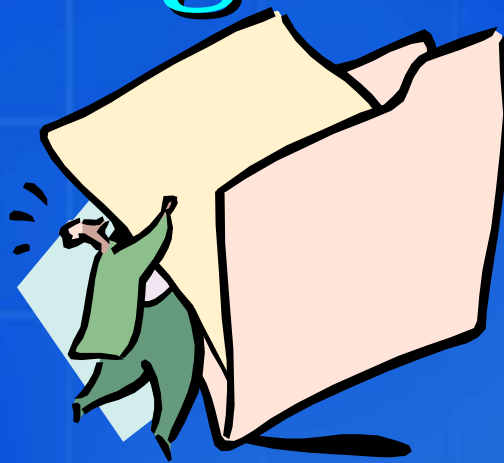




Medicare Set-Aside Arrangements



Centers for Medicare & Medicaid
Services

Final Settlement
Agreement

Authorization

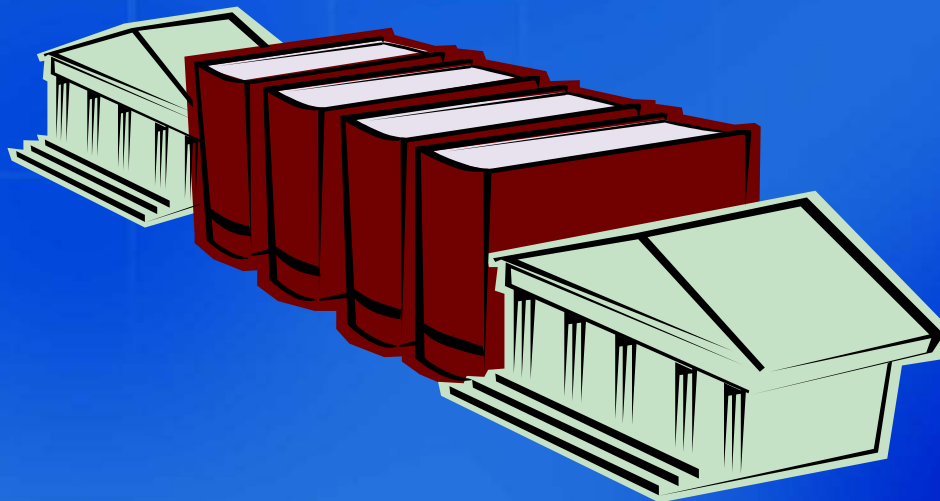
Workers'
Compensation
Medicare Set-aside
Arrangement
(Amount/Proposal)

Diagnosis Codes

Future Medical
Requirements



The Statute Addressing Workers' Compensation and Medicare





Medicare's authority to review WC cases:

- **The Law:** Section 1862(b)(2) of the Social Security Act (42 USC 1395y(b)(2)) requires that Medicare payment may not be made for any item or service to the extent that payment has been made or can be reasonably expected to be made under a workers' compensation law or plan.
- Section 1862(b)(5)(D) and (b)(6) require that CMS and its providers and suppliers ask beneficiaries about payers that may be primary to Medicare.





Compromise vs. Commutation

- Compromise - settlement awards or agreements that intend to compensate an individual for medical expenses incurred prior to the date of settlement.
- Commutation - settlement awards or agreements that intend to compensate an individual for any medical expenses after the date of settlement.





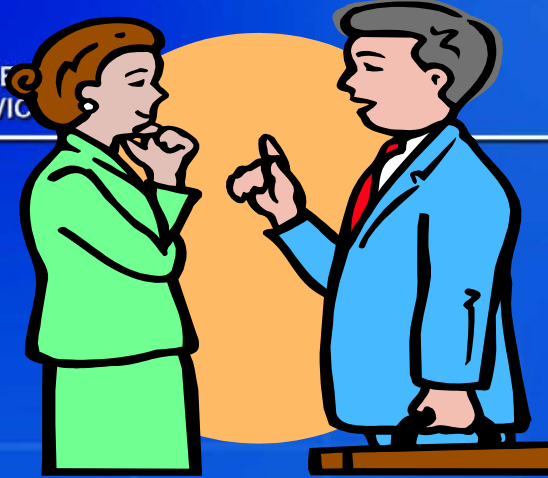
Combined Settlement

- A single WC settlement agreement can possess both WC compromise and commutation aspects.



Medicare Set-Aside Arrangements:

- Apply strictly to WC settlements that involve a commutation aspect (i.e., those settlements intended to award the claimant for future medical benefits and/or release the WC carrier from future responsibility for medical benefits).



Decisions regarding Medicare Set-Aside Arrangements are independent of any decision regarding any claims that Medicare may have paid in the past. Any identified claims for past injury-related services must be reimbursed to the Medicare Trust Fund.



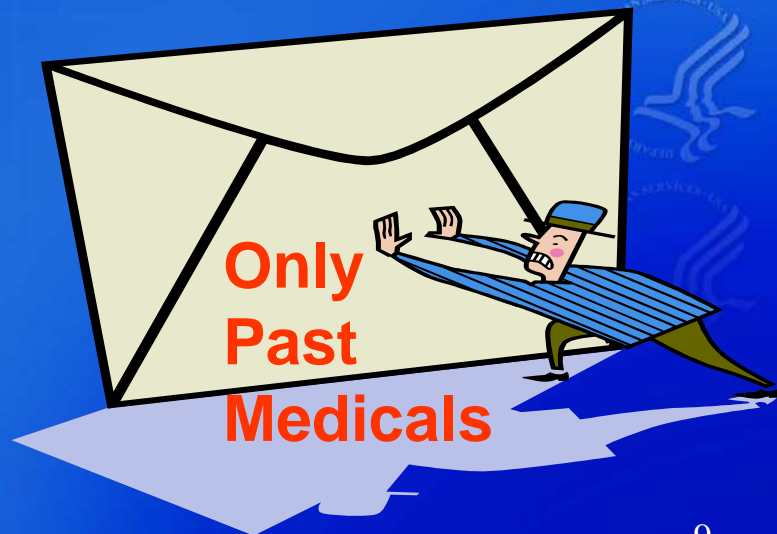
First Report of WC Case Should Be Made To:

The Coordination of Benefits Contractor (COBC)
at the following address:

Medicare - Coordination of Benefits Contractor
MSP Claims Investigation Project
P.O. Box 5041
New York, NY 10274-5041

-or-

1-800-999-1118





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Welcome to Attorney Services

This section will provide you with information on the Coordination of Benefits (COB) program and assist you with meeting your responsibilities and obligations under the Medicare Secondary Payer (MSP) laws.

COB is committed to providing our customers with all information needed to fulfill their obligations under MSP laws. Attorneys, beneficiaries, insurers, providers, and Medicare contractors each play a vital role in building and maintaining the integrity of Medicare payments. If any one of these entities does not understand or meet the responsibilities of their role in the MSP process, benefit dollars will be needlessly depleted from the Medicare Trust Funds. Through this Web site, we hope to improve your understanding of MSP laws and processes. We will initiate and maintain an open line of communication, so that we can all function at optimum efficiency. When we accomplish this, we will ultimately help protect your client, the Medicare beneficiary.

Click below to get more information on the topic of your choice.

- [Automobile and Liability Coverage](#)
- [Federal Law Takes Precedence Over State Laws and Private Contracts](#)
- ["No Liability" Settlements](#)
- [Medicare Subrogation Rights](#)
- [Third Party Payers' Responsibility to Notify Medicare of Mistaken Payments](#)

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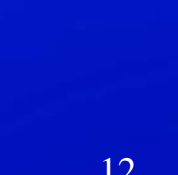


Medicare Approval of a Commutation Set-Aside Proposal is **RECOMMENDED**

- Claimants who are entitled to Medicare (Part A, B, or both) **REGARDLESS** of the settlement amount;

AND

- Claimants with a “reasonable expectation” of Medicare enrollment within 30 months of the settlement date **AND** a total settlement of greater than \$250,000.00. Until the individual actually becomes entitled to Medicare, funding for an approved WC Medicare Set-aside arrangement must not be used to pay the claimant’s medical expenses.



For the status of a claimant's Medicare entitlement, contact the Social Security Administration:



1-800-772-1213



www.ssa.gov



What is Reasonable Expectation?

Reasons include but are not limited to:

- The claimant has applied for Social Security Disability Benefits;
- The claimant has been denied Social Security Disability Benefits; anticipates appealing and/or re-filing for Social Security Disability Benefits;
- The individual is 62 years and 6 months old
- The individual has an ESRD condition but does not yet qualify for Medicare based upon ESRD



As a general rule:

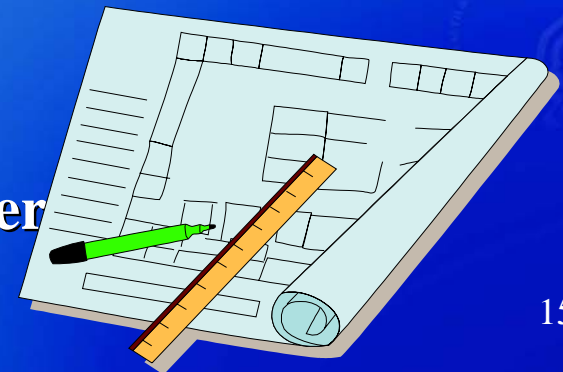
- If the claimant is less than 65 years old, and has been receiving Social Security Disability benefits for 2 years or more, they would usually be entitled to Medicare.
- If the claimant is 65 years or older, they are usually entitled to Medicare.

Medicare Set-Aside Proposal Requirements (1 of 4)



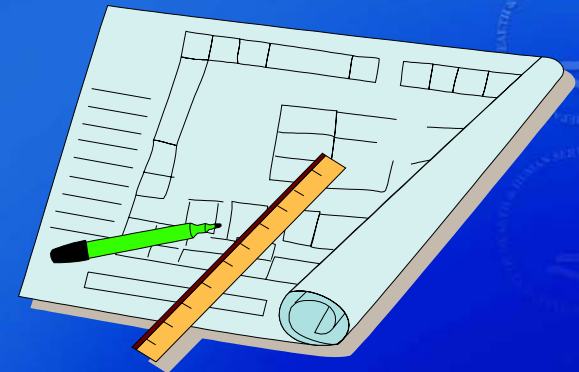
1. A cover letter must include the following information for all WCMSA proposals:

- **Claimant's Name, DOB, Health Ins. Claim Number or Social Security Number (SSN) if claimant is not yet entitled to Medicare**
- **Claimant's Address and Phone number**
- **Claimant's Release**
- **Claimant's Counsel: Name, address, phone number**
- **Entitlement Information**
- **Employer: Name, address, phone number**
- **WC Insurer: Name, address, phone number**



Medicare Set-Aside Proposal Requirements (2 of 4)

- **Attorney Representing Employer or WC Insurer: Name, address and phone number**
- **Injury/Disease Date**
- **Type of Injury/Disease**
- **Total WC Settlement Amount**
- **Proposed Medicare Set-aside Amount**

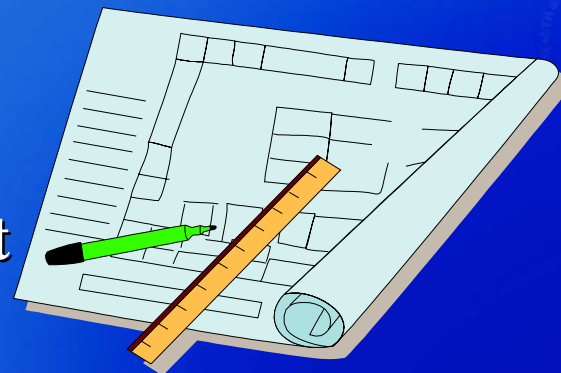


Medicare Set-Aside Proposal Requirements (3 of 4)



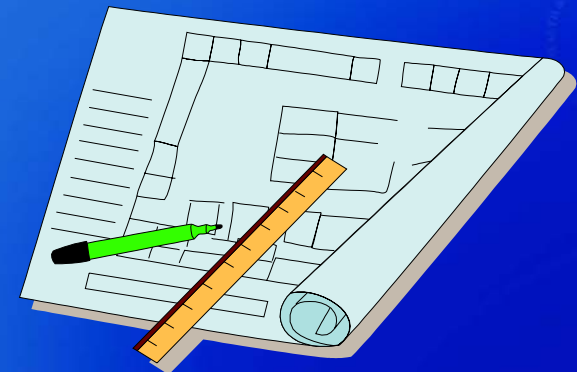
2. Documentation that must be available to CMS prior to the approval of a WCMSA:

- Life Expectancy
- Life Care Plan
- Proposed WC Settlement Agreement
- Current Treatment
- Future Treatment
- Patient Medical Recovery Prognosis
- Total Amount of WC Settlement
- Amount of Future Medical Treatment



Medicare Set-Aside Proposal Requirements (4 of 4)

- Proposed Medicare Set-aside Amount
- Administrator
- WCMSA Account
- Fees
- Final WC Settlement Agreement





Submissions of CD-ROM's

- Must be in PDF format
- Same order as the requirement checklist
- All documents on the CD-ROM must be identified on an index
- Medical records must be submitted in chronological order

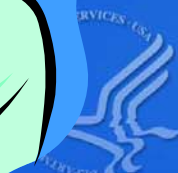


PDF Format

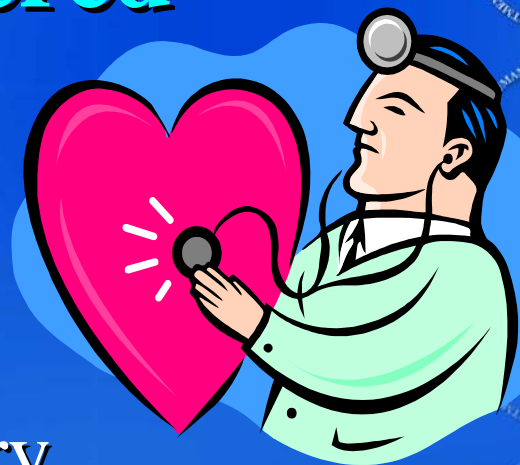


Medicare Set-Aside Basics

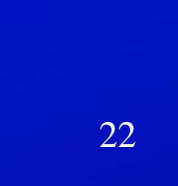
- Set-Aside funds should be sufficient to last the remainder of the claimant's estimated life expectancy (unless documented otherwise).
- Set-Aside funds may ONLY be used to pay for injury-related services that would otherwise be covered by Medicare.
- A Set-Aside arrangement is still required for doctor visits for prescriptions, monitoring, blood tests, x-rays, etc., wherever applicable.



Common Medicare-Covered Services

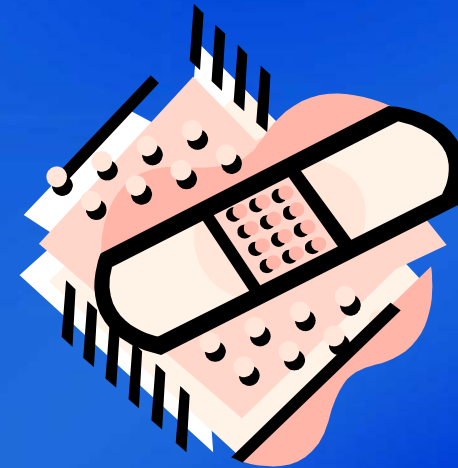


- Doctor's visits
- Diagnostic tests
- Steroid injections
- Hospitalizations
- Surgery
- Morphine pumps
- TENS Stimulators
- Physical Therapy



Common Services that are NOT currently covered by Medicare

- Prescription medications
- Dentures
- Glasses
- Hearing aids
- Travel Expenses to medical appointments
- Custodial Care





For specific Medicare coverage questions,
please visit our web site at:

www.medicare.gov

or call:

1-800-MEDICARE
(1-800-633-4227)



Medicare
& You
The knowledge to make
good decisions



The Official U.S. Government Site for People with Medicare

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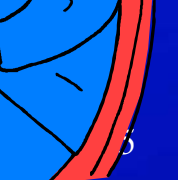
[Medicare Personal Plan Finder](#)
Helping you compare health plan options (including Medicare + Choice and supplemental insurance plans) in your area.

[Home Health Compare](#)
Compare home health agencies in your area.

[Medicare Eligibility Tool](#)
Determine your Medicare eligibility and

[Participating Physician Directory](#)
Locate Medicare participating physicians





Things You Can Do To Improve The Set-Aside Proposal Process

- Submit complete case files with your set-aside proposals utilizing Medicare Set-Aside Proposal Requirements Checklist.
- Respond to letters and telephone requests for information in a timely manner.
- Limit status calls to office unless 45 days have elapsed from date of submission of a complete file.
- Try not to schedule a hearing date prior to receiving approval of your set-aside proposal.
- Share the procedures in this presentation with colleagues.





Additional WCSA Resources and Updates:

- Websites

<http://www.cms.hhs.gov/>, enter

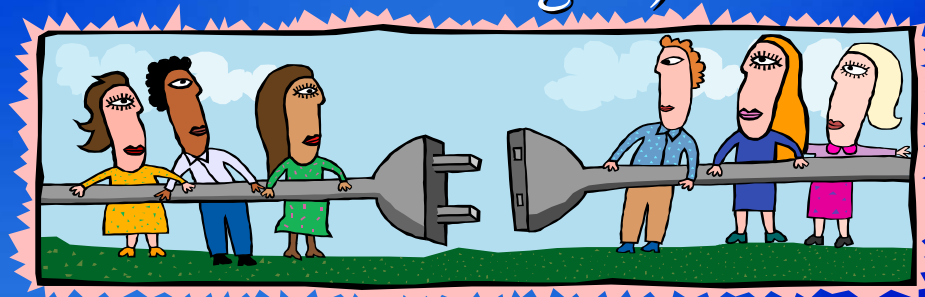
Cursor to “FAQ's”, enter

In Search Text Field type “MSP”, enter

In Search Text Field Type “Workers Compensation”,
enter

- MSP Open Door Forums

Email (mspcentral@cms.hhs.gov)





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To find information of interest to you, view the sections above for [Professional](#), [Government](#), and [Consumer](#) audiences.

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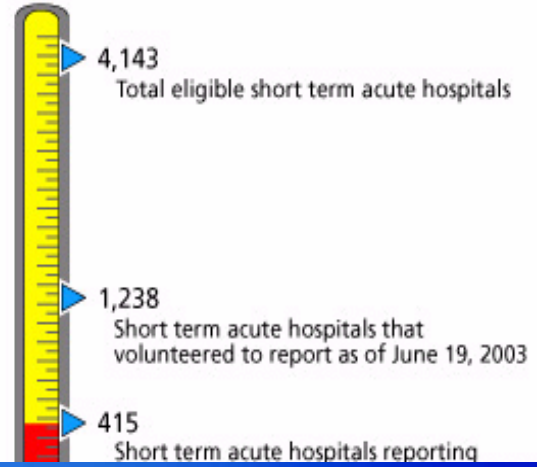
HIPAA Compliance

October 16, 2003 is the deadline for HIPAA compliance. If you have questions on HIPAA compliance, please see the following resources:

1. [HIPAA Administrative Simplification website](#)
2. [HIPAA Administrative Simplification Frequently Asked Questions \(FAQs\)](#)
3. Call the CMS HIPAA Hotline at 1-866-282-0659
4. [Submit HIPAA Questions Electronically](#)

Quality Initiatives

National Voluntary Hospital Reporting Initiative





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Open Door Initiative

Soon after taking office, CMS Administrator Tom Scully fulfilled the goal of opening the doors of the agency to better hear and interact with those beneficiaries, providers, and other stakeholders interested in the delivery of quality healthcare for our nation's seniors. Nowhere is that spirit of openness more noticeable than in the agency's open door forum initiative.

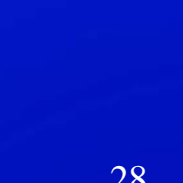
Administrator Scully formed 14 monthly and bi-monthly open door forums as well as several special forums to focus on issues specific to Medicare and Medicaid. Each forum is chaired by a senior-level agency official and co-chaired by a CMS Regional Administrator who report directly to Administrator Scully; in fact, Mr. Scully chairs or co-chairs several of the open door forums himself and participates in all others. Leslie Norwalk, the Acting Deputy Administrator, also chairs many of the forums. Rich Lawlor, a senior level policy advisor who also reports directly to the Administrator, facilitates the initiative.

The chairs and co-chairs for each of the ongoing forums are listed below. CMS encourages you to visit the links to the right to review the latest Open Door Forum Newsletter, the schedule, and other important news.

Open Door Forum	Chairpersons	Regional Co-Chairpersons
Ambulance	Tom Barker	Charlotte Yeh, MD
Disability	Rob Sweezy	Joe Tilghman
Diversity	Leslie Norwalk	Rose Crum-Johnson
ESRD and Clinical	Tim Trysla and Brady	Barry Straube, MD

Topics

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- [Open Door Forums Registration](#)
- [Open Door Forums Newsletter](#)
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Medicare Secondary Payer
Workers' Compensation

Category

Workers' Compensation

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04/22/2003 10:02 AM

Date Updated

04/22/2003 03:44 PM



Print Answer

When dealing with a workers' compensation case, what is "a reasonable expectation" of Medicare enrollment within 30 months?

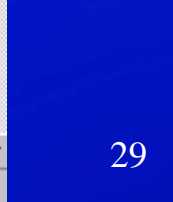
Question

When dealing with a workers' compensation(WC)case, what is "a reasonable expectation" of Medicare enrollment within 30 months?

Answer

Situations where an individual has a "reasonable expectation" of Medicare enrollment for any reason include but are not limited to:

- a) The individual has applied for Social Security Disability Benefits;
- b) The individual has been denied Social Security Disability Benefit; but anticipates appealing that decision;
- c) The individual is in the process of appealing and/or re-filing for





NOTE: New Address for Submission of Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) Proposals for CMS Review

Beginning on May 1, 2004, all WCMSA proposals submitted for review by CMS's Regional Offices must be sent to a national, centralized point of receipt at:



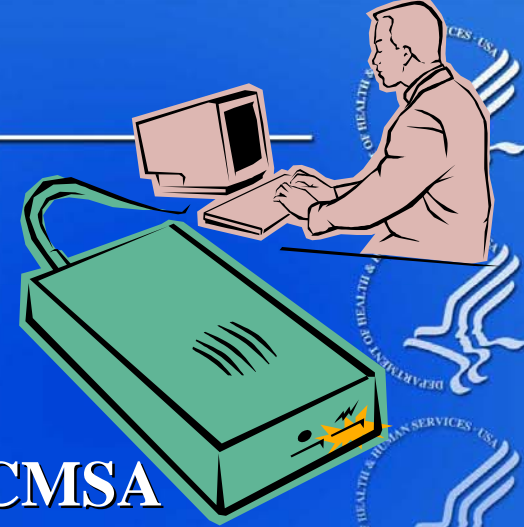
WCMSA

**CMS
c/o Coordination of Benefits Contractor
PO Box 660
NY, NY 10274-0660**

Attention: WCMSA Proposal



U.S. Postal Only



Once recorded in a centralized database, the WCMSA proposal will be electronically forwarded to the Regional Office having jurisdiction for review as listed in the April 23, 2003 Frequently Asked Questions at the following URL.

http://www.cms.hhs.gov/medicare/cob/pdf/wc_faqs.pdf

Any WCMSA proposal received in CMS's Regional Offices on or after May 1, 2004, will be forwarded to the Coordination of Benefits Contractor for entry into the centralized database.



Questions ?

