



## **Trustees Should Use Professional Administration for MSAs Inside SNTs**

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An injury settlement of any variety can present a host of complex issues that the settling parties must take into account. One such issue centers around a dually eligible claimant, who is either currently receiving, or is eligible to receive, both Medicare and Medicaid benefits. The preservation of both benefits is a pressing concern at the settlement table, and proper steps should be taken to ensure access to these programs remains intact.

The establishment of a special needs trust (SNT) is an effective method of protecting a claimant's Medicaid benefits, but proper consideration must be given to Medicare, as well. A Medicare set-aside (MSA) is established as a method of protecting a claimant's future Medicare entitlement. An MSA is a sum of money that is "set aside" out of the settlement and is intended to cover any Medicare-allowable and injury related expenses for the remainder of the claimant's life expectancy. [An MSA is often embedded within the SNT](#) in an effort to preserve both the claimant's Medicare and Medicaid benefits.

Proper administration of an MSA, after a settlement has occurred, is the essence of Medicare secondary payer (MSP) compliance. What good does an accurate MSA or placement of an MSA within an SNT serve if the MSA funds are not used properly, resulting in a loss of Medicare entitlement? As one might imagine, the Centers for Medicare and Medicaid Services (CMS) has issued a bevy of rules one must follow when administering an MSA, regardless of whether it is placed within an SNT or not. Simply placing the MSA within an SNT does not guarantee preservation of a claimant's Medicare benefits. Improper expenditures from an MSA can result in a suspension of all Medicare benefits until the mis-spent funds are paid back into the MSA account, or Medicare is reimbursed for claims it paid primary to the MSA. Trustees need to familiarize themselves with the complex MSA administration obligations established by CMS or run the risk of jeopardizing a claimant's Medicare eligibility.

Alternatively, a professional administration company offers assistance for this very scenario. They will administer the MSA, as well as all other medical funds within the SNT, and interface directly with the beneficiary's medical providers. They are familiar with the rules and regulations that must be followed to ensure the MSA is spent down in accordance with CMS requirements. They are also much better suited to manage all other medical funds in the trust through their cost containment programs. A professional

administration company will pay much less for treatments, pharmaceuticals and durable medical equipment than a trustee could on their own. The savings generated by the use of a professional administrator more often than not will outweigh the cost of enlisting their assistance in administering the medical portion of the trust. The use of a professional administrator can prove to be very useful and affordable as a tool to assist the trustee properly in managing the MSA component of the SNT.

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