

NAMSAP *news*

National Alliance of Medicare Set-Aside Professionals

3rd Annual Membership Meeting and Educational Conference

November 2, 2007

Embassy Suites Hotel San Diego Bay - Downtown San Diego, California

The National Alliance of Medicare Set-Aside Professionals (NAMSAP) Annual Meeting and Educational Conference is scheduled for November 2, 2007 at the Embassy Suites Hotel in downtown San Diego, California. Anyone interested in Medicare Secondary Payer compliance will want to attend this event!

The conference registration fee of \$200 for NAMSAP members and \$295 for non-members includes conference attendance, program book, continental breakfast, beverage and snack breaks, and buffet lunch.

Special For Prospective Members!

Register for the Conference & Join NAMSAP at the same time for only \$375! Receive full Conference registration, *free* dues for the remainder of 2007 and full 2008 dues.

Exhibit Opportunities

Exhibit space fee is \$400 and includes covered table, electricity and 1 conference registration.

Sponsorship opportunities are available. Please call Susan at (407) 647-8839 for further information.

Hotel Information

For hotel reservations, call the Embassy Suites Hotel San Diego Bay - Downtown at (619) 239-2400. The room block rate is \$189 per night and the cut-off date for room reservations is October 2, 2007.

Space is limited and this event is sure to sell out so register now!

Call for Program Proposals - NAMSAP

In order to meet the diverse membership interests of our organization at the upcoming conference we have put out a call for speakers. We have received some excellent responses and are still finalizing our agenda. If you have any interest in speaking or have a recommendation, please submit your proposal at https://www.namsap.org/speaker_request_form.html. NAMSAP requires speakers to provide information in an educational, non-commercial, and non-self-promotional manner.

The Education Committee is interested in programs that provide professional development opportunities

for those working with the issues and challenges of the Medicare Secondary Payer Statute and its impact on workers compensation and liability settlements. We hope you will take advantage of this opportunity to share your knowledge with our meeting attendees. The deadline for submissions is October 1, 2007.

If you have any questions, please contact Leslie Schumacher, Education Committee Chairperson, at lschumacher@medallocators.com.

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Committee Report

NAMSAP has made excellent strides this year in building and developing our committees. It is our belief that the success of this organization will depend on the strength of committees. As a result, we are thrilled to announce the following committee chairmen:

Education: Leslie Schumacher
Legislation: Henry Kohnlein
Ethics: Thomas Spratt
Membership: Ann Major

These individuals have volunteered their time, energy, and resources to the organization and we are extremely grateful for their involvement. Each committee is actively soliciting members to join and participate. Because our membership is so diverse it is critical that you become involved so that your voice is heard. Below are bios of our committee chairmen with contact information. Please feel free to contact any or all of them to get involved!

Leslie Schumacher is currently Vice President of Operations for MedAllocators, Inc., an industry leading independent national provider of Medicare Set-Aside and other Complex Care Services. Prior to joining MedAllocators in 2005, she was dedicated to the Life Care Planning team at Broadspire where she was appointed to their Medicare Set-Aside Task Force.

Leslie is a Certified Life Care Planner also holding the credentials of Certified Registered Rehabilitation Nurse, Certified Case Manager, Legal Nurse Consultant Certified and Medicare Set-Aside Consultant Certified. Her advanced credentials and prior nursing experience as well as her Nursing Degree from Drexel University have provided her the knowledge to develop training and educational materials and instruct courses nationwide. She is a featured speaker at industry conferences and seminars across the country.

Leslie also lends her expertise to various organizations in the industry as she serves as chairperson of the NAMSAP (National Association of Medicare Set-Aside Professionals) education

committee, board member of IARP (International Association of Rehabilitation Professionals) and NovaCare Advisory Council. She has also been appointed adjunct faculty member with the advanced Medicare Set-Aside training program at the University of Florida.

Henry M. Kohnlein is Chief Legal Officer and Executive Vice President in Business Development with Protocols, a multidisciplinary consulting firm that specializes in medical settlement planning for parties involved in workers' compensation and personal injury liability cases.

Henry is a nationally known expert on compliance with the Medicare Secondary Payer Act and the use of Medicare set-asides in settlements. Henry consults with clients and designs specific products and procedures for each client's compliance program. He also works with other industry experts to develop consistent legal standards to be used for Medicare compliance. In addition, Henry oversees quality control and product implementation.

Henry graduated, *cum laude*, from the University of Richmond, T.C. Williams School of Law. His undergraduate degree is in accounting from Pennsylvania State University.

Prior to his work at Protocols, Henry was an attorney with Kennedy & Christopher P.C. and Sagrillo, Hammond and Dineen. His practice areas included litigation, estate planning, public benefits and administrative law. Prior to law school he worked for Merrill Lynch Asset Management and Bankers Trust as a fund accountant.

Henry is a member of the Denver and Colorado Bar Association. In addition, he is a member of the National Eagle Scout Association and is an active soccer player in the Colorado Masters Soccer League.

Henry has published: *Annual Survey of Administrative Law: Administrative Procedure* 33 *U. Rich. L. Rev* 727 (1999.) Henry's reported cases are *Stell v. Boulder*

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County Dept. of Social Services, 92 P.3d 910 (Colo. 2004.) Henry is admitted to practice law in all state courts of Colorado and the U.S. District Court – District of Colorado.

Contact Henry Kohnlein with any questions at (303) 825-0305.

Thomas Spratt is Senior Vice President – Technical Operations of Protocols, LLC. He is responsible for the firm’s claims management consulting group, which includes assessment of clients, Medicare compliance programs and training of claims staff.

Tom has more than 40 years’ experience in the insurance industry, including 15 years as manager of the Home Office Claims Examining Unit of Liberty Mutual. His responsibilities included but were not limited to case management, exposure prediction and settlement strategy on all large Workers’ Compensation losses. His expertise spans all state and federal statutory jurisdictions as well as all Employers Liability suits. While with Liberty Mutual, he developed a groundbreaking and widely emulated Medicare set-aside compliance program. He has spoken on this subject at numerous national insurance industry conferences.

Tom has a long record of active involvement in the insurance industry, joining and serving on committees of the Workers’ Compensation Research Institute (WCRI), the Property Casualty Insurers Association of America (PCIAA) and the UWC – Strategic Services on Unemployment & Workers’ Compensation.

In addition to his NSSTA (National Structured Settlement Trade Association) membership, he also is an active member of the National Association of Medicare Set Aside Professionals (NAMSAP.)

Tom holds an undergraduate degree in economics and business from St. Anselm College in Manchester, New Hampshire.

Ann Major completed her Bachelor of Science Degree in Nursing at MaryCrest College, Davenport, Iowa. Post-graduation employment included acute care experience in rehabilitation, orthopedics, emergency medicine and occupational health. While living in Northern Georgia, Ann spearheaded the development of the first Occupational Health Clinic at a rural hospital. She also participated in the coordination and execution of free clinics provided for the uninsured population in the area.

In 1996, Ann began her worker’s compensation case management experience with Medical and Rehabilitation Management Services, Chicago, IL. Following a move to Davenport, Iowa, her employment transferred to CorVel Corporation. Since her employ with CorVel Corporation, Ann completed her Life Care Planning Certification and has been providing LCP services for carriers throughout the country. As is the natural progression for many Life Care Planners, Ann completed her Medicare Set Aside Consultant training and was subsequently certified in June 2006. She is currently working full time with CorVel Corporation as a Life Care Planner, Medicare Set Aside Consultant.

Ann’s outside interests include running, Girl Scout leader, and playing piano. She is also an active participant in the annual Extreme Clean-up, an effort to keep the Mississippi River and its tributaries environmentally sound.

What Happens After the Settlement?

The Impact of Medicare Set Asides on Injured Workers and Future Liability

The settlement process has been a common tool used by the insurance and legal communities to bring resolution to disputes. For the injured worker, it protects them from bankruptcy risk and can provide them with much needed liquidity for coping with their injury/illness and loss of income. For the insurance carrier, it allows them to close out their books on a claim and mitigate their future risks. In many situations, both sides win.

When Medicare started mandating that a portion of the settlement funds intended for future medical treatment be “set-aside” for select claims, the funds management requirements and landscape changed dramatically.

The Medicare Set Aside (MSA) process is a noble concept. Medicare is paid for by society. The money paid by the insurance carrier for future medical treatment *should* be used for that purpose before society picks up the tab. At one time, the story of an injured worker taking their settlement check and buying a new car or boat and then getting on Medicare was so common it became almost cliché. The MSA process is intended to eliminate such abuses, which is good for all of us.

Up until this point, the insurance industry has been focused on meeting the MSA allocation requirements. Little to no effort or consideration had been placed towards understanding or mitigating the impact on the injured worker after the settlement process is complete. That is, until now.

Recently, Tom Files of MyMatrixx, a pharmacy benefits management firm, was involved in an initiative to contact a number of MSA injured workers post settlement. Phone interviews were conducted with nearly 800 MSA account holders. While making the calls to offer a discount pharmacy card service, Mr. Files discovered something unintentionally. Mr. Files found most injured workers who were self-administering their MSA funds were severely confused, desperate, and in dire

need of professional guidance and MSA administration assistance. Medical providers were charging their full fees, which were significantly higher than state Fee Schedule rates.

One injured worker tearfully recalled when the billing manager at her doctor’s office forcefully took her credit card from her purse and swiped it for payment while she tried to explain the requirements of her MSA account.

While still in its infancy stage, the number of self-administering injured workers in jeopardy of losing their Medicare benefits will grow exponentially. Add to that the emotional cost. “My attorney isn’t talking to me, my insurance adjuster isn’t talking to me, and my nurse case manager isn’t talking to me,” laments one injured worker.

The results of Mr. Files’ calls aren’t surprising. Before the MSA process, injured workers really had no requirements for managing settlement funds and therefore had no risk of losing their Medicare coverage. Now, Medicare’s protocols are so rigorous and complex that they require injured workers to have a substantial background in medical bill re-pricing, medical coding, Medicare guidelines, state workers’ compensation regulations, financial management, and legal compliance. Frankly, it’s nearly impossible for a non-industry individual, regardless of their intelligence or education, to properly adhere to Medicare’s MSA account requirements.

Let me give you a point of reference. Our company provides medical-financial solutions to the workers’ compensation market. We have invested millions of dollars in our medical bill re-pricing systems and ancillary software. We have a full time staff of professional medical bill auditors who do nothing but analyze and process workers’ compensation medical claims. We have a compliance team who does nothing but research federal and state workers’ compensation legislation and guidelines to

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ensure our adherence. We have an intense training program for new employees. Still, it takes us an average of six months to train them to do the basics requirements of their positions. That is just the for our medical cost management services. For our financial services, we have brought on CPA's and financial experts to properly handle the funding, management, and reporting requirements for our MSA custodial accounts. To expect a non-expert to handle all of these components properly is illogical. If it weren't so scary, it would be comical.

The challenges self-administering injured workers face is just the beginning. The average MSA settlement we handle covers more than 17 years of future medical treatment. The whole MSA process is only a few years old. If MSA funds are left continually mismanaged, it won't be long before there are other negative outcomes including possible liability issues for plaintiff attorneys and insurance carriers.

Plaintiff attorneys who guide their injured workers to settlements without requiring professional administration or proper training risk future malpractice suits if injured workers can't get Medicare coverage due to mishandling of MSA funds. In many cases, these are elderly or severely injured parties. To lose Medicare, their insurance of last resort, at a critical time could be catastrophic.

There is also risk to the insurance carrier. Medicare's Secondary Payer legislation and ensuing CMS Memorandums have been written in a very open ended manner. If Medicare's interests aren't taken into full consideration, Medicare may pursue the carrier. Put it this way. If there are thousands of destitute elderly who are not compliant with MSA guidelines, is Medicare likely to pursue them or the carriers that did not ensure that Medicare's interests were being considered? The deepest pockets are most often at the greatest risk.

"All I know is this money is for my doctor payments, at this rate it won't last long," explains one distressed injured worker.

What can be done? Part of the solution lies in providing administration assistance to support injured workers. For the smaller settlements or for more highly educated injured workers, there are self-administration support services which offer compliance assistance tools, resources, forms and specialized information.

For larger settlements or for less educated or mentally incompetent injured workers, professional administration services are most beneficial. The long term risk for the injured worker, carrier, and plaintiff attorney is negligible. By hiring a professional administrator to properly manage the MSA funds, Medicare cannot argue that their interests were not taken into account, thereby eliminating this future risk factor.

As with any new development, it will take some time for the industry to digest the long term impact of the MSA process and evolve to address that impact. By getting ahead of the impending risk with MSA administration support services and other measures, we can help protect injured workers, carriers, and attorneys from negative outcomes. These proactive steps are beneficial for the industry and for society as a whole, and they are well within our reach today.

About The Author

Jason Beans, Founder and CEO of Rising Medical Solutions and Rising Financial Solutions (Rising), has more than 19 years of managed care experience in the workers' compensation and auto markets. He has an extensive background in medical bill review, care management, and finance administration and he has authored the Rhode Island Workers' Compensation Medical Fee Schedule for 11 years. He has been featured in various media outlets and has been a speaker at numerous industry events, including Lloyds of London, AmComp and NAMSAP. Mr. Beans holds a finance degree from Boston College.

Partners

Corporate partners play an important role in the life of the National Alliance of Medicare Set-Aside Professionals, Inc. Your company can help support significant events and programs and contribute gifts and in-kind services that enrich the overall quality of services NAMSAP can provide to its members. In return, you have privileged access to the influential members of our community. For more information regarding sponsorship please visit http://www.namsap.org/partner_benefits.

Platinum

Crowe Paradis Services Corporation (CPSC) is a national Medicare compliance company with offices in Atlanta, Boston, Chicago, Philadelphia, San Diego, Los Angeles, and Kansas City. CPSC utilizes both attorneys and nurses on every claim to ensure compliance with state and federal law. In addition to performing MSA's, CPSC assists many of the leading insurance carriers, TPA's, self-insured's and attorneys nationwide in understanding and meeting the Medicare Secondary Payer statute compliance challenge. CPSC services include:

- Medicare Set-Aside Allocations
- CMS submissions
- Conditional Payment
- Investigation
- Negotiation
- Appeals
- Legal Opinion Letters
- Professional Administration
- Self-Administration Support
- Settlement Coordination
- Liability Case Consultation
- Protocol Design
- Training

Medivest professionally administers medical custodial accounts, provides premier MSA Allocations and other innovative solutions to preserve, protect and stretch settlement dollars in workers' compensation and liability disputes. www.medivest.com.

Protocols is a multidisciplinary consulting firm that specializes in medical settlement planning for all parties involved in workers' compensation and personal injury liability cases -- from the simple to the complex. The Protocols team of experts -- medical, benefits and legal -- works together with clients to create a comprehensive plan for the projected medical care of an injured person. We also advise on the best and most cost-effective way to finance this care. Among Protocols specialty services are medical cost projections, life care planning and Medicare set-aside analysis, allocation and administration.

The Center for Special Needs Trust Administration, Inc. is a not-for-profit corporation exclusively focused on the administration of Special Needs Trusts and Pooled Trusts with the sole mission of providing comprehensive services to the entire community of people with disabilities.

Silver

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