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for Workers' Compensation

## Government Affairs Alert

June 17, 2010

### **New Rated Age Policy Memorandum Released by Centers for Medicare and Medicaid Services**

On June 8, 2010, the Centers for Medicare and Medicaid Services (CMS) issued a policy memorandum regarding Rated Age (RA) language inclusion in Workers' Compensation Medicare Set-Aside Arrangements (WCMSA) by submitters. The memo clarifies initial instructions regarding RA language outlined in a prior memorandum dated May 14, 2010, which required the following all-encompassing exact statement by submitters in regard to RAs:

*"Our organization certifies that all rated ages obtained on the claimant, at any time during that individual claimant's lifetime, have been included as part of this submission to the Centers for Medicare & Medicaid Services."*

Due to feedback received from the industry, CMS reconsidered their initial position on this issue and stated in the recently released June 8<sup>th</sup> memo that, effective immediately, RA certification language is revised to the following:

*"Our organization certifies that all rated ages we have obtained and/or have knowledge of regarding this claimant, and generated at any time on or after the Date of Incident for the alleged accident/illness/injury/incident at issue, have been included as part of this submission of a proposed amount for a Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) to the Centers for Medicare & Medicaid Services."*

CMS stated that they will not accept any variations or substitute wording and will not accept WCMSA proposals which fail to contain the above stated language. Additionally, if the outlined specific language is not included, CMS will not accept the provided RAs and will use the claimant's actual age to price the WCMSA.

In deference to WCMSAs already in the processing stages, CMS noted that the new required language will only apply to all WCMSA proposals received **on or after July 1, 2010, and they will continue to accept the certification language noted in the May 14 memo on WCMSA proposals received through June 30, 2010.**

This new memorandum does not change any of CMS's other requirements for acceptable proof of an RA. Acceptable proof of an RA for a claimant is demonstrated through inclusion of independent RAs on the letterhead of an insurance carrier or settlement broker.



PMSI is a leading resource for our clients regarding MSP compliance for all parties involved in a settlement while providing the lowest defensible Medicare Set Aside allocation. Pursuant to the June 8, 2010 memo issued by CMS, PMSI will include required certification language in our WCMSA submissions based on information requested and provided by our clients. As such, in order to properly certify RAs submitted to CMS, continuous communication must exist between PMSI, the client and their structured settlement broker to assure that PMSI obtains all applicable Rated Age information as required by CMS. Through PMSI's staff of legal experts, nurses, physicians and pharmacists, we will continue to provide our clients with the lowest defensible allocations for compliance with the MSP laws and requirements.

To view a copy of this CMS Memorandum, click [here](#):

For further information, please contact your PMSI Sales Representative directly or call 888.MSA.PMSI or visit us online at [www.pmsisettlement.com](http://www.pmsisettlement.com).

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