

MSA Insider

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Getting You to Settlement



Enforcement has Begun: CMS sues Attorney to Collect Medicare Lien

The United States on behalf of the Centers for Medicare & Medicaid Services (CMS) (the entity that manages Medicare) brought an action against a plaintiff's attorney in the Federal District Court of West Virginia. *USA v. Paul J. Harris, US District Court, Northern District of West Virginia, November 13, 2008*. In this case, the US claims that the plaintiff attorney is responsible for about \$10,000 (plus interest) for payments that Medicare made on behalf of the claimant related to the injury (a/k/a Medicare lien). The attorney claimed that by merely advising CMS of the settlement that CMS consented to the payment of the settlement proceeds. The Court disagreed with the attorney's contention and ruled that CMS had a right to collect directly against the lawyer.

What did we learn from this case?

1. CMS is actively tracking and now enforcing the Medicare Secondary Payer Act (MSPA).
2. This case is a personal injury case, not a workers' compensation case. Therefore, it is clear that adjusters managing general liability cases need to consider Medicare's interests.
3. This case settled in July of 2005, so CMS has been monitoring these cases for at least the past few years.
4. The total amount of settlement was only \$25,000. The relatively low settlement amount did not prevent CMS from tracking and collecting on the lien.
5. Although the US tried to collect against the plaintiff's attorney in this case, the law would have allowed it to collect against the carrier, employer or the claimant.

Ignoring the MSPA is probably no longer a viable strategy. Talk to your Account Executive about MedAllocators various products designed to help you with compliance.

MSP Mandatory Reporting

In response to the new reporting requirements put in place by the Medicare Medicaid, and SCHIP Extension Act of 2007 (MMSEA), MedAllocators, Inc. has a software platform that meets all Mandatory Insurer Reporting requirements of Section 111. Our software can seamlessly receive, transmit and validate data and generate numerous performance reports. Starting May 1, 2009 all Liability Insurance (including self Insured), no fault insurance, and workers compensation groups are required to choose an Agent to submit all Section 111 files. MedAllocators now offers a full spectrum of services that delivers a complete beginning to end solution. *Learn how to make MedAllocators your Agent today!*

MedAllocators Has Success with Medicare Lien Challenges

In response to demand from our clients, MedAllocators, Inc. recently introduced a Medicare Lien Evaluation service. With the service, MedAllocators will obtain the lien information from CMS and determine if the lien is related to the claim involved. Frequently, CMS inflates the lien by including too many charges that are not related to the underlying case. If they are not related, MedAllocators will challenge the amount claimed by CMS. For example, MedAllocators challenged a lien in the amount of \$58,000. MedAllocators convinced CMS to **reduce** the lien to about \$10,000, resulting in a \$48,000 savings for the client. Since MedAllocators only charges \$500 for this service, it can be a very cost-effective way to manage the costs associated with a claim and to protect the parties from future exposure from CMS.

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