



Service: MSACP (Medicare Set-Aside Certified Planner)
Module: LEARNING MODULE 8
Workers' Compensation Medicare Set-Aside Mitigation Strategies
Faculty: Christian Kolb, AVP Excess Workers' Comp Claims, Safety National
Brenda Smith, Chief Operating Officer, Sanderson Firm

Summary

Module 8, led by Christian Kolb of Safety National and Brenda Smith of Sanderson Firm, focuses on strategies to mitigate inflated Workers' Compensation Medicare Set-Aside (WCMSA) allocations. This module examines CMS allocation practices, cost drivers, and proactive steps to achieve reasonable WCMSA amounts while protecting Medicare's interests.

CMS Allocation Practices: The module emphasizes understanding the WCMSA Reference Guide and CMS allocation trends. CMS reviews WCMSAs on a case-by-case basis, with a strong reliance on treating physician recommendations. Evidence-based guidelines are considered, but they hold less weight compared to the physician's opinions unless contradicted by court orders. CMS frequently includes unclear or vaguely documented treatments in MSAs. For instance, ambiguous medical records or mentions of potential surgeries like spinal cord stimulators are often included in allocations. Proactively addressing these issues by obtaining clarifications from treating physicians is essential to avoid inflated costs.

Key Cost Drivers: Common MSA cost drivers include:

- **High-Cost Treatments:** Spinal cord stimulators, intrathecal pain pumps, and surgeries can significantly inflate MSAs. Evidence-based guidelines can challenge unnecessary recommendations.
- **Frequent Physician Visits:** Monthly visits can be allocated over a claimant's life expectancy, creating inflated costs. Adjusting to less frequent visits, such as quarterly appointments, can result in significant savings.
- **Medications:** Brand-name drugs and combination medications increase costs. Switching to generic alternatives or adjusting dosages before submission reduces allocations.

Mitigation Strategies: Effective mitigation requires early intervention and collaboration with treating providers. Key strategies include:

- **Proactive Review:** Early identification of cost drivers in claims allows for adjustments before submitting the WCMSA.
- **Evidence-Based Guidelines:** Utilizing guidelines like ODG to exclude unsupported treatments or reduce medication dosages.



- **Provider Engagement:** Communicating with treating physicians to document necessary changes directly in medical records, such as clarifying treatment recommendations or confirming reduced medication needs.

Examples from the module highlight successful mitigation:

1. A spinal cord stimulator recommendation was removed based on evidence-based guidelines, saving over \$138,000.
2. Switching from brand-name drugs to generics in a claim reduced allocation from \$290,000 to under \$47,000.
3. Adjusting monthly physician visits to quarterly saved \$23,000.

Action Plans: Developing a mitigation action plan involves:

1. Verifying jurisdictional rules for provider communication.
2. Engaging providers for written clarifications and updated office notes.
3. Monitoring medication adjustments to ensure compliance and avoid ambiguities in records.

The module concludes by emphasizing collaboration between adjusters, vendors, and medical providers. Proactively addressing cost drivers and leveraging evidence-based practices ensures allocations are accurate, fair, and aligned with claimants' actual needs. By applying these strategies, stakeholders can balance protecting Medicare's interests with achieving equitable settlements, ultimately reducing unnecessary financial burdens in WCMSAs.

Learning Objectives

1. Understand the role of mitigation strategies in reducing inflated WCMSA costs.
2. Learn how CMS allocation practices influence WCMSA submissions, including the treatment of ambiguous medical records and medication weaning.
3. Explore evidence-based approaches to challenge unnecessary treatments, including surgeries and high-cost medications.
4. Develop strategies for engaging treating providers to clarify or adjust treatment plans for cost reduction in WCMSAs.
5. Examine the impact of proactive mitigation and collaboration on achieving significant savings in WCMSA allocations.

Primary Takeaways

1. CMS defers to treating physician recommendations unless contradicted by robust evidence or court orders, leading to inflated allocations for unclear treatments.
2. Early intervention, such as addressing ambiguous recommendations and exploring medication alternatives, significantly reduces WCMSA costs.



3. Guidelines like ODG can support the exclusion of unwarranted treatments, though CMS may prioritize the treating physician's opinion, making mitigation an integral component of the WCMSA process.
4. Ensuring accurate, clear, and updated medical records is crucial to avoid inflated WCMSA allocations for unnecessary treatments or medications.
5. Common cost drivers include high-frequency office visits, brand-name medications, and unnecessary surgeries, which can be mitigated through strategic provider engagement.

Course Outline

- 1) Introduction to WCMSA Mitigation Strategies
 - a) Purpose and Goals
 - i) Reducing inflated allocations.
 - ii) Achieving reasonable settlements.
 - b) Role of CMS Voluntary Review
 - i) Peace of mind vs. potential counter-high determinations.
 - ii) Statistics on CMS approval trends.
- 2) Understanding CMS Allocation Practices
 - a) Evidence Consideration
 - i) Medical records, payment histories, and court orders.
 - ii) Importance of treating physician recommendations.
 - b) Addressing Ambiguities
 - i) Clarifying unclear or contradictory recommendations.
 - ii) Resolving documentation gaps with treating providers.
- 3) Strategies for Reducing WCMSA Costs
 - a) Early Intervention
 - i) Addressing cost drivers before WCMSA preparation.
 - ii) Identifying gaps in treatment records or payment histories.
 - b) Engaging Providers
 - i) Clarifying ambiguous recommendations.
 - ii) Proposing alternatives based on evidence-based guidelines.
- 4) Key Cost Drivers in WCMSAs
 - a) High-Cost Treatments
 - i) Spinal cord stimulators, intrathecal pain pumps, and frequent injections.
 - ii) Verifying necessity against evidence-based criteria.
 - b) Medications



This document is the property of MSPCollege
(a service of Sanderson Firm and WorkCompCollege.com)
and cannot be reproduced or distributed without authorization.

- i) Encouraging generic alternatives, medication alternatives or dosage adjustments.
 - ii) Addressing outdated or ambiguous pharmacy records.
- 5) Proactive Mitigation in Action
- a) Case Studies and Examples
 - i) Excluding spinal cord stimulators based on evidence.
 - ii) Transitioning to generics for substantial savings.
 - b) Collaborative Approaches
 - i) Leveraging pre-MSA reviews and multidisciplinary teams.
 - ii) Utilizing industry experts to guide negotiations.

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