

A Message from CMS

This article contains information about considering Medicare's interests in workers' compensation cases.

The Centers for Medicare & Medicaid Services (CMS) is the federal agency that runs the Medicare program. The CMS has Regional Offices (ROs) in ten major cities throughout the United States, in addition to the main office in Baltimore, Maryland. These ten ROs are often the first point-of-contact for people with Medicare, health care providers, state and local government, and the general public. They provide assistance with general as well as specific Medicare issues. One of the specific areas ROs are responsible for is the review of workers' compensation proposed set-aside arrangements.

In particular, the ROs make sure all proposed set-aside arrangements take Medicare's interests into consideration. To determine if a Medicare set-aside arrangement is necessary in a settlement involving an individual who doesn't have Medicare yet, the workers' compensation settlement must meet two threshold criteria. The threshold criteria are

- the total settlement is greater than \$250,000 and
- the claimant is reasonably expected to become a Medicare beneficiary within 30 months of the settlement date.

Some examples of a reasonable expectation of Medicare enrollment within 30 months are as follows:

- the claimant has applied for Social Security Disability benefits
- the claimant is in the process of appealing or re-filing for Social Security Disability benefits
- the claimant is at least 62 years and 6 months old

If both of the threshold criteria aren't met in a settlement involving an individual who is not yet enrolled in Medicare, a CMS-approved Medicare set-aside arrangement isn't necessary and Medicare will make payments for workers' compensation related services that are otherwise reimbursable under Medicare once the individual enrolls in Medicare even when funds still remain in the individual's settlement. The CMS will honor threshold levels that are in effect as of the date of the workers' compensation settlement. Before finalizing a workers' compensation settlement, you should check both our website and the appropriate CMS RO contact to make sure the review thresholds haven't changed since they are subject to adjustment.

In addition, for those settlements that don't meet both review threshold criteria, it is presumed that all funds will be expended at the time the person becomes eligible for Medicare. However, even if funds remain in the claimant's settlement, Medicare will pay for Medicare-covered services related to the work-related illness or injury. For those settlements (involving individuals who didn't meet both review threshold criteria at the time of settlement) that occurred before the July 23, 2001 ARA letter was issued, CMS won't reevaluate any previously denied claims for these individuals nor will CMS change any decisions already made with respect to these settlements.

The CMS ROs are always available to answer any questions you have about workers' compensation settlement cases where Medicare's interests are involved. To get the telephone number of the RO in your state, look at www.medicare.gov on the web. Select "Helpful Contacts." You can also call 1-800-MEDICARE (1-800-633-4227) to get these telephone numbers.

More information about Medicare and workers' compensation is available at www.cms.hhs.gov/medicare/cob/pdf/wc_faqs.pdf on the web.