMS knows about every open/accepted claim because of ORM
- CMS knows about every settlement because of TPOC





# What are Conditional Payments?

## Medicare payments are always “conditioned upon later reimbursement to the Trust Fund”

- **“Required or responsible”** Medicare can recover “conditional payments” whenever another party is legally required or contractually responsible for making those medical payments.
- **“Responsible Primary Payer”** If conditional payments *are* made, Medicare can recover directly from the primary payer (e.g. WC insurer, employer, tortfeasor)
- **“Recipient of a primary payment”** Medicare can also recover from the recipient of a primary payment (e.g. plaintiff / claimant attorney, Medicare beneficiary)
- **Direct / Private cause of action.** Medicare or any wronged third party can sue in Federal Court and can recover double damages from any primary payer who failed to make primary payment.

# How You Can Protect Yourself

- Metrics for audit / self-review
  - TPOCs reported late
  - TPOC reported but ORM still “Open”
  - Injured Party > 65 but Query returns “Undetermined”
- Make use of TPRA fields
  - Centralize Conditional Payment process
- Make use of “Go Paperless” option
  - Receive Conditional Payment Letters as PDF via the MSPRP
- Make use of G2G Option
  - Work with Department of Treasury on Open Cases

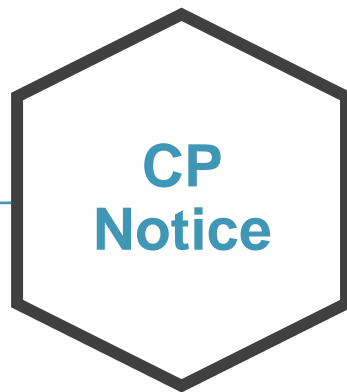


# Conditional Payment Recovery

ew  
ok



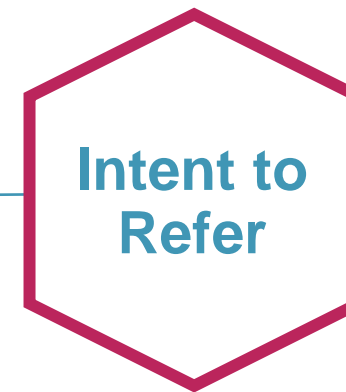
- FYI only
- Can file informal dispute
- Do not issue payment



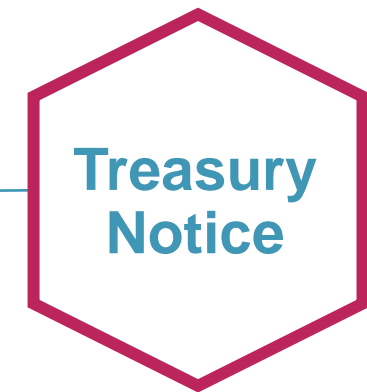
- 30 days to file informal dispute
- Can issue payment if all charges are related



- 60 days before interest accrues
- 120 day process to appeal debt



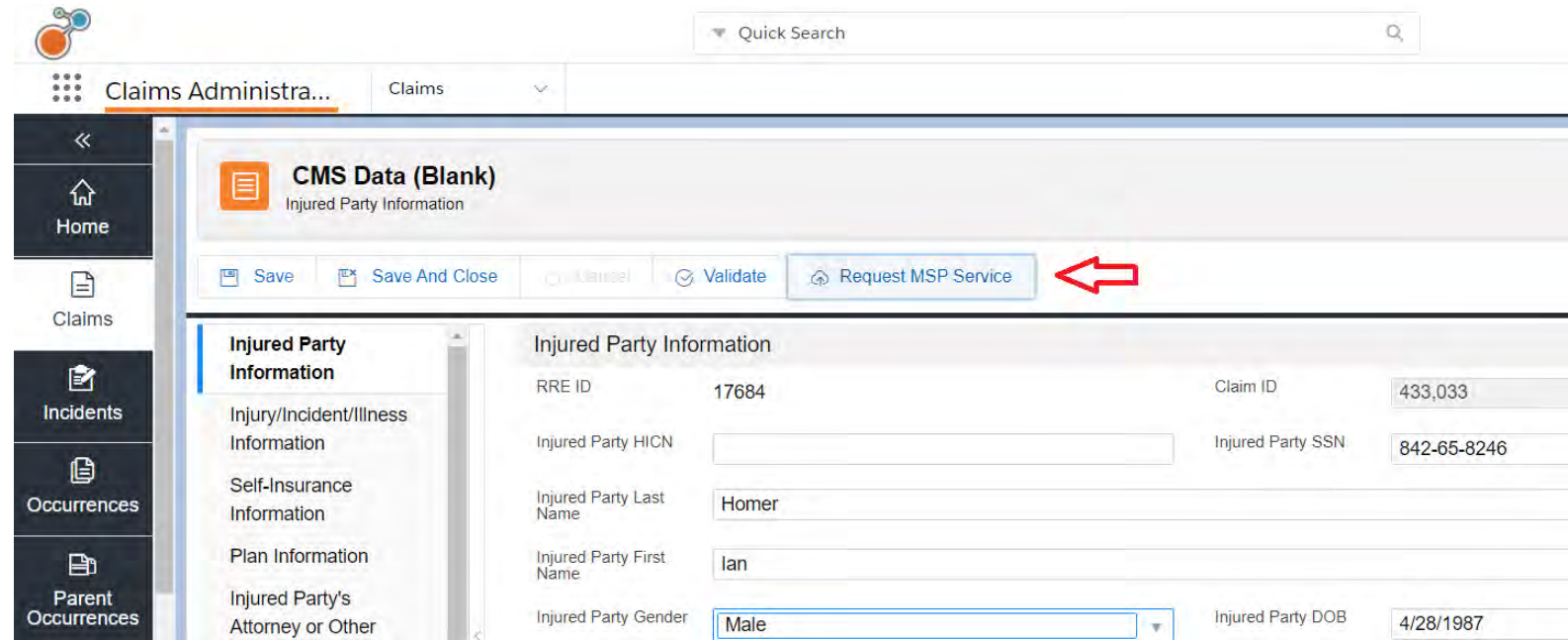
- Issued 60 - 90 days after Demand
- Interest accrues 61 days post Demand



- Sent to Treasury 150 days post Demand
- Funds may be offset by Feds

# MSP Referral API

- ECS can provide the Medicare Secondary Payer services needed to ensure your claims handling processes and settlements “adequately consider” Medicare’s interests.
- Select “Request MSP Service” Button





# MSP Referral API

Select Service, Enter Name,  
Phone, and e-mail address

Examworks MSP Service Request

Select the appropriate MSP Service and ensure all referral contact information is correct. Selecting "OK" will send the referral to Examworks.

MSP Service: CPR - Medicare Conditional Research

Referral Contact Information

Name: Homer, Vince

Phone Number: 555-555-5555

E-mail Address: vince.homer@riskconnect.com

Cancel OK

Receive Referral Id

Examworks MSP Service Request Response

Your MSP Service Request has been sent to Examworks. The referral id is shown below. Please retain this id for future reference with Examworks.

Referral Id: 1-12EOCM

OK

- Referral received into ECS' system for intake and processing.
- ECS Intake Staff outreach for any additional information and/or documents.

# Questions?



erm • internal audit • internal mgmt • policy mgmt • compliance • irpm • esq • claims admin • rmis • health & safety • bcr • project risk mgmt

DISCOVER

**RISK** UNDER  
ONE **ROOF**

Confidential



# Connect with us.



Vince Homer

e: vince.homer@riskonnect.com

t: 806-641-0884

w: riskonnect.com

 Vince Homer



Scott Huber

e: scott.huber@examworkscompliance.com

t: 678-222-5456

w: examworkscompliance.com

 scott-d-huber/



Buffy Brewington

e: buffy.brewington@examworkscompliance.com

t: 678-222-5433

w: examworkscompliance.com

 Buffy Brewington



Lou Porrazzo

e: lou.porrazzo@examworkscompliance.com

t: 678-256-5085

w: examworkscompliance.com

 Louis Porrazo



P  
A  
R  
T  
N  
E  
R  
S  
H  
I  
P



ACCURACY

internal audit • erm • project risk mgmt • bcr • health & safety • rms • claims admin • esg • tprm • compliance • policy mgmt

# RISK UNDER ONE ROOF

Confidential