

Why EPS?

EPS is the industry leader in structured settlements, with over three decades of providing solutions and managing wealth with periodic payments. With over 60 specialized consultants nationwide, we provide a wide range of services at no cost to you. Our consultants are recognized experts in the field of structured attorney fees, negotiation support, structured settlements, and the creation of needs based solutions.

Our Partner Medivest

Medivest is your "one-stop-shop for settlement solutions" for resolving your liability Medicare responsibilities, Medicare Set-Asides and Professional Administration of MSAs and future medical custodial accounts. Medivest has been providing professionally administered and self-administered custodial accounts since 1996. Its innovative products and services provide the unique ability to preserve, protect and stretch settlement dollars.

Our Mission

To understand the desires and objectives of our clients...

To provide and maintain the highest level of services directed to the satisfaction of their needs...

To identify and provide growth opportunities for our employees...

To succeed as a result.



EPS Settlements Group
*People You Need For Results You Want*SM

This document is written to support the marketing or promotion of the transactions discussed. Neither EPS, its agents or its employees may provide legal advice. You should seek advice based on your particular circumstances from your independent tax advisor.

www.epssettlements.com

EPS MediSolutions[®]

**Your Solution for Dealing With
Medicare's Impact on Liability Cases**



EPS Settlements Group
*People You Need For Results You Want*SM

EPS Settlements Group, a company that symbolizes innovation, longevity, service, and premier leadership in the structured settlement industry has teamed up with Medivest, the nation's leading Medicare Set-Aside provider, to provide EPS MediSolutions[®], a comprehensive solution to Medicare compliance for liability settlements.

Medicare in the Past

Under the Medicare Secondary Payer (MSP) Statute, liability insurance policies (including self-insured plans) are primary to Medicare. If Medicare has made a conditional payment (done when a primary plan has not or cannot reasonably be expected to make payment promptly), then Medicare shall be reimbursed. Thus, under 42 U.S.C. § 1395y(b)(2)(B)(ii), when a liability claim is settled, Medicare must be reimbursed.

The Present

The SCHIP Extension Act, Section 111 places an affirmative obligation on the primary payer to determine if a claimant is entitled to Medicare for claims settled on or after July 1, 2009.

SCHIP only places an enhanced and expanded reporting obligation on insurers and self-insureds, not a new one. Under 42 C.F.R. 411.25(a), primary payers were already obligated to put Medicare on notice if it became known to the payer that CMS had made a Medicare payment for services, for which the primary payer had or should have made. Insurers and self-insureds are responding by developing case identification procedures and reporting protocols to comply with SCHIP.

CMS has stated both in public (October 1 and 29, 2008 Town Hall Meetings) and in writing (Medicare Contractor Manual Chapter 7) that future medical expenses are not part of the Medicare reimbursement schemata.

The Future

Some parties advocate protecting Medicare's future interests in the same fashion that is done on Workers' Compensation cases. One acceptable mechanism is a Workers' Compensation Medicare Set-Aside (or MSA).

The MSA has three components: the allocation, funding vehicle and administration. The allocation is a projection of anticipated future medical care otherwise covered by Medicare. The funding vehicle is either fully funding via a lump sum or a discounted funding using a structured settlement. The administration of the MSA is either done by the claimant or by a paid professional administrator.

Current statutory and CMS authority states no liability MSA approval is required. The options to a liability insurer or self-insured depend on their level of understanding, legal comfort and claim complexity. The options can be used individually or combined in various ways as the claim necessitates.

The Answer: EPS MediSolutions®

Option 1 – do nothing, as CMS has made no formal pronouncement on liability MSA's.

Option 2 – obtain a legal memorandum documenting their position and/or place protective language in the settlement agreement addressing the issue.

Option 3 – estimate the claimant's future medical care and allocate a specific amount in the settlement agreement. This amount can be funded with a structured settlement to both reduce the cost and time the income to the claimant to coincide with their future needs.

Option 4 – obtain a professional allocation from a vendor, limited to the claimant's future anticipated medical care that would otherwise be covered by Medicare. This "EPS MediSolution" for liability cases can be more cost effectively funded through a structured settlement.

Option 5 – submit the set aside amount or have the professional allocation submitted to CMS for approval, acknowledging that CMS is unlikely to respond, given their current position. It can be self-administered (no cost), quasi-professionally administered (limited services at a reduced cost) or professionally administered (highest cost).

For detailed information, please consult the EPS MediSolutions® Program Overview.