

MSA Insider



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Medicare Initiates Independent Review of Prescription Drug MSAs

On April 3, 2009 the Centers for Medicare and Medicaid Services (CMS) issued a memo advising that for Medicare Set-Asides (MSAs) submitted on June 1, 2009 and later, it would begin to independently review and price amounts set-aside for prescription drugs. Prior to June 1, 2009 Medicare had required that when medical treatment records indicated, a reasonable set-aside must be submitted for future prescription drugs. However, CMS did not review the appropriateness of the allocation. Under these new rules, prescription drug set-asides will now be reviewed the same way medical treatment is now reviewed. If CMS finds that a higher set-aside for prescription drugs is required, it will increase that amount utilizing the average wholesale price of those drugs. Furthermore, if no set-aside is submitted for prescription drugs and CMS finds that one is needed, then CMS will add one.

MedAllocators made a significant effort to submit as many MSAs to CMS as possible before this June 1, 2009 deadline. However, we now must submit under these new rules. CMS recently issued guidelines as to how it will be reviewing prescription drug set-asides.

Research by MedAllocators in comparing MSA estimates prior to and after June 1, 2009, reveal Medicare will likely require a significantly higher amount for prescription drug set-asides under these new rules. Given that these rules recently went into effect it is still too soon to know exactly how much this will increase MSA amounts. Nonetheless, MedAllocators is making use of any potential method CMS will allow to reduce prescription drug set-asides including the following:

- Every MSAs is prepared by a nurse who is Medicare Set-Aside Consultant Certified (MSCC) and who provides a professional recommendation to CMS on future prescription drug use.
- Unless the treating physician states otherwise, generic prescriptions are used.
- The lowest average wholesale price is used to calculate the set-aside amount.
- Consideration of a drug utilization is reviewed by a pharmacist in certain cases.

Ultimately, as with medical treatment, the treating physician will carry the most weight with CMS. Therefore, MedAllocators strongly advises you to obtain a report from the treating physician that documents a tapering or elimination of medications, that specifically identifies current medications use and/or a report which delineates the future use of prescription medications.

To view CMS memos and prescription guidelines, visit the MedAllocators' website at www.MedAllocators.com. MedAllocators is available to assist you with any issues arising under these new rules.

New Compliance Director

Daniel Anders, Esq.

MedAllocators is excited to announce their newest Compliance Director, *Daniel Anders, Esq.* Mr. Anders is an attorney licensed to practice in the State of Illinois and the United States District Court for the Northern District of Illinois. He has spoken about MSP Compliance to Fortune 500 companies as well as insurance companies and law firms. He also has extensive litigation experience, including the handling of workers' compensation cases in his prior position with a Chicago law firm. In that position he developed and coordinated the firms' policies for handling of Medicare requirements in workers' compensation cases, including an in-house MSA submission program.

As MedAllocators, Inc. Compliance Director, Mr. Anders is responsible for ensuring the integrity and quality of MedAllocators' Medicare Set-Asides (MSAs) and related products. His primary focus is developing guidelines and practices in addressing Medicare issues in the context of the MSA process and Lien Investigations.

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