

CMS Approval

The Center for Medicare Services (CMS) will review a WCMSA if the agreement meets their requirements:

- A. The injured worker must be on Medicare and the total settlement amount must be greater than \$25,000, or
- B. The injured worker must expect to be on Medicare within 30 months of the settlement and the settlement amount must be greater than \$250,000⁰⁰.

Steps for Approval

There are 4 steps to obtain approval from CMS.

1. Employer hires an expert to estimate future medical costs.
2. Parties use the estimate and agree to close medicals benefits.
3. Employer submits the agreement to CMS.
4. Parties finalize the agreement after CMS approves it.



CMS Approval Is Not Required

Injured workers are allowed to close their lifetime medical benefits without CMS approval. If your claim does not meet the CMS criteria, there are other options to close medical benefits. Such options include:

- A. Hiring medical and legal experts to look at the claim and provide an estimate of the expected future costs and avoid using Medicare or TennCare to treat the work injury, or
- B. Doing the same as above and adding an insurance plan that pays if the fund is not sufficient to cover the expected costs, or
- C. Obtaining a statement from the treating physician confirming the work injury has resolved and no future medical care is needed.

Medicare will only cover costs that exceed the WCMSA if CMS approves the WCMSA. Injured workers who don't qualify for CMS review will not have CMS protections.

Obtain more information by contacting:

Center for Medicare & Medicaid Services

www.cms.gov

Phone: 855-798-2627

Medicare

www.medicare.gov

Phone: 800-MEDICARE



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Considering Medicare and TennCare

Before Settling Your Workers' Compensation Medical Benefits



Duty to Protect Medicare and TennCare

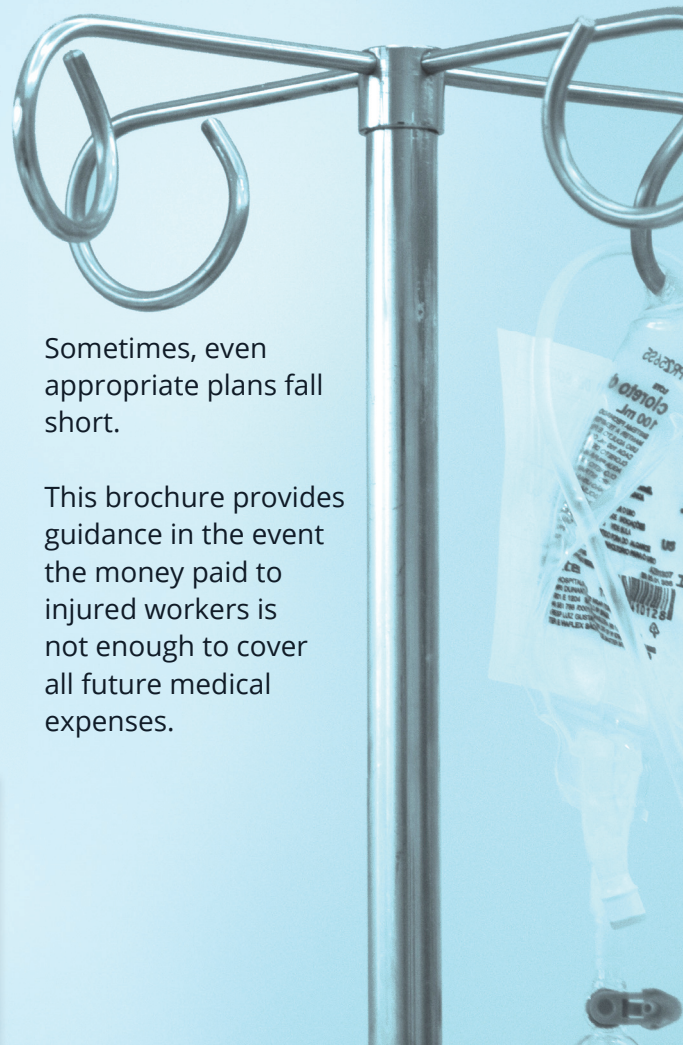
Medicare and TennCare do not want to pay for medical services when another party is responsible. Employees who receive money to close their medical benefits are expected to pay for their medical treatment with the settlement rather than shifting those costs to Medicare or TennCare.

Federal law requires injured workers, employers, and insurance companies to **make appropriate plans** to cover all workers' compensation medical costs so that Medicare or TennCare do not pay for treatment or medications related to a workers' compensation claim.

WCMSA

A WCMSA is a type of settlement where an employer pays an injured worker an **appropriate** amount of money to close their lifetime medical benefits.

An injured worker then puts the money into an independent account to pay for their medical care.



Sometimes, even appropriate plans fall short.

This brochure provides guidance in the event the money paid to injured workers is not enough to cover all future medical expenses.

Authorization

Medicare or TennCare may agree to pay for your work injury if:

1. You have a **Workers' Compensation Medicare Set-Aside Arrangement (WCMSA)** that was approved by the Center for Medicare Services (CMS); and
2. The **CMS rules** regarding managing a WCMSA appropriately are followed; and
3. The WCMSA **runs out of money.**

Follow the Rules

Navigating the rules from CMS and Medicare is very important. There are two options to help you stay compliant:

A. CMS Guidebook

Injured workers can use this resource and follow the recommended steps to comply with the difficult regulations.

B. Professional Administration

A WCMSA company can help make sure all of the rules are followed. Many Employers are willing to pay for this service. They may offer this option during negotiations to close lifetime medical benefits.

Violations

If the rules are not followed, Medicare may not agree to cover your bills when the fund runs out of money, even if CMS approved the WCMSA.

*If you use Medicare, TennCare, Medicare Advantage or Medicare prescription drug plans for treatment of your work injury **without** permission, they can:*

Seek Re-payment

They may stop paying for medical care until your entire workers' compensation settlement is paid to them. This includes disability benefits, not just the amount of money paid to close medicals;

Suspend All Benefits

Medicare or TennCare may stop providing any benefits, including those for medical care not related to your work injury; and

Charge a Penalty

They may sue you for two times everything they've paid plus interest.