

June 2010

NOVARE Newsletter

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Articles:

- What's New with Mandatory Insurer Reporting?
- What's New with the MSPRC?

What's New with Mandatory Insurer Reporting?

- **New Timeline: First Quarter of 2011** – RRE's must report the first Claim Input File for all claims on which ongoing responsibility for medicals existed as of January 1, 2010 and subsequent, or for TPOC dates of October 1, 2010 and subsequent.
- **Compliance: CMS issued an alert that stated** "In general, a Section 111 NGHP RRE will be compliant with its Section 111 reporting requirements if it **registers** for reporting with the CMS Coordination of Benefits Contractor (COBC), and once registered the RRE engages in data exchange **testing** with the COBC, and once testing is completed the RRE begins and continues with regular Section 111 **production** data exchanges with the COBC. The RRE will then be participating in the Section 111 process in the manner prescribed by CMS."
See <http://www.cms.gov/MandatoryInsRep/Downloads/NGHPComplianceAlert022410.pdf> for more details.
- **Direct Data Entry Site for "small reporters" (500 reports or less):** CMS will allow manual entry of NGHP claims instead of submitting an electronic file for small reporters.
- **Risk Management Write-Offs:** The RRE shall report the write-off or value of the property provided as a TPOC from liability insurance (including self-insurance). If the value of the property provided is less than the TPOC reporting threshold, it need not be reported under Section 111.
- The COB Secure Website is www.section111.cms.hhs.gov. Information on test beneficiary data, the GHP and Non-GHP User Guides, error codes, and insufficient ICD 9 codes can be found under the Reference Material section of this site.

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What's New with the MSPRC?

- An educational teleconference was held by the Medicare Secondary Payer Recovery Contractor (MSPRC) on April 14, 2010 that went over conditional payments, the recovery process, and the MSPRC website. The slides from this teleconference can be viewed on the MSPRC website.
- The MSPRC has developed "toolkits" for attorneys and insurance carriers, which are available on the website.
- A new addition to the recovery process includes a Conditional Payment Notice (CPN) that is now issued in lieu of a conditional payment letter in some circumstances when a settlement, judgment or other payment has already occurred. Previously, the MSPRC sent a final demand in these cases. This new notice provides conditional payment information prior to issuing the final demand to allow the beneficiary and attorney to review conditional payments for errors and respond within 30 days.
- The "Call back" feature on the MSPRC website allows callers to request a call back from an MSPRC representative instead of holding.
- The beneficiary can review conditional payment information on MyMedicare.gov.

The MSPRC website is www.msprc.info. Useful "toolkits" for obtaining conditional payments, final lien resolution to assist attorneys, and insurance carriers can be found at this site.

New CMS Memo targeting off-label drug use and rated ages

Medicare issued a memorandum on May 14, 2010 to clarify guidance on prescription drugs and the Medicare Set Aside, specifically regarding the off-label and/or unlabeled use. CMS states:

“For a Part D drug to be covered by Medicare, and thus included properly in a WCMSA, the drug should be prescribed for an outpatient use that is approved under the Federal Food, Drug, and Cosmetic Act, or supported by one or more citations included or approved for inclusion in any of the compendia.”

Beginning June 1, 2010, drugs prescribed for “off-label” uses will no longer need to be included in funding a Medicare Set Aside. When drugs are approved by the Food and Drug Administration (FDA) they are granted specific indications or uses. However, a physician has the authority to prescribe any drug for any given therapeutic use. When a drug is used for a non-FDA approved use, it is considered to be used “off-label”. It is estimated that 20% to 25% of all prescriptions are written “off-label”. For some drugs, off-label use is much higher. For example, over 80% of gabapentin (Neurontin®) and over 90% of Actiq® use is off-label.

In some cases, off-label use may be appropriate when there is adequate evidence to support use. Medicare only covers medications that are used for FDA-approved uses or an off-label use that is recognized as appropriate in an official off-label prescribing compendia. For MSA purposes, this means that medications used off-label that are NOT supported by official compendia can be excluded from the Medicare-covered portion of an MSA. While the medications above are commonly used off-label, it does **not** necessarily mean that they can be excluded from an MSA. *Off-label prescribing compendia will have to be reviewed in light of your patient’s injury, co-morbidity and complete medication use.*

Novare has pharmacists on staff with Medicare coverage expertise to review Medicare Set Aside pharmacy allocations related to medications used off-label and whether or not they should be included in the Medicare Set Aside. Please contact us for a trigger list of commonly used off-label drugs.

The May 15, 2010 memo also addressed the rated age language to be included in the MSA. To eliminate ambiguous statements concerning the rated age, MSA submitters must include the following statement:

“Our organization certifies that all rated ages obtained on this claimant, at any time during that individual claimant’s lifetime have been included as part of this submission to the Centers for Medicare& Medicaid Services.”

Novare has included this statement in all Medicare Set Asides requiring rated ages since the day the memo was released.

Please contact us if you have any questions or concerns about the new CMS guidelines.

ADVANTAGES OF STRUCTURING A MEDICARE SET ASIDE (MSA) BY KELLI APRIL

A MSA may be funded by either a lump-sum payment or by using a structured settlement.

A structured settlement helps to diminish the claimant's temptation to use the funds in a MSA account for other reasons than medical expenses, which would otherwise be paid by Medicare.

The average savings by structuring a MSA is approximately 40% to 60%. For workers' compensation claims, medical expenses are not paid until they are incurred. The MSA projects medical expenses over the life expectancy of the claimant. Under current CMS guidelines there are no inflation factors for medical costs, therefore, if a MSA provides for payments of \$100,000.00 over the life expectancy of the claimant, why should the insured pay \$100,000.00 today when they could only pay \$40,000.00 to \$60,000.00 today? Unlike liability cases, the claimant is usually not given an option between a lump sum or a structured settlement in order to settle their claim.

The use of a rated age helps reduce the cost to fund a MSA. Rated ages are secured by structured settlement brokers who submit medical, on a claimant, to various life insurance markets who offer substandard ratings. MSA vendors should rely on the expertise of a structured settlement broker to obtain rated ages from **various** life insurance markets, which will allow the MSA vendor to base their allocation on a fair and medium rated age. The rated age findings submitted by the broker to the MSA vendor may be compiled in a summary format to include the **actual** communication of the rated age sent to the broker from each individual life insurance market. CMS will consider this as acceptable proof of all rated ages used in the MSA allocation submitted for approval.

There are different types of annuities used to structure MSA's which are acceptable to CMS. They are: life only, period certain, temporary life, life with certain, and cash refund. A temporary life annuity is the most effective method to fund a MSA. CMS only requires the MSA be paid up to the life expectancy of the claimant.

An example for you to consider:

MSA STRUCTURE COMPARISON

FEMALE, DATE OF BIRTH: 01/29/1981
CHRONOLOGICAL AGE: 29
MSA LIFE EXPECTANCY: 47 YEARS
MSA MEDIUM RATED AGE: 32
TOTAL MSA ALLOCATION: \$85,625.28

1) MSA SEED UPFRONT: \$4,247.00 PLUS \$1,769.10 PAID ANNUALLY IF LIVING, FOR A MAXIMUM OF 46 YEARS QUOTED USING RATED AGE. **TOTAL COST TO FUND MSA IS \$39,947.00**

2) MSA PAID TO CLAIMANT AS **LUMP SUM: \$85,626.00**

SAVINGS BY STRUCTURING THE MSA: \$45,679.00!!!

There are **SIGNIFICANT** savings with structuring a MSA! Structuring the MSA benefits all parties involved and should be considered on all cases where the life expectancy payout is \$20,000 or greater, excluding the amount of upfront seed to establish the MSA.



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Kelli April is a Structured Annuity Specialist with over 20 years experience in the insurance industry, including 17 years in the structured settlement field. She is available to attend settlement conferences, mediations, arbitrations and other disposition hearings to resolve cases for general tort liability, medical malpractice and workers' compensation claims. Kelli also designs and presents settlement annuity plans and oversees all functions related to case settlements, including finalizing settlement documents for all parties involved in a settlement.

Your MSA questions answered....

What is the difference between SSI versus SSDI, and Medicare versus Medicaid?

Answer:

Supplemental Security Income (SSI) are payments are made on the basis of financial need.

Social Security Disability Income (SSDI) is based on work credits and is payable to blind or disabled workers, widow(er)s, or adults disabled since childhood. Once SSDI is received for 24 months, the individual becomes Medicare eligible.

Medicaid is health care available only to certain low-income individuals and families who fit into an eligibility group that is recognized by federal and state law.

Medicare is a Health Insurance Program for people age 65 or older, people under age 65 with certain disabilities and people of all ages with End-Stage Renal Disease



How do I obtain conditional payment information?

Answer: An initial Conditional Payment Letter (CPL) does not need to be requested. A CPL will now be generated automatically within 65 days of the issuance of the "Rights and Responsibilities Letter" following reporting the case to the COBC at 1-800-999-1118

How do I obtain a final lien amount?

Answer: The information needed includes, the total amount of the settlement, the date the settlement was signed, the amount of attorney fees and an itemization of additional procurement costs incurred in settling the case. This information must be submitted in writing to the MSPRC. MSPRC Auto No-Fault/Liability: P.O Box 33828, Detroit, Michigan 48232-5828. MSPRC Workers Compensation: P.O. Box 33831, Detroit, Michigan 48232-5831

HICN/Medicare Number, Date of Incident, and MSPRC Case ID Number should be on all correspondence.



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We're on the Web!

Visit our site at:

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Novare: Your MSP solution

Novare consistently provides solutions for Medicare Secondary Payer compliance with quality Medicare Set Aside reports and MMSEA reporting.

Our Medicare Set Aside reports are completed by nurses that are MSCC certified and are reviewed by our PharmD to assure the best prescription allocation costs for our clients.

Medicare Agent Reporting Services include up-front consultation to assist with registration, retrieving query files, importing files from the RRE, editing files for mandatory data elements, enabling interface to correct missing elements, transmitting the final report file to CMS, and sending Medicare's acknowledgement to the RRE.

Novare Medicare Set Aside Service Commitment:

- MSCC Professional Nurses complete the MSA process to include on-going communication with the client to move the file to settlement
- PharmD reviews and prices all prescriptions using generics
- Novare MSA reports meet CMS requirements, resulting in high CMS Submission rate
- Turnaround time is 10 days
- All Medicare Set Aside reports are one flat rate with NO HIDDEN FEES and NO CHARGE FOR RUSH CASES

About Our Organization..

Novare is committed to efficient and effective cost containment with a high responsibility to quality, service and local representation. Our services are uniquely customized to meet your specific needs.

Our staff is highly professional and among the most experienced in the industry. We gauge our success by our customers' satisfaction.

