

## **Liability Medicare Set-aside (LMSA) Request & Worksheet**

### **Scope of Service**

If your client, in a personal injury liability trial or settlement, is a Medicare beneficiary or has a reasonable expectation of being a Medicare beneficiary within 30 months of the settlement/judgment your client may need a Liability Medicare Set-aside analysis performed in order to determine whether a Liability Medicare Set-aside Account (LMSA) is in the best interests of the client in order to protect the client's current or future entitlement to important Medicare benefits.

My office will prepare a LMSA incorporating those future accident related medical services and prescription drug costs which would otherwise be payable or reimbursable by Medicare so as to minimize the amount your client will "set aside" from the gross settlement proceeds in order to protect current or future Medicare benefits. The practitioner should understand that use of a LMSA is voluntary but is generally considered the best method utilized to document you have properly considered Medicare's interests in the resolution of the liability claim.

The LMSA aims to serve two important purposes. First, to protect the client's existing Medicare coverage availability, as well as, protecting the client's future Medicare entitlement. Unless the LMSA is undertaken (currently there are no review thresholds for referral to The Centers for Medicare & Medicaid Services (CMS) the client's Medicare benefits may not be available. Second, the practitioner must be mindful of the legal pitfalls in this area and safeguard against possible legal malpractice claims for failure to protect the client's existing or future Medicare entitlement.

The LMSA analysis will project anticipated accident related injury or illness medical services and prescription drug therapy costs which would otherwise be payable or reimbursable by traditional Medicare Parts A or B and Medicare Part D, if applicable. Since Medicare Part C, (also known as Medicare Advantage Plans) vary as to what coverages they provide the LMSA anticipates these plans will provide at least equal or greater coverages than exists in traditional Medicare Parts A & B.

The medical services costs are calculated using full actual charges and the prescription drug costs are calculated based upon the Average Wholesale Cost as published by Red Book®. These costs are projected without consideration of any Medicare deductibles, co-pays or coinsurance. Further, these costs are calculated on an annual basis and then projected based upon the life expectancy of the client as determined either on the client's actual age or rated age, if calculated.

The objective is to provide the practitioner with a comprehensive future cost projection of the amount of the gross settlement proceeds which will need to be segregated into a dedicated account so as to protect the client's important current and future Medicare benefits.

## **Methodology**

Medical services and prescription drug costs are projected based upon (a) those physician, hospital or prescription drug records provided my office including physician's estimates of future medical services and/or prescription drug therapy needs, (b) an analysis of the past pattern of utilization of medical services and prescription drug usage, (c) medical services and prescription drug bills or invoices constituting compensatory damages claimed, (d) previous out of pocket medical/pharmaceutical expenses, (e) the current medical/pharmaceutical treatment regimen, (f) the client's past responses and outcome to the medical treatment provided, as well as, (g) prescription drug utilization as indicated in the medical record.

Present day medical services/prescription drug costs will be utilized and no provision is made for future inflation as The Centers for Medicare & Medicaid Services (CMS) does not require inflationary pressures to be factored into the LMSA analysis. The recommended LMSA amount is, therefore, a reflection of those costs that should be "set-aside" from the gross settlement proceeds and designated for accident related medical services and prescription drug costs otherwise payable or reimbursable by Medicare.

Accident related non-Medicare covered medical services or prescription drug costs, as well as, annual Medicare deductibles, co-pays and coinsurance are NOT included in the LMSA recommended amount and the practitioner should factor an amount into any final gross settlement amount.

While it is not possible to accurately predict all future medical and technological advances for medical services or prescription drug therapy or associated complications pertaining to this analysis, the LMSA analysis is thought to reflect what can be reasonably anticipated for future accident related medical services and prescription drug therapy otherwise payable or reimbursable by Medicare based on the information provided.

The LMSA will normally be completed within 10 business days of receipt of all required information. Send completed materials to: Angelo Paul Sevarino, Esq., 26 Barber Hill Road, Broad Brook, CT 06016.

### **1. LMSA Fee: \$1,450.00**

Fees are the responsibility of the attorney or law firm requesting the LMSA analysis and are not contingent upon any contractual relationship between the attorney/law firm and client or upon the ultimate settlement or judgment. All fees are due and payable net 30 days. Interest of 1.5% per month is charged for all outstanding invoices.

**2. The following required information is necessary for completion of a LMSA analysis and may be mailed to Angelo Paul Sevarino, Esq., 26 Barber Hill Road, Broad Brook, CT 06016 or emailed to [wclawyer@aol.com](mailto:wclawyer@aol.com):**

**a.** Complete set of **medical reports** for the last two years of treatment. Include all surgical reports and hospital discharge records from date of injury forward.

**b. Pharmacy printout or statement from treating physician(s)** for all prescribed accident related medications for the last two (2) years of treatment. Include name of drug, unit form (capsule, tablet, patch etc.), prescribed strength and prescribed frequency. **THIS MUST BE A CURRENT VERSION OF THE PRINTOUT NO OLDER THAN 6 MONTHS FROM THE DATE SUBMITTED.**

**c. Medical bills & invoices** covering the last two years of related medical services.

**d.** If an **implantable device** is being used or recommended you should consult with the appropriate physician and provide the following information:

- i.** Device, electrodes, receiver manufacturer name
- ii.** Device, electrodes, receiver model # or type
- iii.** Device, electrodes, receiver cost including tax, freight and handling
- iv.** Facility fee, whether inpatient or outpatient, procedure code and cost
- v.** Surgeon procedure code and cost
- vi.** Anesthesiologist procedure code and cost
- vii.** Programming services procedure code, frequency and cost
- viii.** Other associated costs

**e. ATTACH** copy of **Medicare (Part A & B), Medicare Part C, Medigap and Prescription Part D cards**, as applicable.

**f.** Complete the attached “**Specific Case Information-Liability**” information sheet.

## Specific Case Information- Liability

### Plaintiff:

Name:  
Address:  
SSN/HICN:  
Telephone Number:  
Gender:  
Date of Birth:  
Date of Injury:

### Plaintiff's Attorney

Name:  
Address:  
Telephone Number:

### Defendant (if multiple defendants list on separate sheet)

Name:  
Address:  
Telephone Number:

### Insurer(if multiple insurers list on separate sheet; indicate related defendant)

Name:  
Address:  
Claim Number:

### Insurer's Attorney(if multiple counsel list on separate sheet, indicate related insurer)

Name:  
Address:  
Telephone Number:

### Medicare Coverage Parts

- Claimant is NOT on Medicare
- Claimant IS on Medicare with Part A:  B:
- Claimant IS on Medicare with Part C
- Claimant IS on Medicare with Part D
- (ATTACH all applicable plan cards )

Name of Plan:  
Name of Plan:

**Body Part(s)/System(s) that are being claimed (be specific) and included in the LMSA:**

**Body Part(s)/System(s) that are being disclaimed (be specific) and not included in the LMSA:**

**Total Gross Settlement Amount: \$**

**Not yet determined but estimated to be: \$**

**Comments/Special Instructions:**

The submitting attorney/law firm/party warrants to Angelo Paul Sevarino, Esq. that s/he has explained to their client that (a) no attorney-client relationship is being established between their client and Angelo Paul Sevarino, Esq., and (b) their client consents to Angelo Paul Sevarino, Esq. reviewing the submitted documents including medical records and communicating, if requested, with the Social Security Administration or The Centers for Medicare & Medicaid Services as may be required. Further, the attorney/law firm/party warrants to Angelo Paul Sevarino, Esq. the accuracy of all the information contained herein and supplied in support of the request for LMSA analysis.

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Submitting attorney/law firm/party

**Authorization for Release of Protected Health Information**

(In compliance with HIPAA Regulations - 45 C.F.R. 164.508)

To: RE:

SNN#:

Date of Birth:

I authorize the use or disclosure of my protected health information by your office, company or organization as specified below. I understand that signing this Authorization is voluntary and that my medical provider may not require me to sign this Authorization before my doctor, hospital or institution provides me with treatment. I understand that I have the right to revoke this Authorization at any time by providing a signed, written notice of such revocation to my medical provider. I understand that a description of my right to revoke my Authorization is set forth in my medical provider's Notice of Privacy Practices. I understand that information is being released pursuant to this Authorization at my request and that the information may no longer be protected by law or regulation and may be re-disclosed by the recipient.

1. Please use or disclose the following health information if such information exists:

The entire medical record; or

The following limited health information:

Your medical institution/provider cannot use or disclose certain information unless you specifically authorize such use or disclosure. **Please initial next to each item below if you specifically authorize the release** of health information relating to the testing, diagnosis or treatment for:

HIV/AIDS     Drug and alcohol abuse     Mental health/psychiatric disorders

2. Please specify the time period for the information you described above to be disclosed:

All information maintained at any time by my medical provider or

Information maintained by my medical provider from   /  /   to   /  /  

3. Please specify who may receive the information requested by this authorization: Angelo Paul Sevarino, Esq., 26 Barber Hill Road, Broad Brook, CT 06016 (860-716-0320)

Unless earlier revoked, this authorization will expire one year from the date signed below, unless you specify an earlier date here:   /  /  .

By signing below, I understand and acknowledge the following:

- a. I have read and understand this Authorization;
- b. I am authorizing my medical provider to use or disclose the health information to the person(s) and for the purpose(s) identified in this authorization; and
- c. If I have any questions about disclosure of my protected health information pursuant to this Authorization, I may contact my medical provider's Privacy Officer.

A photostatic copy of this Authorization shall be considered as effective and valid as the original.

\_\_\_\_\_ Date: \_\_\_\_\_

Signature

If different then the Patient/Client or Personal Representative

If signed by the Patient's/Client's personal representative, describe the legal authority of the representative to act on behalf of the Patient/Client. \_\_\_\_\_.

Legal authority of representative verified by: \_\_\_\_\_