



NAMISAP

National Alliance of Medicare Set-Aside Professionals

**Medicare for all
and
Medicare Secondary Payer Issues**

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MEDICARE FOR ALL LEGISLATION

**S 1129 (SANDERS) INTRODUCED APRIL 10, 2019
PROVIDES**

NO EMPLOYEE BENEFIT PLAN MAY PROVIDE BENEFITS THAT DUPLICATE PAYMENTS FOR ITEMS AND SERVICES FOR WHICH PAYMENT MAY BE MADE UNDER THE UNIVERSAL MEDICARE PROGRAM FOR THE COST OF SUCH SERVICES.

COULD EMPLOYEE BENEFIT PLANS THAT PROVIDE FOR WORKERS' COMPENSATION STILL BE WRITTEN OR CONTINUED?

DO WC POLICY PROVISIONS TIED TO STATE LAW "DUPLICATE" ITEMS AND SERVICES UNDER MEDICARE?

WOULD ONLY INDEMNITY PAYMENTS AND ITEMS AND SERVICES NOT COVERED BY MEDICARE BE LEFT?

WHO IS PROHIBITED FROM WRITING “DUPLICATIVE” POLICIES?

PRIVATE HEALTH INSURERS

**EMPLOYERS WHO PROVIDE BENEFITS UNDER AN ERISA
PLAN FOR EMPLOYEES, AND/OR DEPENDENTS OF FORMER
EMPLOYEES**

**WHAT ABOUT STATE WC FUNDS, SELF INSURED FUNDS,
SECOND INJURY FUNDS, GUARANTY FUNDS ?????**

WHAT IS COVERED BY MEDICARE FOR ALL – COMPARISON TO WC?

HOSPITAL SERVICES

AMBULATORY PATIENT SERVICES

PRIMARY AND PREVENTIVE SERVICES – INCLUDING CHRONIC DISEASE MANAGEMENT

PRESCRIPTION DRUGS, MEDICAL DEVICES BIOLOGICAL PRODUCTS, INCLUDING OUTPATIENT PRESCRIPTION DRUGS, AND MEDICAL DEVICES

MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT SERVICES, INCLUDING INPATIENT CARE

WHAT IS COVERED BY MEDICARE FOR ALL – COMPARISON TO WC?

LABORATORY AND DIAGNOSTIC SERVICES

COMPREHENSIVE REPRODUCTIVE, MATERNITY, AND NEWBORN CARE

PEDIATRICS, INCLUDING EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES

ORAL HEALTH, AUDIOLOGY, AND VISION SERVICES

SHORT-TERM REHABILITATIVE AND HABILITATIVE SERVICES AND DEVICES

EMERGENCY SERVICES AND TRANSPORTATION

WHAT IS COVERED BY MEDICARE FOR ALL – COMPARISON TO WC?

**NECESSARY TRANSPORTATION TO RECEIVE HEALTH CARE
SERVICES FOR INDIVIDUALS WITH DISABILITIES AND LOW
INCOME INDIVIDUALS**

**HOME AND COMMUNITY BASED LONG-TERM SERVICES AND
LABORATORY AND DIAGNOSTIC SERVICES**

INSTITUTIONAL LONG-TERM CARE SERVICES

WHAT PROVISION IS SPECIFIC TO WORKERS' COMPENSATION?

TITLE VIII PROVIDES AMENDMENT TO ERISA

NO EMPLOYEE BENEFIT PLAN MAY PROVIDE BENEFITS THAT DUPLICATE PAYMENT FOR ANY ITEMS AND SERVICES FOR WHICH PAYMENT MAY BE MADE UNDER MEDICARE FOR ALL.

EACH WORKERS' COMPENSATION CARRIER THAT IS LIABLE FOR PAYMENT FOR WORKERS COMPENSATION FURNISHED IN A STATE SHALL REIMBURSE THE UNIVERSAL MEDICARE PROGRAM FOR THE COST OF SUCH SERVICES.

WHAT IS DEFINED AS A WORKERS' COMPENSATION CARRIER?

INSURANCE COMPANY THAT UNDERWRITES WORKERS COMPENSATION MEDICAL BENEFITS WITH RESPECT TO ONE OR MORE EMPLOYEES

AN EMPLOYER OR FUND THAT IS FINANCIALLY AT RISK FOR THE PROVISION OF WORKERS COMPENSATION MEDICAL BENEFITS.

WHAT ARE WORKERS COMPENSATION MEDICAL BENEFITS AND SERVICES?

THE COMPREHENSIVE MEDICAL BENEFITS FOR WORK-RELATED INJURIES AND ILLNESSES PROVIDED UNDER SUCH LAWS

WORKERS COMPENSATION SERVICES ARE ITEMS AND SERVICES INCLUDED IN WORKERS COMPENSATION MEDICAL BENEFITS AND INCLUDE ITEMS AND SERVICES (INCLUDING REHABILITATION SERVICES AND LONG-TERM CARE SERVICES) COMMONLY USED FOR TREATMENT OF WORK-RELATED INJURIES AND ILLNESSES.

WHAT HAPPENS IN TRANSITION?

MEDICARE FOR ALL PROHIBITS THE USE OF THE SSN AS A UNIQUE IDENTIFIER ON THE MEDICARE CARD – HOW WILL ITEMS AND SERVICES BY INDIVIDUAL BE TRACKED FOR COMPARISON?

HOW WILL POLICY TERMS AND LAPSES BE HANDLED?

WHAT MEDICAL PROVIDERS WILL BE APPROVED?

WHAT PROVIDERS WILL CHOOSE TO PARTICIPATE?

WHO COVERS THE COST OF TRANSITION AND CHANGES IN POLICY COVERAGE AND COSTS?

WHAT HAPPENS IN TRANSITION?

MANAGEMENT OF HEALTH INFORMATION SYSTEMS

HIPAA AND OTHER CONFIDENTIALITY ISSUES

EXCHANGE OF INFORMATION BETWEEN PRIVATE AND PUBLIC DATA BASES

IMPACT ON TREATMENT, HOSPITAL AND PHYSICIAN ACCESS AND COSTS

PATIENT CHOICE LIMITATIONS

FEDERAL FUNDING OF COSTS

MSP ON STEROIDS

CURRENT ISSUES WITH MEDICARE SECONDARY PAYER AND WORKERS' COMPENSATION EXPANDED TO ALL HEALTH CARE CLAIMS WITH EXPANSION OF MEDICARE

FEDERAL EXPANSION AND PREEMPTION RESULTS IN CMS BEING INVOLVED IN VIRTUALLY EVERY WORKERS' COMPENSATION SETTLEMENT

REQUIRED SUBMISSION OF WC SETTLEMENTS TO CMS FOR REVIEW AND APPROVAL?

INCREASED EFFORTS TO ASSURE "REIMBURSEMENT" THROUGH COLLECTION ACTIONS, LIENS, AND TREASURY OFFSET PROGRAM

WHAT SURVIVES NEGOTIATIONS

SOME EXPANSION OF MEDICARE COVERAGE (PERHAPS 55 AND UP AND HOME HEALTH CARE)

CLARIFICATION OF EXPANDED MSP

ENHANCED RECOVERY AUTHORITY

DOES MEDICARE CLEARLY PRE-EMPT STATE WC LAW?

DOES MEDICARE BECOME “PRIMARY” FOR HEALTH CARE COSTS OTHERWISE TO BE PAID UNDER WORKERS’ COMPENSATION LAW?

WHERE ARE WE NOW WITH MEDICARE FOR ALL LEGISLATION

**HOUSE BILL VERSION (HR 1384 WAS HEARD BY THE HOUSE
RULES COMMITTEE ON APRIL 30, 2019**

**COULD BE MARKED UP BY THE COMMITTEE AND MOVED TO
THE FLOOR AT ANY TIME**

**THE CBO SCORE MAY BE AN OBSTACLE
BROAD BASED OPPOSITION NEEDED AT TIME OF
MARK-UP
IF PASSED WOULD GO TO SENATE**

S 1129 (SANDERS) NOT LIKELY TO MOVE IN SENATE

SUBSTITUTE FOR HR 1384 POSSIBLE

WHERE ARE WE NOW WITH MEDICARE FOR ALL LEGISLATION

MOVEMENT IN SENATE IN 2019 OR EARLY 2020 NOT LIKELY

IF BOTH HOUSES TURN TO DEMOCRAT MAJORITIES AND/OR PRESIDENCY CHANGES IN 2020 ELECTION MEDICARE FOR ALL ENACTMENT (OR SOME NEGOTIATED FORM OF IT) MUCH MORE LIKELY

WOULD A PRESIDENT TRUMP IN A SECOND TERM VETO A “MEDICARE FOR ALL” BILL PASSED BY BOTH HOUSES???

POSITIVE PROPOSALS

**HR 6619 (THOMPSON D-CA) AND S 3079 (PORTMAN R-OH)
REINTRODUCTION**

**CLARIFIES THAT WC LAW CONTROLS IN DEFINING FUTURE
MEDICAL AMOUNTS IN WC SETTLEMENTS**

**ENABLES PRO-RATA COMPROMISE SETTLEMENTS
(INCLUDING REDUCTION IN AMOUNTS FOR MEDICARE)**

**PROVIDES A RIGHT OF APPEAL FROM WCMSA
DETERMINATIONS (IF PARTIES CHOSE TO SUBMIT)**

**PERMITS PARTIES TO MAKE DIRECT PAYMENT OF SET-ASIDE
AMOUNTS TO MEET MSP OBLIGATIONS**

UWC CONTINUES TO MONITOR AND ADVOCATE THROUGH 2019

UWC CONTINUES TO MONITOR ACTIVITY THROUGH 2019

THE END OF YEAR IS GREATEST RISK AS CONGRESS TIES UP LOOSE ENDS BEFORE THE OFFICIAL BEGINNING OF THE PRESIDENTIAL ELECTION YEAR.

HR 6619 HAS NOW BEEN REINTRODUCED AS HR 4161. MIKE THOMPSON (D-CA) IS THE MAJORITY SPONSOR AND REP. GEORGE HOLDING IS THE MINORITY CO-SPONSOR.

WE ARE WORKING WITH SENATOR PORTMAN (R-OH) TO INTRODUCE A COMPANION FOR HR 4161.

WHERE ARE WE WITH INCREASED CMS REGULATIONS?

CMS CONTINUES TO CONSIDER POTENTIAL REGULATIONS UNDER WHICH CMS WOULD BECOME MORE INVOLVED IN WC AND THIRD-PARTY INSURANCE COVERAGE AND SETTLEMENTS ON THE FRONT END.

WHAT WAS THE 2018 NOTICE FROM CMS PROPOSING A RULE TO BECOME INVOLVED WITH BENEFICIARY DECISION MAKING WITH RESPECT TO MSP?

2018 Notice: This proposed rule would ensure that beneficiaries are making the best health care choices possible by providing them and their representatives with the opportunity to select an option for meeting future medical obligations that fits their individual circumstances, while also protecting the Medicare Trust Fund.

Currently, Medicare does not provide its beneficiaries with guidance to help them make choices regarding their future medical care expenses when they receive automobile and liability insurance (including self-insurance), no fault insurance, and workers' compensation settlements, judgments, awards, or payments, and need to satisfy their Medicare Secondary Payer (MSP) obligations.

WHAT IS THE RECENT CHANGE IN THE NOTICE FROM CMS ABOUT BECOMING MORE INVOLVED WITH BENEFICIARY DECISIONS MAKING AND MSP?

2019 Notice: This proposed rule would ensure that beneficiaries are making the best health care choices possible by providing them and their representatives with the opportunity to select an option for meeting future medical obligations that fits their individual circumstances, while also protecting the Medicare Trust Fund.

The timetable date has been changed to October, 2019.

2018 Notice: Expected timetable action for notice of the proposed rulemaking noted as 09/00/2019.

2019 Notice: Expected timetable action for notice of the proposed rulemaking noted as 10/00/2019.