MEDICARE SET ASIDE FUNDING WITH A STRUCTURED SETTLEMENT ANNUITY

Sample Medicare Allocation for a Male Age 55, NLE 25

<table>
<thead>
<tr>
<th>Medicare Allocation ²</th>
<th>Cash Seed</th>
<th>Annual Amount for 24 years per allocation, paid up front</th>
<th>YOUR TOTAL COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>$71,924.00</td>
<td>$5,753.92.00</td>
<td>$2,757.08.00 x 24 years = $66,169.92</td>
<td>$71,924.00</td>
</tr>
</tbody>
</table>

Revised CASH MSA using a mean rated age of 65
Life expectancy of 18 years

<table>
<thead>
<tr>
<th>Medicare Allocation ²</th>
<th>Cash Seed</th>
<th>Annual Amount for 17 years per allocation, paid up front</th>
<th>YOUR TOTAL COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>$54,546.00</td>
<td>$6,060.66</td>
<td>$2,852.07 x 17 years = $48,485.19</td>
<td>$54,546.00</td>
</tr>
</tbody>
</table>

Funding the revised MSA with a Structured Settlement and a rated age of 69.

<table>
<thead>
<tr>
<th>Medicare Allocation ²</th>
<th>Cash Seed</th>
<th>Structured Settlement Annual Payment for 17 years only if living</th>
<th>YOUR TOTAL COST FOR THE ANNUITY PREMIUM AND CASH SEED</th>
</tr>
</thead>
<tbody>
<tr>
<td>$54,546.00</td>
<td>$6,060.66</td>
<td>$2,852.07 x 17 years = $48,485.19</td>
<td>$38,438.67</td>
</tr>
</tbody>
</table>

¹Normal Life Expectancy (NLE) based on CDC Table 1 as required by CMS per memorandum of May 20, 2008.
²Cash payment required if no structured settlement is utilized. A properly prepared MSA will indicate the total cash amount and/or the alternative cash seed and annual payments if the MSA is funded with an annuity.

Brian Loper (bloper@epssg.com) & LeeAnn Smith (lasmith@epssg.com)
EPS Settlements Group
270 Doug Baker Blvd. #700-206 · Birmingham, AL 35242
Phone: 205.620.2566 · Fax: 251.217.9429 · Toll Free: 877.316.7212
Structured settlement annuities are uniquely designed to preserve assets. Settlement funds are paid periodically versus a single lump sum. The use of these annuity products to fund a Medicare Set-Aside account (MSA) is essential since the periodic payments serve to preserve the integrity of the MSA. While the use of annuities can't eliminate the exhaustion of funds annually, they do eliminate the exposure of premature total exhaustion with a lump sum fund. Additionally, these products can provide the vehicle to enable the feasible funding of a worker’s compensation settlement with substantial claim dollar savings as illustrated above.

The majority of savings originates from the annuities ability to price for mortality or life expectancy. The Centers for Medicaid and Medicare Services (CMS) presumes the individual will absolutely live the normal life expectancy and totals the projected medical expenses for this period. The one exception is CMS has a methodology to alter the normal life expectancy using our annuity underwriter’s life expectancy figure, called a rated age. But they still presume the individual will live that absolute time period and totals the projected expenses without a present value discount. They do not include an inflation factor either.

Medicare recognizes a structured settlement annuity as a viable method of funding MSAs and provides specific instructions for calculating an MSA using an annuity. They further advise that Medicare will become the primary payer of medical expenses, once documentation is provided showing funds were spent appropriately and there is no other available coverage, and continue to pay medical expenses until the next annual annuity payment.

The set aside amount methodology is based on the immediately preceding two years of historical medical treatment which is then projected forward at your state specific work comp fee schedules or reasonable and customary rates and Red Book wholesale prescription pricing. CMS will approve a set aside amount for medical services including prescriptions that would otherwise be reimbursable by Medicare for the MSA in the following manner. The seed money for the MSA must include an amount equal to the cost calculated to cover the first surgery procedure and/or major equipment or prosthesis and two years of projected annual medical expense. The remainder of the approved set aside amount will be divided by the claimant’s life expectancy, less one year, to provide the annual annuity payment amount beginning in year two. Subsequent annual annuity payments into the MSA are to be based upon a set “anniversary date” which cannot be more than one year after the settlement date.

The best news is we are allowed to price the annuity funding the MSA with the most favorable annuity company and rated age regardless of the rated age used in the actual set aside.

Brian Loper (bloper@epssg.com) & LeeAnn Smith (lasmith@epssg.com)
EPS Settlements Group
270 Doug Baker Blvd. #700-206 · Birmingham, AL  35242
Phone: 205.620.2566 · Fax: 251.217.9429 · Toll Free: 877.316.7212
• MSA’s are CMS’ recommended process. CMS has acknowledged the MSA process is not statutory.

• Even though CMS has approved a MSA, they do not view it as accepted or final until the court approval documents of the settlement are received.

• Once CMS approves a MSA, the amounts and term are final. If the settlement takes years to reach, the MSA amounts stay the same and the years are simply moved forward. The paid work comp expenses during the delay do not offset or change the MSA figures even though the claimant may no longer have the same life expectancy or the cost projections be still valid. If the claimant’s condition has improved, it doesn’t matter. CMS has not addressed the need for revising the approved MSA if the claimant’s medical condition has worsened.

• If a work comp MSA has been approved by CMS to be self-administered by the claimant but the parties later agree to professional administration, send notice of the administration agreement with the filing of the final court approval documents to CMS.

• If a MSA was CMS approved to be professionally administered, the administrator must follow the same guidelines as established for self-administered accounts.

• Any funds including seed money or annual annuity payments not utilized or exhausted in any annual period will always roll forward to be spent in future years.

• The MSA will cease only upon the passing of the beneficiary. A final accounting of expenses would be due to CMS and thereafter, Medicare would look no further to the MSA as a responsible party. Upon death of the beneficiary, remaining funds in the account can be distributed to the claimant’s estate.

• MSA funds are to be spent on accident related medical expenses, otherwise covered by Medicare, whether or not they were projected in the approved MSA. Medical expenses must be paid using the same basis used to calculate the MSA.

• Any future medical settlement funds attributed to non-Medicare covered drugs or services have no effect on the MSA. The claimant is free to spend those moneys in any manner.

• The $250,000 claim value threshold for work comp MSA submission to CMS includes past settlement amounts and attorney fees plus any current settlement amounts plus the total MSA amount (not the annuity cost).