

# CMS Referral Services

## CMS Review Thresholds

**Note: Currently there are no published CMS review thresholds for Liability settlements which have NO workers' compensation component.**

A workers' compensation settlement *may* qualify for referral to The Centers for Medicare & Medicaid Services (CMS) under the following review threshold criteria.

1. A referral to CMS is indicated if the Claimant is a *current* Medicare beneficiary *and* the "total settlement amount" is equal to or greater than \$25,000.

Total settlement amount includes attorney fees, indemnity payments for lost time, disfigurement, permanent partial impairments, mileage, past medical services and prescription drug expense reimbursement or payment, future Medicare covered *and* non-Medicare covered medical services and prescription drug expenses, and any Medicare conditional payments or group health liens to be satisfied from the settlement proceeds. Any previously settled portion of the claim must be included in computing the total settlement amount. The annuity lifetime or guaranteed payout totals over the entire term of any annuity contract which is used to fund the settlement, whether indemnity and/or medical, rather than the cost or present cash value of the annuity is used to calculate the value of the annuity for total settlement amount purposes.

Claimants are generally eligible to receive Medicare benefits if, they are sixty-five years of age, or if they have been receiving Social Security Disability benefits for at least twenty-four months. Individuals found eligible for SSDIB benefits due to end stage renal disease or Lou Gehrig's disease (ALS) will qualify for Medicare earlier than 24 months.

OR

2. A referral to CMS is indicated if the Claimant is *not* a current Medicare beneficiary but there is a "reasonable expectation" that the Claimant will be Medicare entitled within thirty (30) months of the date of the settlement *and* the total settlement amount exceeds \$250,000.00.

A Claimant can "reasonably" expect to become a Medicare beneficiary within thirty months, if at the time of settlement: is at least 62 ½ years of age; has applied for or has received SSDIB benefits; has been denied SSDIB benefits but anticipates appealing the decision, or has end stage renal disease or Lou Gehrig's (ALS) disease

## Fee Schedule

The fee to refer a settlement for CMS approval is a flat \$1,000 which includes making the referral, following-up with periodic status inquires and obtaining initial CMS approval or counter-proposal. CMS may reply to the CMS referral with a "counter" proposal. While there is no direct right of appeal to a counter proposal received from CMS the counter proposal may be

"challenged". This usually involves providing CMS with counter medical evidence or other evidence supportive of the original proposed Workers' Compensation Medicare Set-aside figure. Fees may be higher should a "challenge" be filed to a counter CMS proposal. Before any additional fees are incurred my office will discuss in advance what is required. These additional fees are billed at the hourly rate of \$395.00 over the initial fee.

All fees are the responsibility of the submitting party and are not contingent upon any contractual relationship between the submitting party and client or upon the ultimate settlement or approval of settlement. All fees are due and payable in advance. Interest of 1.5% per month is charged for all outstanding invoices.

**To request a referral to CMS please download and submit the [CMS Referral Request Worksheet](#)**