

School: ATEC – Stakeholders
Course: Medicare Set-Aside Basics
Faculty: Aaron Frederickson, Attorney at Law, MSP Compliance Solutions

Summary

The "Medicare Set-Aside Basics" course, taught by Aaron Frederickson of MSP Compliance Solutions, provides a comprehensive overview of Medicare Set-Asides (MSAs) within the context of workers' compensation. The course focuses on the fundamentals of the Medicare Secondary Payer (MSP) Act, the circumstances under which MSAs are recommended, the types of medical care included, methods of funding, and the administration process.

Introduction to Medicare Secondary Payer Act: Aaron Frederickson begins by explaining the MSP Act, highlighting its purpose as a coordination of benefits statute rather than merely a reimbursement statute. This statute ensures Medicare remains a secondary payer post-settlement, emphasizing the necessity to consider Medicare's interests in workers' compensation cases.

When is an MSA Recommended?: Frederickson clarifies that MSAs are not explicitly required by statute but are recommended in certain situations to protect Medicare's interests. He uses the analogy of speed limits to illustrate that while not legally mandated, adhering to MSA recommendations can prevent future complications. Key factors influencing the recommendation of an MSA include the nature and extent of the injury, the age of the injured employee, and the need for future medical care.

Types of Medical Care in MSAs: The course outlines the types of medical care that must be included in an MSA, covering Medicare Parts A (hospital expenses), B (specialized services), and D (prescription drugs). Frederickson warns against the "kitchen sink" approach of including unnecessary items and emphasizes the importance of accurately determining what Medicare will cover.

Funding Methods: There are two primary methods of funding an MSA: lump-sum payments and structured settlements. Frederickson explains that a lump-sum payment involves paying the entire MSA amount upfront, while a structured settlement spreads the payments over time, often starting with seed money for initial medical expenses. He advocates for the use of structured settlements as they can provide financial advantages and help create a legacy for the injured party.

Administration of MSAs: Administration of MSAs can be either self-administered or professionally administered. Frederickson details the challenges and benefits of each

approach. Self-administration requires the injured party to manage and document expenditures, which can be complex and burdensome. Professional administration, on the other hand, ensures compliance and provides peace of mind through expert handling of funds and detailed reporting to Medicare.

Voluntary Approval Process: Frederickson discusses the voluntary approval process, comparing it to playing in CMS's sandbox, where participants must adhere to CMS rules. This process involves submitting the MSA for review and approval by the Centers for Medicare & Medicaid Services (CMS). The course emphasizes the importance of providing accurate and complete information to avoid delays and complications.

Conclusion: The course concludes by reiterating the importance of MSAs in workers' compensation settlements to protect Medicare's interests and ensure compliance with the MSP Act. Frederickson encourages ongoing communication and education to navigate the complexities of MSAs effectively.

In summary, "Medicare Set-Aside Basics" equips participants with a foundational understanding of the MSP Act, the circumstances warranting MSAs, the types of medical care included, funding methods, and administration processes, all essential for protecting Medicare's interests in workers' compensation cases.

Learning Objectives

1. Understand the Medicare Secondary Payer (MSP) Act and its relevance to workers' compensation.
2. Identify when a Medicare Set-Aside (MSA) is recommended versus required.
3. Learn the types of medical care and expenses that should be included in an MSA.
4. Explore the methods of funding and administering an MSA.
5. Recognize the significance of considering Medicare's interests in workers' compensation settlements.

Primary Takeaways

1. The Medicare Secondary Payer Act is a coordination of benefits statute, ensuring Medicare remains a secondary payer post-settlement.
2. MSAs are not explicitly required by statute but are recommended to protect Medicare's interests in certain cases.
3. MSAs should include all future medical expenses related to the workers' compensation injury that Medicare would otherwise cover.
4. There are two primary methods of funding an MSA: lump-sum payments and structured settlements.

5. Proper administration of an MSA, either through self-administration or professional administration, is crucial to ensure compliance and avoid potential legal issues.

Course Outline

- 1) Introduction
 - a) Instructor Background
 - b) Course Overview
 - i) Coordination of benefits vs. reimbursement
 - ii) Situations recommending MSAs
 - iii) Medical care inclusion
 - iv) Funding and administration
 - v) Voluntary approval process
- 2) Medicare Secondary Payer Act
 - a) Explanation of the Act
 - b) Coordination of Benefits vs. Reimbursement
 - c) Statutory Basis for MSAs
 - i) Conditional payment statute
 - ii) Responsibility for payment
- 3) When is an MSA Recommended?
 - a) Factors Influencing Recommendations
 - i) Future medical expenses
 - ii) Age and Medicare entitlement
 - iii) Injury severity
 - b) Case Examples and Considerations
- 4) Types of Medical Care in MSAs
 - a) Medical Expenses Covered by Medicare
 - i) Part A (Hospital expenses)
 - ii) Part B (Specialized services)
 - iii) Part D (Prescription drugs)
 - b) Exclusions and Special Cases
 - i) Non-reimbursable items
- 5) Funding an MSA
 - a) Lump-Sum Payment
 - b) Structured Settlement

- i) Seed money and annual distribution
 - ii) Benefits of structured settlements

- 6) Administration of MSAs
 - a) Self-Administration
 - b) Professional Administration
 - i) Annual attestations and documentation
 - ii) Benefits of professional administration
 - c) Legal and Compliance Considerations

- 7) Voluntary Approval Process
 - a) CMS Review Process
 - i) Submission requirements
 - ii) Review thresholds
 - b) Advantages and Disadvantages
 - i) Playing by CMS rules
 - ii) Implications of voluntary submission

- 8) Conclusion
 - a) Importance of MSAs in Workers' Compensation
 - b) Final Thoughts and Contact Information

NOTE: Artificial Intelligence was used in the creation of this document.