

# MSA Insider



**Getting You to Settlement**

December 2009

Your Premiere Compliance Solution

## ***Medicare Changes Procedures for Requesting and Challenging Conditional Payments***

As of **October 1, 2009**, the Medicare Secondary Payer Recovery Contractor (MSPRC) has changed the procedures required to request an itemization of conditional payments and to challenge specific payments on that itemization. Medicare conditional payments are payments that Medicare has made for a claimant's injury that Medicare claims are the primary responsibility of the insurance carrier or other defendant in a workers' compensation, liability or no-fault case. These conditional payments become a lien upon the settlement of a case.

MedAllocators' Medicare Lien Evaluation service includes a lien determination, review and analysis, and challenge of any unrelated payments, along with the obtaining of a final demand letter from Medicare and coordination of payment of the lien. We have changed our correspondence and forms to address these revised procedures, however, since initiating these changes, MSPRC representatives have been inconsistent and contradictory in their implementation of these procedures. Accordingly, with that in mind, following several discussions with MSPRC representatives we have determined the following:

### **Obtaining Conditional Payment Information**

Prior to October 1, 2009 MSPRC allowed the use of the Consent to Release form signed by the claimant (the same form used for Medicare Set-aside submissions) to be used to request Medicare conditional payments. MSPRC has now advised that post-October 1, 2009 they will no longer accept the Consent to Release form and instead require an Authorization to Represent statement which designates MedAllocators as your agent for purposes of communication with MSPRC. This Authorization to Represent statement must be on the letterhead of the insurance carrier or self-insured company and be signed by the adjuster or other representative. Note, a TPA cannot sign for an insurer or self-insured.

Upon request for a Medicare Lien Evaluation, MedAllocators will provide the Authorization to Represent statement to be transferred to your letterhead and returned to us. We are hopeful this will expedite the response from MSPRC to requests for itemizations of conditional payments given that the Consent to Release form will no longer be needed from the claimant. Note, this Consent to Release will still be required for submission of a Medicare Set-aside.

### **Challenging Conditional Payments**

Prior to October 1, 2009 MSPRC allowed the use of the Consent to Release form to challenge conditional payments such as when a listed payment was for treatment unrelated to the injury. These procedures are changing; however, MSPRC has not been clear on what authorizations will be required to make these challenges. MSPRC has introduced a new Proof of Representation form to dispute or challenge conditional payments. This Proof of Representation form requires the claimant to designate the insurance carrier or self-insured company as his or her representative for the purpose of challenging conditional payments. This would be in a situation where the claimant is unrepresented or if the claimant's attorney is not willing to initiate the challenge. Once this Proof of Representation is obtained, the carrier or company can designate MedAllocators as its agent for purposes of the challenge to Medicare.

Representations thus far made by MSPRC are that this Proof of Representation form will be required to challenge conditional payments in a liability case, but may not be required in a workers' compensation case.

MedAllocators has suggested to MSPRC that they have a teleconference to discuss these changes and provide a specific step-by-step guide for insurance carriers, third party administrators and vendors as to how to communicate with MSPRC in investigating and challenging conditional payments. Whether or not this is done, our expectation is that MSPRC will clarify its policies in the coming weeks. In the interim, we may need to request additional authorizations. We appreciate your patience and understanding in this matter.

### **MedAllocators' EVENTS:**

#### **PRESENTATION:**

**December 11, 2009 @ 7:30 am**  
Workers Compensation  
Association of New Mexico  
Albuquerque, New Mexico  
(Marriott Uptown )

*Presented by*

**Daniel Anders, Esq.,**  
MedAllocators' Compliance  
Director

#### **CONFERENCES:**

National Workers' Compensation  
& Disability Conference  
Chicago, Illinois

*Thank you to everyone who  
stopped by our booth and for all  
of those who attended the  
MedAllocators' breakfast at the  
conference. Looking forward to  
another great year!*