

THE MSA TODAY

MEDICARE SET-ASIDE UPDATES AND MORE

WELCOME TO THE MSA TODAY!

The MSA Today is our law firm's periodic newsletter. It provides readers with updates about Medicare Set-Asides (MSAs) and the issues related to MSAs. It's one of the only places to get MSA updates and practice tips from the legal perspective.

In past editions, we have used this space to more fully explain the MSA obligation and various facets of that under the Medicare Secondary Payer (MSP) Act. However, recent events warrant us jumping right into current events. Keep reading to learn more about recent steps taken by the United States Department of Justice (USDOJ) against a plaintiff personal injury law firm in the MSP arena for failure to repay the federal government for conditional payments made on behalf of Medicare beneficiaries.

FEDERAL GOVERNMENT SETTLES MSP CASE AGAINST PLAINTIFF PERSONAL INJURY LAW FIRM, LINKING MSP TO FALSE CLAIMS ACT

This is what many experienced MSP compliance attorneys have been concerned about for years. Recently, the United States Department of Justice ("USDOJ") settled a case against a plaintiff personal injury firm who had failed to address Medicare reimbursement obligations under the Medicare Secondary Payer ("MSP") Act. The terms of the settlement are set forth in the settlement agreement below, and explained in more detail in the article below titled "[Your Compliance Will Be Rewarded.](#)"

The Cliff Notes version is this: if you resolve cases/claims involving Medicare beneficiaries and medical expenses, you need to have a MSP compliance program in place. Not only is this a best practice in 2018, it's what the USDOJ is implicitly suggesting in this case. By routing all MSP issues through one individual internally and arming them with the proper compliance tools, you can avoid scrutiny and potential False Claims Act allegations from CMS and USDOJ.

Cattie crafts MSP compliance programs for clients seeking proactive solutions and comprehensive protection on MSP issues. Our MSP legal solutions synchronize with the goals of your organization to provide you with an impenetrable shield. I highly encourage you to review the article and settlement agreement below. Then, call us to schedule time

with Cattie. Allow us to craft the MSP legal solution your organization has always been missing.



Settlement Agreement Between US Dept. of Justice and Plaintiff PI Law Firm

[Download](#)

Download and read how the USDOJ links MSP Non-Compliance to False Claims Act exposure

2.1 MB



Philadelphia Personal Injury Law Firm Agrees to Start Compliance Program and Reimburse the United States for Clients' Medicare Debts

Philadelphia Personal Injury...

www.justice.gov



YOUR COMPLIANCE WILL BE REWARDED

"If you think compliance is expensive, try non-compliance" Former U.S. Deputy Attorney General Paul McNulty

Executive Summary: On June 18, 2018, the United States Department of Justice ("USDOJ") announced a settlement that directly affects parties resolving certain insurance claims with Medicare beneficiaries. The USDOJ settled a case against a plaintiff personal injury law firm based in Philadelphia, PA which had failed to repay Medicare for conditional payments pursuant to the Medicare Secondary Payer ("MSP") Act. If the firm violates the terms of the settlement agreement, the USDOJ left the door open to use the federal False Claims Act ("FCA") to impose additional penalties.

To read the full article, please click [here](#).



MSA ALTERNATIVES IN 2018

"The pessimist complains about the wind; the optimist expects it to change; the realist adjusts the sails."
William A. Ward

The MSA issues are much more complex than a decade ago. Is the claim accepted or denied? Are we talking about workers' compensation (WC) or liability insurance? Did the MSA reviewer based the report on medical records or legal analysis? Do we ask Medicare to review/approve the MSA or steer clear of the federal government? The MSA winds have changed direction.

The WC industry has become more sophisticated. It now knows there is no MSA requirement. It now knows there is no requirement to have CMS review and approve an MSA figure. It now knows claims can be resolved without MSAs. It now knows that MSA alternatives exist.

To read the full article, please click [here](#).



MSAS AND FELA SETTLEMENTS: HAS THE TRAIN LEFT THE STATION?

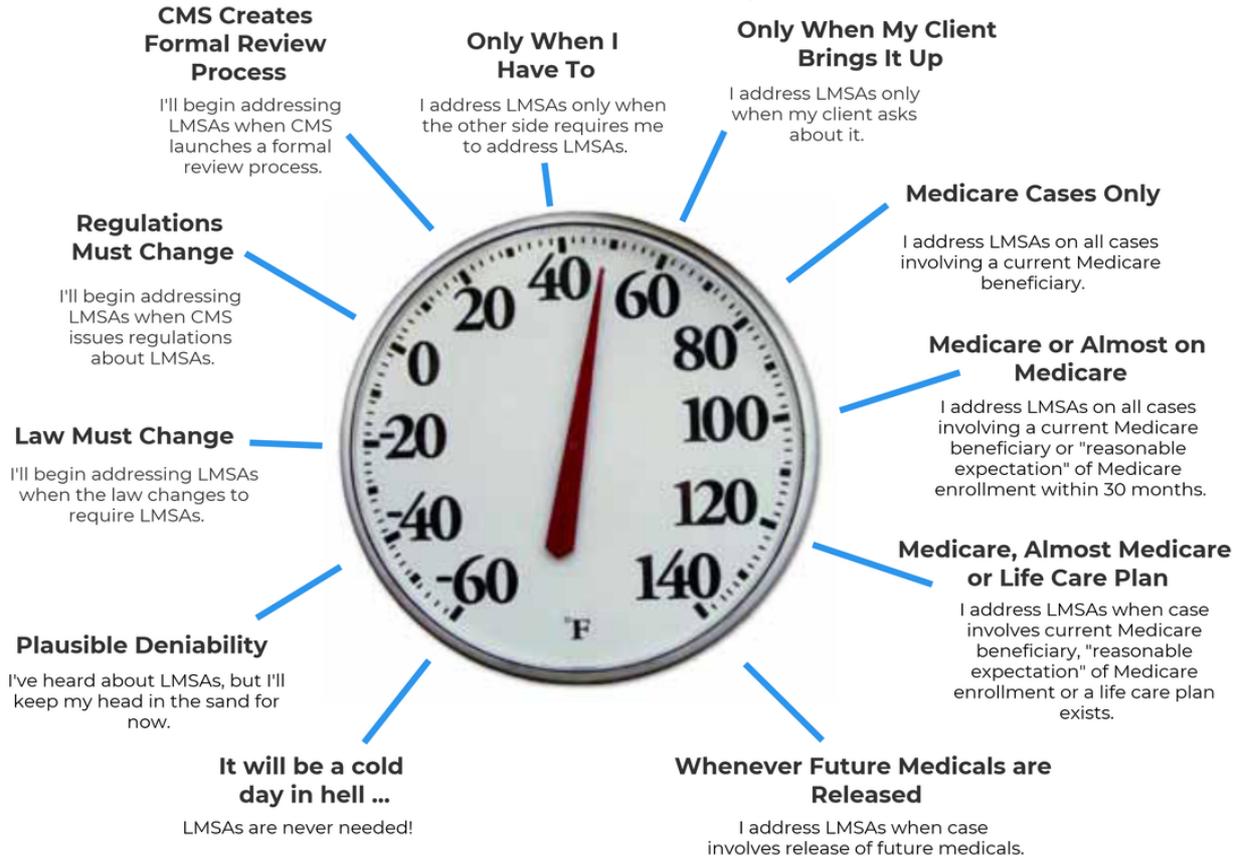
Executive Summary – Parties resolving claims asserted by railroad employees under the Federal Employers Liability Act ("FELA") may neglect to address future medical exposure under the Medicare Secondary Payer ("MSP") Act. Though Medicare treats FELA akin to liability insurance under the MSP Act, some parties fail to identify, verify and discharge a client's MSP future medical exposure. Federal law prohibits Medicare from paying for a beneficiary's medical expenses where payment has been made under a liability insurance plan (but for one exception). While funding a Medicare Set-aside Arrangement ("MSA") could be one way to negate that exposure, federal law does not require MSAs today.

To read the article in full, please click [here](#).

WHEN DO YOU ADDRESS LMSA ISSUES?

The Liability Medicare Set-Aside (LMSA) Meter

What's Your Current Temperature?



CATTIE, P.L.L.C.

A HIGHER STANDARD IN MSA COMPLIANCE

CMS ISSUES UPDATED MSPRP USER GUIDE

For readers who prefer modern solutions to Medicare conditional payment issues instead of paper/mail/fax, keep reading. Earlier this month, CMS updated its Medicare Secondary Payer Recovery Portal ("MSPRP") [User Guide](#). Version 4.2 contains four (4) main changes:

- CMS added a Last Login Date column to the Designee Listing page (see Section 8.3.2);
- CMS added a new read-only Letter Activity tab to the Case Information page, displaying any letters sent/correspondence received for a case being handled by its recovery contractors [the Benefits Coordination & Recovery Center ("BCRC") or the Commercial Repayment Center ("CRC")] (see Section 13.1.1);
- CMS granted users the ability to request electronic conditional payment letters ("eCPLs") for BCRC and CRC insurer-debtor cases (see Sections 13.1.5 and 14.5.4); and

- CMS added the Primary Diagnosis Code to the payment summary form under the DX Codes column, along with an explanatory footnote in cases where Part A, non-inpatient, claims do not have an HCPCS or DRG code associated with them (see Table 13-8).

With the advent of the MSPRP (as required under the SMART Act, amending the MSP Act in January 2013), parties resolving certain insurance claims involving Medicare beneficiaries have more power than ever before to ensure that process runs smoothly. If you're not using the MSPRP at this point to address Medicare conditional payment issues, you're missing out on a great tool to manage your risk and ensure timely processing of requests. Using the MSPRP has become a best practice, and Cattie highly encourages you to consider how to incorporate that into your MSP compliance protocols.

WCI

WHEN

**SUNDAY, AUG. 19TH, 1PM TO
WEDNESDAY, AUG. 22ND, 12PM**

WHERE

**8701 WORLD CENTER DRIVE
ORLANDO, FL**

MORE INFORMATION

Cattie will be at the WCI conference in Orlando, and would like to meet with you. Have questions about your current MSP compliance protocols? Wondering how you can arrive at a lower MSA figure? Thinking about ways to bring your WC case to a close faster? Find a time to talk with us. We will have a booth in the exhibit hall, and John will be meeting individuals personally upon request. To schedule a meeting, call us at (844) 546-3500 or email John at jcattie@cattielaw.com. We look forward to seeing you at WCI in Orlando.

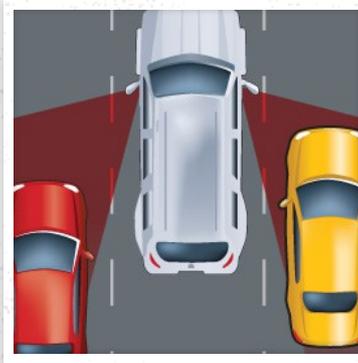


MSAS AND STRUCTURED SETTLEMENT BROKERS: THE QUICK PROFIT OR THE LONG GAME?

Here's a question for the structured settlement brokers out there. Would you agree to help a client reduce a Medicare Set-aside Arrangement (MSA) by twenty percent (20%) or more if it meant securing a larger number of MSAs to structure going forward?

Here's why you should agree to work and work tirelessly to get the MSA reduced by 20%: the client won't forget it. You just solved their problem. Just like there are many MSA options in the marketplace, the client has countless potential structured settlement options for their MSA needs. When they have a choice of who to use, they evaluate many criteria in making that choice. Or, they don't, and they pick the broker they like best. Most likely, that will be the broker that solved a problem for them last time.

To read the entire article, please click [here](#).



THE MSA BLIND SPOT

The Workers' Compensation (WC) industry has a Medicare Set-Aside (MSA) blind spot. The mirrors provided by MSA vendors to protect their clients fail to account for the MSA blind spot. Current WC industry practices do not align with CMS expectations. CMS clearly discusses its expectations in its WCMSA Reference Guide. Until the danger posed by the MSA blind spot is remedied, parties resolving WC claims will continue to possess an exposure for future medicals which it fails to account for today. The MSA blind spot should be remedied by a lawyer well-versed in MSA obligations under the Medicare Secondary Payer (MSP) Act.

To read the entire article, please click [here](#).



WINTER IS COMING: LMSA ISSUES AND ETHICAL OBLIGATIONS FACING PLAINTIFF LAWYERS

"Winter is coming." That three word statement resonates throughout the Game of Thrones series. It serves both as a reminder for the wary and a warning for the ignorant. Times may be good now, but they will get worse quickly when Winter arrives. Winter in the seven kingdoms meant the arrival of the White Walkers. Winter for plaintiff attorneys handling injury cases involving future medical expenses means the federal government and Liability Medicare Set-aside Arrangements (LMSAs).

The penalties under federal law have been well-documented. Single, double or (perhaps) treble damages for failure to address these obligations properly. Other potential penalties, though, have been less discussed. The purpose of this article is to demonstrate why plaintiff lawyers must be wary of potential LMSA issues in light

of state rules of professional conduct. For plaintiff lawyers, Winter is coming.

To read the entire article, please click [here](#).



EXTINGUISH YOUR MSP EXPOSURE WITH CATTIE

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