

Appendix 5 Sample Letters

Approval Letter



<<Date>>

<<Submitter Name>>

<<Address>>

<<City, State, ZIP>>

RE: Workers' Compensation Medicare Set-Aside Arrangement

<<Claimant>>

<<Medicare ID>>

<<Date of Injury>>

<<CMS Case Control Number (CCN)>>

Dear <<Submitter Name>>,

This letter is in response to your submission of a proposed Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) amount related to the above-named claimant's workers' compensation claim and received on <<insert date received>>.

You proposed a WCMSA amount of \$<<amount>> to pay for future medical items and services that are covered and otherwise reimbursable by Medicare ("Medicare covered") and are related to the claimant's workers' compensation claim. We note that you proposed \$<<amount>> for Medicare-covered prescription drugs.

We have evaluated your proposed WCMSA amount and have determined that \$<<amount>> adequately considers Medicare's interests with respect to Medicare-covered future medical items and services, including prescription drugs.

In order to comply with Section 1862(b)(2) of the Social Security Act, Medicare is not permitted to pay for medical items and services, including prescription drug expenses, related to the workers' compensation claim until the approved WCMSA amount is appropriately exhausted ("properly spent") on related medical care. Where a workers' compensation settlement, judgment, award, or other payment is less than the approved WCMSA amount, Medicare is not permitted to pay for related medical care until the whole settlement, judgment, award, or other payment is properly spent on related medical care. The WCMSA funds must be placed in an interest-bearing account. Funds in the account should not be used for any purpose other than

payment for future medical care that is Medicare covered and related to the workers' compensation claim.

When a WCMSA is funded as a structured settlement (settlement monies paid out in yearly installments over a number of years), any WCMSA funds that are not used in a given year must remain in the account to pay for related medical care during following years. If available WCMSA funds for a particular year (including the current year's full structured payment plus any prior year's remaining funds plus interest) have been properly spent, Medicare will pay for covered items and services that are related to the workers' compensation claim for the remainder of that year until the scheduled date for the next year's deposit into the WCMSA account. Bills should be paid in the order they are received to help the Benefits Coordination & Recovery Contractor (BCRC) confirm that the funds have been temporarily exhausted (properly spent for that year).

Approval of this WCMSA amount is not effective until the Centers for Medicare & Medicaid Services (CMS) receive a copy of the final executed workers' compensation settlement agreement, which must include the funding information for this WCMSA amount. Please include the CMS Case Control Number listed at the top of this letter in any correspondence. Submit your settlement agreement via the Portal if your original submission was via the Portal. If you originally submitted outside of the Portal, submit the settlement agreement to the following address:

WCMSA Proposal/Final Settlement
PO Box 138899
Oklahoma City, OK 73113-8899

If your settlement agreement is 10 pages or less, you may also fax it to (833) 844-1428. **Note:** This number is not for initial submissions, only for additional documentation under 10 pages.

The proposed WCMSA amount was calculated based on the workers' compensation fee schedule for the State of xxx.

Funds in a WCMSA may not be used to purchase a Medicare supplemental insurance policy or a Medigap policy for a beneficiary, or to pay for the premiums for such policies.

Once the funds in the WCMSA account have been properly spent on Medicare-covered items and services related to the claimant's workers' compensation claim and Medicare has been given proof that the account has been properly spent, Medicare will begin paying for the claimant's Medicare-covered items and services that are related to the workers' compensation claim. Medicare will pay for Medicare-covered items and services that are unrelated to the workers' compensation claim according to Medicare's payment rules.

We understand that the claimant will act as administrator of the WCMSA funds. We have enclosed instructions, titled "Administering Your Workers' Compensation Medicare Set-Aside Arrangement (WCMSA)." The WCMSA Self-Administration Toolkit is another resource, available on the CMS website at <http://go.cms.gov/WCMSASelfAdm>. The claimant must send a signed attestation letter to the Benefits Coordination & Recovery Center at the address below every year, no later than 30 days after the end of each reporting period (beginning one year from the date of establishment of the WCMSA account). Annual attestations should continue through final exhaustion of the account.

NGHP
PO Box 138832
Oklahoma City, OK 73113

We encourage individuals who have WCMSAs to take note of the following information, especially if they are enrolled in a Medicare Advantage plan and/or have Medicare Part D prescription drug coverage:

CMS will let your Medicare Advantage or prescription drug plan know that a WCMSA has been approved on your behalf. However, CMS does not provide these plans with specific information about your specific treatments and medications that should be covered by your WCMSA. Your plan may contact you or your administrator to find out which expenses are covered by your WCMSA. If you do not respond to your Medicare Advantage or prescription drug plan's investigation efforts, your coverage may be delayed or cancelled.

Please note that this decision regarding future medical treatment is independent of any determination regarding Medicare Secondary Payer recovery rights for conditional payments Medicare made for related items and services furnished before the date of the settlement, judgment, award, or other payment. Medicare has the right to recover (or take back) Medicare payments related to any workers' compensation settlement, judgment, award, or other payment. Any payments Medicare may have made that should have been paid from the workers' compensation settlement, judgment, award, or other payment must be repaid to Medicare.

If you have any questions concerning this letter, please call RO CUSTOMER SERVICE at (833) 731-4677.

Enclosure

cc: <<cc names>>