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Department of Health & Human Services
Centers for Medicare & Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601-5519



Refer to: FMB-9

February 8, 2012

2012 FEB 13 PM 3:32

Mr. Andrew P. Brett
Garretson Resolution Group
2115 Rexford Road
Suite 400
Charlotte, North Carolina 28211

Dear Mr. Brett:

Re: Liability Medicare Set-Aside Arrangement
Claimant: [REDACTED]
HICN: [REDACTED]
SSN: [REDACTED]
Date of Injury: 8/22/2008

This letter is in response to your correspondence requesting a review of the proposed liability Medicare set-aside arrangement for the above named individual.

The Medicare Secondary Payer ("MSP") provisions, 42 USC § 1395y(b)(2), preclude Medicare payments for medical items and services to the extent that payment has been made or can reasonably be expected to be made under an automobile or liability insurance policy or plan (including self-insurance). 42 U.S.C. § 1395y(b)(2)(A)(ii). Liability insurance includes but is not limited to automobile liability insurance, uninsured motorist insurance, underinsured motorist insurance, homeowners' liability insurance, malpractice insurance, product liability insurance, and general casualty insurance. 42 CFR § 411.50(b).

You proposed that a liability Medicare set-aside arrangement in the amount of \$74,842.53 be made available for payment of future medical expenses for items and services otherwise reimbursable by Medicare, including prescription medications related to the proposed settlement, judgment or award between [REDACTED] and [REDACTED]. We note that your proposed amount includes \$37,421.26 for future prescription drug treatment. We have evaluated your proposal to protect Medicare's interests with a liability Medicare set-aside arrangement for future medical and prescription drug expenses related to the proposed settlement. We have determined that **\$74,842.53** adequately considers Medicare's interests.

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Approval of this liability Medicare set-aside arrangement amount is not effective until a copy of the final executed settlement agreement, which must include this approved liability Medicare set-aside amount, is received by CMS at the following address.

Centers for Medicare and Medicaid Services
Attn: Sharon Johnson
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

The liability Medicare set-aside arrangement amount must be placed in an interest-bearing account. The liability Medicare set-aside arrangement amount should only be used for payment of future medical and prescription drug expenses for items and services otherwise reimbursable by Medicare which are related to the settlement and payment of banking fees, photocopying and mailing costs directly associated with the liability Medicare set-aside arrangement amount.¹ The liability Medicare set-aside arrangement amount may not be used to purchase a Medicare supplemental insurance policy or a Medigap policy for a beneficiary, or to pay for the premiums for such policies.

Once the liability Medicare set-aside arrangement amount has been exhausted and Medicare has been provided with documentation that payments from the liability Medicare set-aside arrangement were appropriate, Medicare will make payments on behalf of [REDACTED] for covered items and services related to the settlement which are otherwise reimbursable under the Medicare program. Medicare will make payments in accordance with all applicable statutory provisions and regulations on behalf of [REDACTED] for medical items and services not related to the settlement.

You have indicated that the claimant, [REDACTED], will act as administrator of the liability Medicare set-aside arrangement funds. As administrator, [REDACTED] will be responsible for keeping accurate records of payments made from the liability Medicare set-aside arrangement, providing the MSP Recovery Contractor (MSPRC) with an annual statement of the total payments made from the liability Medicare set aside arrangement, to be provided within thirty (30) days of the end of each year following the creation of the liability Medicare set aside arrangement, and notifying the MSPRC when the liability Medicare set aside arrangement amount has been exhausted. The MSPRC may also request records regarding payments pertaining to the liability Medicare set aside arrangement amount. The MSPRC address is:

MSPRC-NGHP
Post Office Box 138832
Oklahoma City, OK 73113

¹ If you have a question regarding whether Medicare covers a specific item or service, please consult the booklet entitled "Medicare & You" or call 1 800-MEDICARE (1-800-633-4227).

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Please note that the liability Medicare set-aside arrangement amount for payment of future medical expenses is independent of any claim that Medicare may have for reimbursement of Medicare payments made on behalf of [REDACTED] for medical items and services related to the settlement provided prior to the date of settlement. **Any Medicare payments for medical items and services provided prior to the date of settlement must be repaid to Medicare** pursuant to 42 U.S.C. § 1395y(b) and 42 C.F.R. § 411 et. seq.

If you have any questions concerning this letter, please contact Sharon Johnson of my staff at (312) 353-9332.

Sincerely,



Gloria J. Walker, Manager
Financial Management Branch
Division of Financial Management
and Fee for Service Operations

cc: [REDACTED]
MSPRC