

17.4.2 Use of WC Settlement Funds Prior to Medicare Entitlement

For claimants who are not yet Medicare beneficiaries and for whom CMS has reviewed a WCMSA, the WCMSA may be used prior to becoming a beneficiary because the accepted amount was priced based on the date of the expected settlement.

17.5 Annual Attestation and Record-Keeping

The administrator of the account will be responsible for keeping accurate records of payments made from the account. These records may be requested by CMS as proof of appropriate payments from the WCMSA account. (For more on Medicare contractors' monitoring accounts, see Section 18.0.)

Every year, beginning no later than 30 days after the 1-year anniversary of settlement, the administrator must sign and send a statement that payments from the WCMSA account were made for Medicare-covered medical expenses and Medicare-covered prescription drug expenses related to the work-related injury, illness, or disease. This annual attestation must be submitted no later than thirty days after the end of each year, beginning one year from the establishment of the WCMSA account. Annual self-attestation should continue through depletion of the WCMSA account. A final self-attestation should be forwarded to CMS once the WCMSA account becomes permanently depleted. CMS has the right to demand and receive a complete accounting of payments made from the account at its discretion.

Blank attestation letters with the appropriate identification numbers are included in the approval package sent by CMS. This letter includes the total amount of WCMSA outgoing payments that should separately identify the amounts spent for medical treatment and for prescription drug treatment. For example, if the total WCMSA amount in CMS' written opinion is \$10,000 (\$7,000 identified for future prescription drug treatment and \$3,000 identified for future medical expenses), then the administrator must send an annual attestation that identifies how much of the \$10,000 was spent for medical expenses and how much was spent for prescription drugs. If you use the account funds appropriately on injury-related expenses that might otherwise have been covered by Medicare, you may reallocate the relative amounts for medical expenses vs. prescription drugs. For example, you may have set aside \$7,000 for prescription drugs and \$3,000 for medical expenses, and you may instead spend \$6,000 and \$4,000 respectively. CMS will still consider the \$10,000 appropriately spent.

You may use the WCMSA account to pay for the following costs that are directly related to the account:

- document copying charges
- mailing fees/postage
- any banking fees related to the account
- income tax on interest income from the set-aside account

You may not use the WCMSA account to pay for:

- administrative fees
- expenses for administration of the WCMSA
- attorney costs for establishing the WCMSA

If such administrative funds are part of your settlement, do not combine those funds with the WCMSA, as CMS will not recognize administrative fees as legitimate WCMSA expenses.

Should a WC settlement provide for items and services that are not covered by Medicare but later become covered, those funds should then be considered part of the set-aside and treated accordingly, i.e., used to pay for any services as they were designated in the non-Medicare portion of the set-aside included in the WC settlement. These funds do not have to be transferred to a separate WCMSA bank account or be included in the annual WCMSA attestation.

17.6 MyMedicare.gov Link

For convenience of the beneficiary, the CMS has enabled a link under <https://www.mymedicare.gov/> that will allow beneficiaries to review, in a view-only fashion, all documents submitted on their behalf to ensure transparency. Beneficiaries need only apply for a MyMedicare.gov login user identification and password, and the feature will already be populated in that system.

Note: If beneficiaries have questions regarding the information in the MSA Cases or Detail Form, they should contact their attorney, submitter, or other representative before contacting Medicare.

When your case settles, please provide Medicare's contractor with a copy of the following at the address listed below:

- The dated settlement agreement signed by all parties showing the total amount of the settlement and WCMSA amount(s).

Your attorney, submitter, or other representative should already be handling these issues for you. Please check your MyMedicare account as updates are made regularly.

WCMSA Proposal/Final Settlement
BCRC-NGHP
P.O. Box 138899
Oklahoma City, OK 73113-8899
1-855-798-2627
TTY: 1-855-797-2627

18.0 CMS' Monitoring

CMS will not monitor the money spent from the WCMSA until the claimant becomes Medicare-eligible (a beneficiary). However, if you have a WCMSA as part of your settlement, the WC-related medical expenses should be paid from the WCMSA even before the claimant becomes a beneficiary. Medicare beneficiaries and claimants who are not yet beneficiaries follow the same reporting rules discussed in section 17.5 above.

When the RO approves a WCMSA, CMS will check the National Medicare Enrollment database regularly to find out when a claimant becomes enrolled in Medicare. Once the claimant is enrolled in Medicare, the BCRC is responsible for monitoring the individual's case.

The WCMSA administrator must send annual attestations summarizing the account transactions to the contractor responsible for monitoring the case. The contractor is then responsible for verifying that the funds from the WCMSA were spent on medical services for Medicare-covered