



Service: MSPA (Medicare Secondary Payer Accreditation)
Module: LEARNING MODULE 2
Medicare Set-Asides, Part 1
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Summary

Module 2 of the Medicare Secondary Payer Accreditation (MSPA) certification program, taught by Brendon De Souza and Neha Pellegrino, provides a foundational understanding of Medicare Set-Asides (MSAs). This session explores the history, purpose, and key components of MSAs, along with their compliance requirements under the Medicare Secondary Payer Act (MSP).

Understanding Medicare Set-Asides: An MSA is a settlement mechanism that allocates a portion of funds to cover future medical expenses related to a workers' compensation or liability claim that Medicare would otherwise pay. MSAs ensure compliance with the MSP Act by protecting Medicare's trust funds and reducing the program's financial burden.

Historical Context: The concept of MSAs originated in 2001 with the Patel memo issued by the Centers for Medicare and Medicaid Services (CMS), which provided guidance for federal review and approval of MSAs. Subsequent developments, including the WCMSA Reference Guide originally released in 2015, with several updated versions since, formalized the administrative process for MSAs.

When Are MSAs Required? MSAs are necessary to include within a settlement when future medicals are being released, the claimant will require claim related, Medicare-covered medical care, and the claimant is either a current Medicare beneficiary or has a reasonable expectation of becoming a Medicare beneficiary within 30 months of the settlement date. The absence of explicit thresholds for MSA preparation underscores the importance of adhering to CMS guidelines, even when formal submission to CMS is not mandated.

Key Components of an MSA:

1. **Demographic Information:** Claimant's name, Social Security number, and injury details.
2. **Medical History and Treatment:** Documentation of past and ongoing treatments, using ICD-10 codes.
3. **Future Care Costs:** Projections of medical expenses, including surgeries, therapies, medications, and durable medical equipment.



4. **Exclusions:** Non-Medicare covered services, such as routine dental care and over-the-counter medications, are omitted.

Submission to CMS: Submission of MSAs to CMS is voluntary but guided by specific thresholds:

- Settlements over \$25,000 for current Medicare beneficiaries.
- Settlements over \$250,000 for individuals with a reasonable expectation of Medicare enrollment.

Submission requires comprehensive documentation, including a consent form, medical and payment histories, and the MSA report. CMS reviews the submitted allocation and may adjust the proposed amounts to ensure alignment with Medicare's interests.

Administration and Compliance: MSAs can be funded through lump sums or annuities, with funds deposited into interest-bearing accounts. Administration may be self-managed by the claimant or handled by a professional administrator, particularly for cases involving high-risk claimants. CMS emphasizes strict adherence to using MSA funds solely for claim-related, Medicare-covered expenses.

Module 2 highlights MSAs as critical tools for ensuring Medicare compliance in claim settlements. By understanding the guidelines, requirements, and administrative processes, stakeholders can better protect Medicare's interests while achieving fair resolutions for claimants. This session sets the stage for further exploration of MSAs in subsequent modules, including advanced topics and practical applications.

Learning Objectives

1. Understand the origins and purpose of Medicare Set-Asides (MSAs) and their role in protecting Medicare's future interests.
2. Identify the key components included in an MSA, such as medical treatment, prescription drugs, and durable medical equipment as well as identifying which treatments and/or medications are not covered by Medicare and thus not included in an MSA.
3. Evaluate the criteria for when an MSA is necessary and the conditions under which it may be omitted.
4. Explain the administrative process of preparing and submitting an MSA to the Centers for Medicare and Medicaid Services (CMS) for approval.
5. Recognize the differences between self-administered and professionally administered MSAs and the implications for compliance.

Primary Takeaways



1. Medicare Set-Asides allocate settlement funds for future Medicare-covered claim-related medical expenses, ensuring compliance with the MSP Act.
2. MSAs are required when claimants are Medicare beneficiaries or expected to become eligible within 30 months and when settlement includes future medical expenses.
3. CMS submission is optional and governed by thresholds (\$25,000 for Medicare beneficiaries, \$250,000 for expected beneficiaries), but preparation of an MSA may still be required.
4. An MSA report must include demographic data, injury specifics, treatment history, and cost projections based on life expectancy and Medicare guidelines.
5. MSAs protect Medicare's interests by preventing premature exhaustion of trust funds and ensuring claimants use allocated funds appropriately.

Course Outline

- 1) Introduction to Medicare Set-Asides
 - a) Definition and Purpose
 - i) Allocation of settlement funds for future medical costs
 - ii) Compliance with Medicare Secondary Payer Act (MSP)
 - b) History and Evolution
 - i) Origin in the Patel memo (2001)
 - ii) Formalization through WCMSA reference guides (2015)
- 2) Components of an MSA
 - a) Included Elements
 - i) Medical treatments (e.g., surgeries, therapy)
 - ii) Prescription drugs based on life expectancy
 - iii) Durable medical equipment
 - b) Excluded Elements
 - i) Non-Medicare covered items (e.g., routine dental care, over-the-counter medications)
 - ii) Treatments waived by claimants but lacking physician confirmation
- 3) Criteria for MSA Necessity
 - a) Scenarios Requiring an MSA
 - i) Settlement includes future medical expenses
 - ii) Claimant is a current or expected Medicare beneficiary
 - b) Scenarios Excluding MSA Necessity
 - i) All compensation is for past medical expenses
 - ii) Settlement leaves insurer responsible for ongoing medical costs



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- 4) Submission to CMS
 - a) Thresholds for Voluntary Submission
 - i) Medicare beneficiaries with settlements >\$25,000
 - ii) Expected beneficiaries with settlements >\$250,000
 - b) Required Documentation
 - i) MSA report
 - ii) Medical and payment histories
 - iii) Settlement worksheets and authorization forms

- 5) Administration and Compliance
 - a) Funding Options
 - i) Lump-sum payments
 - ii) Annuities with seed amounts
 - b) Administration Types
 - i) Self-administered accounts
 - ii) Professional administration for higher compliance
 - c) Compliance Considerations
 - i) Use of MSA funds strictly for claim-related Medicare-covered expenses
 - ii) Documentation and reporting requirements

- 6) Conclusion
 - a) Recap of Key Concepts
 - b) Encouragement for Compliance and Use of Resources

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