

MSAS – A LONGSHORE PERSPECTIVE

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If it's on the internet it must be true

□ From DBAcomp.com:

“What kind of settlement or disability can I expect?

Don't expect anything. Wish I had a better answer.

You will get nothing for pain and suffering.

Your lifelong medical if it ever is awarded to you

will be complicated by the Medicare Set Aside,

meaning a huge chunk of any settlement will go

back to the Government”

How are longshore MSAs different



- OWCP fee schedule should be used to price medical service items rather than state WC fee schedules.
- DOL District Director may require CMS approval of the MSA before reviewing the 8(i) application although CMS says MSA reviews are a “recommended but not required process”.

How does OWCP fee schedule compare to state WC fee schedules

OWCP fee schedule

- Established patient OV reimbursed at \$95.99
- Lumbar MRI reimbursed at \$954.19
- EMG/NCS reimbursed at \$466.06

Alabama WC fee schedule

- Established patient OV reimbursed at \$169.98
- Lumbar MRI reimbursed at \$4,673.98
- EMG/NCS reimbursed at \$2,086.28

MSA projections – How to keep them reasonable



- Medications, medications, medications
 - 1) Push the treating doctor to prescribe generics instead of brand name drugs (generics 80-85% cheaper on average according to FDA)
 - 2) Push the treating doctor to taper or wean the medication regimen. Absent evidence to the contrary, CMS assumes lifetime use of any medication taken at the time of MSA submission.

MSA Exploders – Avoid if possible



- Spinal cord stimulators
- Morphine pumps
- Future surgery

Annuitize the MSA for significant savings



- Usually provides 30-50% savings compared to paying the MSA in a lump sum
- Encourages the claimant to use the MSA funds for their intended purpose
- More likely to protect Medicare's future interests

Sample savings of annuitizing MSA

Example

Female Age 55, NLE 27*

Medicare Allocation	Seed Money (CASH)	Temporary Life Annuity Annual Payment for 26 years	Your Total Cost	Cost Reduction	Percentage of Reduction
\$20,150.00	\$1,575.00	\$728.00	\$11,211.00	\$8,939.00	44.40%
\$50,220.00	\$3,775.00	\$1,814.00	\$24,337.00	\$25,883.00	51.50%
\$102,300.00	\$7,692.00	\$3,696.00	\$55,271.00	\$47,029.00	46.00%

Example

Male Age 55 NLE 26*

Medicare Allocation	Seed Money (CASH)	Temporary Life Annuity Annual Payment for 25 years	Your Total Cost	Cost Reduction	Percentage of Reduction
\$20,150.00	\$1,575.00	\$728.00	\$10,770.00	\$9,380.00	46.60%
\$50,220.00	\$3,775.00	\$1,814.00	\$23,066.00	\$27,154.00	54.10%
\$102,300.00	\$7,692.00	\$3,696.00	\$52,292.00	\$50,008.00	48.90%

MSAs are not a life insurance policy



- Professional administration of MSA funds with a reversionary clause would return any unused funds subsequent claimant's death to the employer/carrier
- Competent professional administration of MSA funds will also ensure only covered treatment is paid and paid according to fee schedule better preserving the MSA funds

Questions

