

# MSA Insider *Special Edition*



## Getting You to Settlement

SPECIAL EDITION: October, 2009

Your Premiere Compliance Solution

## ***MedAllocators Provides Solutions to Unreasonable Prescription Drug MSAs from CMS***

On June 1, 2009, the Centers for Medicare and Medicaid Services (CMS) began to independently price prescription medications on Medicare Set-asides (MSAs). While it was anticipated that MSAs would increase under this new policy, the early MSA approvals from CMS reveal unreasonable counter-highers. These increases are based upon a pricing methodology which appears to have little grounding in medical standards for proper use of medications. MedAllocators is committed to providing solutions to contain the cost of prescription drugs in MSAs while continuing to fight on your behalf to challenge these unfair policies.

MedAllocators' proposed MSA allocations are completed by experienced, registered nurses who review the treating physician's reports and research medical standards, evidence-based information from the Thomson Reuters DRUGDEX, FDA/manufacture guidelines and other medical sources. The resulting proposal to CMS is based upon this thorough research. In response, CMS has ignored these standards for use of medication and developed their own methodology which appears to be based solely on pricing every medication over the claimant's lifetime in the absence of a specific statement from the treating physician saying otherwise.

This pricing methodology has resulted in absurd prescription drug determinations by CMS. For example, individuals who may have post-surgical depression being prescribed psychiatric medications for two decades or requiring narcotic pain medications for daily use over one's lifetime even though the medications are to have limited use to prevent dependence. MedAllocators has also found other mistakes by CMS:

- *Pricing of brand name prescriptions when the claimant is using generic.*
- *Incorrect average wholesale price as a result of using the wrong NDC code.*

MedAllocators is challenging CMS regarding these numerous errors and unreasonable review standards. Nonetheless, until CMS changes its policies, the MSAs submitted to Medicare will be reviewed by these standards. MedAllocators is providing multiple solutions to address this problem:

- ✓ **Provide estimated MSA counter-higher PRIOR to submission:** Every MSA Report includes the nurse planner's projected amount for future prescription medications based upon sound medical principles. When appropriate, MedAllocators will now provide an addendum which will include an estimated counter-higher were CMS to price the prescriptions over the claimant's lifetime with no regard to accepted medication uses. This will allow you to know prior to submission that additional medical documentation may be required to support the limiting of future medications.
- ✓ **Obtain specific statement from treating physician regarding future medical treatment:** It is clear that the treating physician carries the most weight in CMS determinations. MedAllocators parent company, Ability Services Network employs registered nurses nationwide who are available to meet with a treating physician and obtain a report documenting reductions in medications, changes from brand name to generic medications and eliminating certain medications. This Focused On-Site Nurse Review service is available for all claims, but especially those with high value prescription drugs.
- ✓ **Obtain prescription payout history:** MedAllocators requests that you provide a printout of the prescription payout history. This assists us in determining the dosage, frequency and duration of the medication being prescribed and also provides confirmation when generic medications are being utilized instead of brand name medications.
- ✓ **Drug Utilization Review:** While the effectiveness of a Drug Utilization Review (DUR) in CMS's determination has yet to be verified, if appropriate and with your approval, MedAllocators will obtain a comprehensive DUR by a Doctor of Pharmacy to outline current and projected medication.
- ✓ **Reconsideration of approved MSAs:** Every Counter-Higher is reviewed by MedAllocators' medical and legal staff, for any basis to request reconsideration with CMS.
- ✓ **Account Executive available for consultation:** Your Account Executive is available to review with you "red-flags" in medical records, such as open-ended prescriptions, that may result in high prescription costs and provide solutions for addressing those costs.

In the past few years we have seen in many cases the MSA becoming the highest part of the settlement amount. This will only increase under these new CMS policies. MedAllocators recommends that MSA issues, including limiting of future medical treatment and prescription medications, become an integral part of your settlement negotiations. Most importantly, open ended prescriptions from treating physicians must be addressed prior to CMS submission. Your MedAllocators Account Executive and our medical and legal team are available to discuss any of these issues and provide you specific recommendations.

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