

Medicare Set Asides and Conditional Payment Liens in Workers' Compensation

1. When must the parties to a workers' compensation settlement consider Medicare's interests?

Always.

2. What interests must you consider?

A. Has Medicare already paid for treatment that must be reimbursed (conditional payments and Medicare advantage plan payments)?

B. Is there potential future treatment for which payment could be made by Medicare?

3. What is Medicare's preferred method for consideration of its interests for future treatment?

Medicare set aside trust account.

4. When will Medicare review a set aside trust account arrangement?

A. Employee is Medicare eligible

and

total settlement exceeds \$25,000.00.

or

B. Employee has a reasonable expectation of Medicare eligibility within 30 months

and

total settlement exceeds \$250,000.00.

5. What is included in the \$25,000.00 and \$250,000.00?

Indemnity, medical, counsel fees, litigation costs and conditional payment lien reimbursement if paid by employer, this will include prior settlements and awards.

6. When does a person have a reasonable expectation of Medicare eligibility within 30 months?

A. Applied for Social Security disability.

or

B. Receiving Social Security disability.

or

C. Age 62 years and 6 months.

7. How do you address a conditional payments lien?

Have a responsible reporting entity in place.

If it is an accepted claim the conditional payment lien will be addressed to the carrier and information can be accessed by the responsible reporting entity via the Medicare portal.

If it is a denied claim then conditional payment lien information will go to employee.

Conditional payments liens can be disputed.

8. How do you address Medicare advantage plan liens?

If employee has a Medicare advantage plan, the parties must identify the plan and request a statement as to any lien being asserted for treatment related to the work injury.

Medicare advantage plans are administered by private insurance companies and payments made do not appear in the conditional payment lien.

As with other medical liens, the parties may question entries on the lien and challenge those items that are not related or were already paid by the carrier.

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