



Service: MSACP (Medicare Set-Aside Certified Planner)
Module: LEARNING MODULE 2
Medicare Set-Asides Overview
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Summary

This module, presented by Brendon De Souza, Chief Legal Officer at Sanderson Firm, introduces the concept, structure, and importance of Medicare Set-Asides (MSAs). Designed as a settlement mechanism, MSAs allocate a portion of an injured individual's settlement funds to cover future Medicare-eligible medical expenses related to a claim, ensuring compliance with Medicare Secondary Payer (MSP) requirements.

Brendon explains that MSAs are essential in protecting both Medicare's interests and the claimant's benefits. Without an appropriately funded MSA, claimants risk losing Medicare coverage until they exhaust their settlement funds on medical expenses. MSAs are predominantly used in workers' compensation cases, with more limited applicability in liability claims. Key guidelines from the Centers for Medicare & Medicaid Services (CMS), such as the Patel Memo of 2001 and the Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) reference guide, govern their use.

The module outlines the eligibility criteria for MSAs. They are appropriate when a claimant has future Medicare-covered medical needs, is a current Medicare beneficiary, or is expected to qualify within 30 months of settlement, and medicals are being released as a result of settlement. Brendon emphasizes that MSAs must be prepared in compliance with CMS treatment guidelines, and certain exclusions, such as past medical costs or claims without future medical needs, negate the need for an MSA.

Critical components of an MSA include:

- **Demographic Information:** Claimant details such as name, Medicare entitlement, and jurisdiction.
- **Medical History and Injury Details:** Information on injuries, treatment histories, and projected medical needs.
- **Allocation Calculations:** Estimations of the funds required for future care based on life expectancy, medical guidelines, and jurisdictional pricing structures.

The presentation discusses the importance of documenting exclusions. Non-covered items, such as cosmetic surgeries and over-the-counter medications, must be excluded unless justified by medical necessity. Medicare assumes a consistent level of medication and treatment for the claimant's lifetime unless otherwise evidenced by treating physicians or court orders.



Funding methods for MSAs include lump sums and annuities. Lump-sum allocations provide all funds upfront, while annuities disburse seed money initially, followed by annual installments. CMS specifies formulas for calculating these payments, ensuring sufficient funds for early high-cost treatments while balancing long-term needs.

Brendon concludes with an overview of MSA preparation challenges, including Medicare's rigid stance on medication tapering and exclusions. He emphasizes the importance of accurate calculations and compliance with CMS guidelines to avoid penalties and ensure claimants maintain their Medicare benefits.

This module sets the foundation for deeper dives into specific MSA topics in subsequent modules, reinforcing its critical role in settlement planning within the workers' compensation and liability domains.

Learning Objectives

1. Define Medicare Set-Asides (MSAs) and their significance in workers' compensation and liability settlements.
2. Identify key components and required information to include in an MSA report.
3. Explain when MSAs are required and the guidelines governing their preparation.
4. Describe the processes for calculating MSA funding, including lump-sum and annuity approaches.
5. Understand Medicare's policies on covered and non-covered treatments and how they influence MSA allocations.

Primary Takeaways

1. MSAs allocate a portion of settlement funds to ensure future claim-related Medicare-covered expenses are properly funded, protecting both Medicare and the claimant.
2. MSAs are necessary when a claimant has future Medicare-covered medical needs, is a current Medicare beneficiary, or is expected to qualify within 30 months of settlement, and medicals are being released as a result of settlement.
3. Essential elements include demographic details, medical histories, injury descriptions, and calculated life expectancy to determine fund allocations.
4. Funding methods include lump sums or annuities, with detailed calculations based on life expectancy and initial treatment costs.
5. MSAs include Medicare-covered treatments only; non-covered items like cosmetic surgery or over-the-counter drugs are excluded.



Course Outline

- 1) Introduction to Medicare Set-Asides
 - a) Definition and history (e.g., the Patel Memo of 2001).
 - b) Importance of MSAs in protecting Medicare's and claimants' interests.
 - c) Overview of workers' compensation vs. liability MSAs.

- 2) Components of an MSA
 - a) Required Report Elements
 - i) Demographics (e.g., name, Medicare entitlement, injury details).
 - ii) Claim details (e.g., claim number, jurisdiction).
 - b) Medical Considerations
 - i) Included treatments (e.g., surgeries, physical therapy).
 - ii) Life expectancy and rated age.

- 3) Determining When an MSA is Needed
 - a) Bright-line rules for MSA applicability.
 - b) Conditions for waiving or excluding treatments.

- 4) Pricing and Allocation
 - a) Pricing Methodology
 - i) Use of CPT, HCPCS, and NDC codes.
 - ii) Jurisdictional influences on pricing.
 - b) Funding Methods
 - i) Lump sum vs. annuity (seed money and annual installments).
 - ii) CMS formulas for calculations.

- 5) Exclusions and Challenges
 - a) Non-covered Medicare items and exceptions.
 - b) Medicare's strict guidelines for treatment waivers.
 - c) Impact of policy changes and documentation requirements.

- 6) Conclusion
 - a) Summary of MSA fundamentals.
 - b) Next steps in MSACP certification.

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