

October 5, 2017

Attorney Robert Jones
Acme Law Firm
1000 Tulip Street
N. Charleston, SC 29415

Re: Claimant: David Client
DOB: May 17, 1955
Funding Estimate: \$9,656.78

Dear Attorney Jones:

As requested, a Liability MSA Analysis has been prepared for Mr. David Client, following guidelines provided by Center for Medicare and Medicaid services, and in compliance with Medicare Secondary Payer provisions. This analysis was prepared to reasonably consider and protect Medicare's interest at the time of settlement.

This analysis is based on CMS guidelines published as of October 1, 2017. In the event CMS provides additional guidance regarding allocation methodology and reporting instructions, it is advisable for Mr. Client to maintain a complete accounting of medical expenditures, with receipts, for potential review by CMS.

Although Worker's Compensation MSA allocations can be funded with initial deposits and annual contributions, it is unclear, at this time, if Liability allocations may do the same. Please discuss this with a structured settlement specialist or a MSA specialist attorney. Likewise, Worker's Compensation MSA allocations can also be calculated using a rated age life expectancy; however, CMS has published no definitive guidelines for the Liability MSA.

At this time, CMS has no process for MSA review of Liability cases except in certain districts for selected cases. Requesting CMS review will cause significant delay in the disbursement timeline. It is anticipated CMS will issue additional guidelines early in 2018.

Understand that this analysis is not performed by attorneys and does not, in any way, constitute legal advice about LMSA issues in general or Mr. Client's case specifically. It is advised that you provide Mr. Client with a copy of this analysis and ask him to keep this report with his settlement documents in the event CMS contacts him for further discussion regarding his settlement and future medical care. Please ask Mr. Client to sign the confirmation page and return a copy to me.

Should you have any questions pertaining to this Liability MSA Analysis, please contact me at 919-719-7242.

Sincerely,



Martin A. Ginsburg, RN
4030 Wake Forest Rd, Suite 300
Raleigh, NC 27609
MGinsburgRN@MarGin-Consulting.com

Liability MSA Analysis

Claimant	David Client	Date of Injury	April 6, 2015
Date of Birth	May 17, 1955	Requesting attorney	Robert Jones
Age	62	Date report prepared	October 5, 2017
Life Expectancy	21.6 Per CDC National Vital Statistics	Prepared by	Karen Shelton, RN, CNLCP
Fee Schedule	Usual and Customary	Total Medical Cost Estimate	\$9,656.78

Dear Mr. Client: Your attorney requested a Liability MSA be prepared for you. Please read through all information carefully and contact your attorney if you have any questions.

General Information

The Center for Medicare/Medicaid Services (CMS) administers all claims for Medicare and Medicaid beneficiaries. CMS issued a set of memos, called the Medicare Secondary Payer provisions, which requires consideration of Medicare's interest when settling Worker's Compensation, Liability, and No---Fault claims. Since you are either a current Medicare beneficiary, or expected to be within 30 months, your case may be reported to CMS. This will set up two areas of concern: past payments and future care. Failure to consider Medicare's interest for conditional payments for injury related treatment, and consideration for future treatment for injury related care, can result in heightened future repayment obligations to the federal government, loss of your Medicare benefits, or both.

You may receive a letter from CMS within the next few months outlining your responsibility for repayment of monies Medicare already spent on your behalf for injury related treatment. Please review this letter carefully for accuracy. If you feel the medical payment summary does not accurately reflect your injury related treatment, you should contact CMS for clarification and potentially request them to remove items unrelated to the injuries sustained as a result of your accident.. Your attorney may have addressed repayment of conditional payments at the time of your settlement.

A Liability MSA Analysis was prepared that outlines the expected future treatment as documented by your treating physician. The Liability MSA Analysis provides you with a reasonable estimate of the amount of money you need to spend on future injury related medical treatment prior to using your Medicare card. While we are not lawyers and do not hold the Liability MSA Analysis out as the lowest possible obligation figure, which an MSA attorney provides, the figure represents a reasonable calculation for future injury---related care otherwise covered by Medicare.

CMS advises you need to keep receipts for all treatment related to your injury and be prepared to discuss it if requested. This money is not to be used to pay for medical expenses that are not related to your injury. CMS does not currently require that this money be kept in a separate banking account; nor does CMS currently require annual reporting of expenditures. You should be sure to spend down and exhaust the MSA before you bill Medicare for future injury---related care.

Our instructions to you are based on CMS memos and alerts dated on/before October 1, 2017. Please review CMS.gov periodically for new information impacting your Medicare benefits and coverage.

CMS Guidelines October 1, 2017

CMS advises that a Liability MSA is recommended if claimants are either a current Medicare beneficiary or going to be within 30 months; CMS advises that a Liability MSA is recommended if claimant anticipates future injury---related medical treatment; CMS advises that a Liability MSA be funded if monies are available in the net settlement proceeds.

CMS accepts industry standard discounting factors including using National Vital Statistics life expectancy, using average wholesale pricing for medications, non---inclusion of all non---covered Medicare treatment, non---inclusion of off---label use of medication, and use of rated age to determine life expectancy.

CMS advises that a zero allocation is acceptable for cases with medical support and documentation that no future medical treatment is recommended for cases with resolved medical issues or cases that require treatment only as a result of the natural progression of a preexisting condition.

CMS advises that cases settling below \$1,000.00 are not subject to future medical care consideration and that cases settling between \$1,000.00 and \$5,000.00 may set aside 25% for future injury related medical care and forego a formal Liability Medicare Set Aside calculation.

CMS also advises that the Liability MSA is not required, but without an appropriate allocation, the total settlement amount is subject to spend down prior to Medicare's payment of any future injury---related medical treatment.

This means, without the LMSA Analysis and Future Medical Cost Estimate provided in this report, CMS would expect you to spend the entire amount of your \$700,000 settlement on future injury---related medical care prior to their payment of bills related to your injury.

Analysis

Analysis for determination of need for a Liability MSA focuses on 3 factors: Medicare status, need for future injury related medical care, and available monies in the settlement.

1. Medicare Status: A Liability MSA is advised if claimant a current Medicare beneficiary or expected to be within 30 months due to age or Social Security Disability eligibility.

Mr. David Client meets CMS criteria to reasonably consider Medicare's interest in future injury related medical care.

2. Future Medical Treatment: A Liability MSA is advised if future medical care, related to the injury, is recommended.

Brief Description of Injury:

Mr. Client was involved in a MVA

Claimed injuries or conditions, with ICD---10 codes:

M47.812 cervical spine

Treatment history:

Date	Provider	Notes
4/6/15	Nwocu, Hillary MD Grand Strand Regional Medical Center	Post MVA---EMS states pt was the driver of vehicle thas was hit from the rear at moderate speed. Pt c/o LUE and RLE pain. Labs and x---rays ordered.
4/6/15	Labs	Chemistry lab---w/in normal limits Hematology---elevated WBC 11.7H
4/6/15	Diagnostic	Right Femur---w/out displaced fracture
4/6/15	Diagnostic	Left Humerus---w/out fracture
4/6/15	Diagnostic	Pelvis---Normal
4/6/15	Diagnostic	Chest x---ray---Limited x---ray w/prominence of supra mediastinum. Chest CT ordered
4/6/15	Diagnostic	CT Thorax w/contrast---Normal
4/6/15	Diagnostic	CT Head w/o Contrast---normal
4/6/15	Diagnostic	CT Cervical w/o Contrast---Multilevel cervical spondylosis present
4/6/15	Diagnostic	CT abdomen and pelvis IV contrast---Normal w/ subtle right middle lobe subpleural nodular is non specific

4/6/15	Romano, Andrea MD Grand strand Regional Medical Center	Level two trauma second to MVC care transferred to Dr.Romano-----Meds=Fenestrade Vitals=139/93 HR=85 Pt s/p MVA, restrained backseat passenger. C/O pain in LUE and RLE. No other complaints. After review of x---rays pt has contusion to LUE and RLE. CT scans negative for acute injury---closed head injury, Acute pain d/t trauma, IV narcotics given in ED, Cervical collar cleared. Discharge home. Pt to f/u with PCP.
4/10/15	Loris Eye Associates	Pt presents w/blurred vision s/p MVA---CT scan was negative. No ocular injury detected. Trifocals recommended.
6/26/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical facet injection
7/10/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical facet injection
7/24/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical facet injection
9/25/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical facet injection
9/29/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical facet injection
10/2/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical block
10/16/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical facet injection
10/20/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical facet injection
10/23/15	Rivertown Surgery Center, Dr. Jason Rosenberg	Cervical block

3/23/16	Poletti, Steven, SE Spine Institute	Evaluation: double crush syndrome involving cervical spine and carpal tunnel syndrome, consider ACDF at C7---T1, recommend additional diagnostics to determine disc herniation, continue conservative care until surgical decision
6/1/16	SURGERY	approximate date, ACDF C7---T1
9/8/16	Poletti, Steven, SE Spine Institute	OV: had 2 level cervical fusion of the C5---6 and C6---7 levels, still with some neck pain, seeing psychology secondary to anxiety, OCD, and depression, x---rays today, recovering as expected, begin PT
11/10/16	Poletti, Steven, SE Spine Institute	OV: x---ray today, good positioning of instrumentation, continue PT
1/10/17	Poletti, Steven, SE Spine Institute	OV: x---rays, released from medical care, may need occasional office visits, physical therapy for flare---up, one cervical MRI, to continue home exercise program
2/20/17	Poletti, Steven, SE Spine Institute	overview of medical status and treatment, to follow up with orthopedics twice annually for x---rays, continue with pain management only if needed, medications per family physician for unrelated conditions (prednisone, benzonatate, fluticasone nasal spray, montelukast, amoxicillin, citalopram, finasteride, oxycodone (discontinued), and valium.

Current status:

Mr. Client has been released from active medical care following cervical surgery in June, 2016.

Physician Statement regarding future injury related medical treatment:

Dr. Poletti advised twice annual office visits with x---rays, a one---time cervical MRI, and physical therapy for a flare---up of condition

Rated age: not obtained

Life expectancy: is per National Vital Statistics Report Vol. 66, No. 3, April 11, 2017

Fee Schedule used: Usual and Customary

Projected future medical treatment:

Category and CPT Code	Item	Units per Year	Unit Cost	Yearly	Lifetime
				LE:	21.6
Diagnostics	cervical xrays	2	\$35.00	\$70.00	\$1,512.00
Diagnostics	cervical MRI	once	\$1,800.00	n/a	\$1,800.00
Physician, 99213	Orthopedic	2	\$115.62	\$231.24	\$4,994.78
Medications	none indicated	0	\$0.00	\$0.00	\$0.00
Therapy	allowance for flare up	6 only	\$225.00	n/a	\$1,350.00
Total					\$9,656.78

**Total estimated funds needed for:
covered injury---related future medical treatment: \$9,656.78**

**Total estimated funds needed for:
non---covered injury---related future medical treatment: \$0.00**

3. Available monies: A Liability MSA is advised and funded only if monies are available in the settlement.

Item	Totals
Settlement Amount	\$700,000.00
Attorney's Fees	\$233,333.33
Case Costs	\$37,572.51
Medicare Lien	\$0.00
Medicaid Lien	\$0.00
Group Health Lien	\$10,570.18
VA Lien	\$0.00
LOP Lien	\$264,461.36
Lien, Oasis	\$76,706.50
Lien, Green Link	\$7,515.54
Lost Wages or earning capacity	\$19,497.00
Non---covered medical treatment	\$0.00
Total deductions	\$649,656.42
Monies available for MSA consideration	\$50,343.58
Total cost of future covered medical treatment	\$9,656.78
Balance	\$40,686.80

Recommendation

This analysis was prepared to reasonably consider and protect Medicare's interest at the time of settlement. Since Mr. Client is already a Medicare beneficiary or will become eligible for Medicare benefits within 30 months, future injury related Medicare covered treatment is anticipated, and monies are available in the settlement, a Medicare Set Aside allocation is recommended. The amount to fund the Liability MSA is estimated to be \$9,656.78 and is based on the future medical cost projection prepared on October 5, 2017. Since Mr. Moore remains in active medical treatment, this amount may differ at time of CMS review due to the dynamic nature of his medical condition. As of October 5, 2017, there is no process for CMS review and acceptance of the estimated funding amount recommended in this analysis. This analysis is based on CMS guidelines published as of October 1, 2017. In the event CMS provides additional guidance regarding allocation methodology and reporting instructions, it is advisable for Mr. Client to maintain a complete accounting of medical expenditures, with receipts, for potential review by CMS.

Confirmation

I confirm that I am a current Medicare Beneficiary, or I am at least 62.5 years old, or I have applied for Social Security Disability, or I have end stage renal disease or am blind.

I confirm that I have been advised that the cost of my future medical treatment (as related to my injury) is outlined in the future medical cost projection provided in this report.

I confirm that I have been advised that the recommended amount to fund the MSA is an estimate only, even if a zero amount, and that CMS may or may not recommend a different amount upon their review.

I confirm that I have been advised that, although it is not required by CMS, I should consider placing this sum of money in a separate interest bearing savings account.

I confirm that I understand this money is to be used solely for payment of future treatment related to my injury.

I confirm that I understand the risk of losing Medicare benefits if I fail to use this money to pay for future treatment related to my injury.

I confirm that I understand that I should save receipts for all medical care for potential CMS review of this account.

Signed: _____

Date: _____

Witness: _____

Date: _____