



Accepting Payment from Patients with a Medicare Set-Aside Arrangement

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Note: We revised this article on February 19, 2020, to add information about submitting electronic attestations via the WCMSAP. This is in the Additional Information Section of the article. We added a note on page 2, regarding WCMSA funds. We also updated the link to an updated version of the WCMSA Reference Guide. All other information remains the same.

PROVIDER TYPE AFFECTED

This MLN Matters Article is for providers, physicians, and other suppliers who are told by patients that they must pay the bill themselves because they have a Medicare Set-Aside Arrangement (MSA).

WHAT YOU NEED TO KNOW

This article is based on information received from Medicare beneficiaries, their legal counsel, and other entities that assist these individuals, indicating that physicians, providers, and other suppliers are often reluctant to accept payment directly from Medicare beneficiaries who state they have a MSA and must pay for their services themselves. This article explains what an MSA is and explains why it is appropriate to accept payment from a patient that has a funded MSA.

Please review your billing practices to be sure they are in line with the information provided.

BACKGROUND

Medicare is always a secondary payer to liability insurance (including self-insurance), no-fault insurance, and workers' compensation benefits. The law precludes Medicare payment for services to the extent that payment has been made or can reasonably be expected to be made promptly. When future medical care is claimed, or a settlement, judgment, award, or other payment releases (or has the effect of releasing) claims for future medical care, it can reasonably be expected that the monies from the settlement, judgment, award, or other payment are available to pay for future medical items and services which are otherwise covered and reimbursable by Medicare.

Medicare should not be billed for future medical services until those funds are exhausted by payments to providers for services that would otherwise be covered and reimbursable by Medicare.

An MSA is a financial arrangement that allocates a portion of a settlement, judgment, award, or other payment to pay for future medical services. The law mandates protection of the Medicare trust funds but does not mandate an MSA as the vehicle used for that purpose. MSAs are the most frequently used formal method of preserving those funds for the Medicare beneficiary to pay for future items or services which are otherwise covered and reimbursable by Medicare and which are related to what was claimed or the settlement, judgment, award, or other payment had the effect of releasing. These funds must be exhausted before Medicare will pay for treatment related to the claimed injury, illness, or disease.

Medicare beneficiaries are advised that before receiving treatment for services to be paid by their MSA, they should advise their health care provider about the existence of the MSA. They are also notified that their health care providers should bill them directly, and that they should pay those charges out of the MSA **if**:

- The treatment or prescription is related to what was claimed or the settlement, judgment, award, or other payment had the effect of releasing AND
- The treatment or prescription is something Medicare would cover.

The obligation to protect the Medicare trust funds exists regardless of whether or not there is a formal CMS approved MSA amount. A Medicare beneficiary may or may not have documentation they can provide the physician, provider, or supplier from Medicare approving a Medicare Set-Aside amount.

PROVIDER ACTION NEEDED

Where a patient who is a Medicare beneficiary states that he/she is required to use funds from the settlement, judgment, award, or other payment to pay for the items or services related to what was claimed or which the settlement, judgment, award, or other payment, it is appropriate for you to document your records with that information and accept payment directly from the patient for such services.

Note: Providers should also accept payment from professional administrators holding Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) funds. Providers should not bill Medicare where a third party holds and administers one of these WCMSA funds.

ADDITIONAL INFORMATION

If you have questions, your MACs may have more information. Find their website at <http://go.cms.gov/MAC-website-list>

You can review a related document ([Workers' Compensation Medicare Set-Aside Arrangement \(WCMSA\) Reference Guide](#)) published in 2019. Beneficiaries may submit a WCMSA attestation electronically through the WCMSA Portal (WCMSAP), or send by mail, either as paper documents or CD. Using the WCMSAP for a WCMSA submission or attestation is the recommended approach as it is more efficient than mailing this information. For information about how to use the WCMSAP, please see the [WCMSAP](#) page.

DOCUMENT HISTORY

Date of Change	Description
February 19, 2020	We revised the article to add information about submitting electronic attestations via the WCMSAP. This is in the Additional Information Section of the article. We added a note on page 2, regarding WCMSA funds. We also updated the link to an updated version of the WCMSA Reference Guide.
July 2, 2019	We revised this article to add a link to the Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) Reference Guide
November 8, 2017	The article was revised to clarify information in the initial release. The title of the article was also changed to better reflect the information.
October 3, 2017	Rescinded
September 19, 2017	Initial article issued

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