

# Guidelines for Preparing/Filing Settlement Documents

## Preparing Settlement Documents

Before preparing the settlement documents, find out the following information:

1. The correct names and address of all parties. Confirm that the Commission's file and the insurance carrier's file has the correct information. Have the third party administrator (TPA) file a FROI Change to make corrections to any of this information.
2. Confirm that the date of accident is correct in Commission's file. If not, the TPA should file a FROI Change to correct the date of accident.
3. The claimant's correct date of birth.
4. Determine if the claimant is currently a Medicare beneficiary. If the claimant is a current Medicare beneficiary and the settlement is over \$25,000, then it meets the threshold for CMS Review. See Section L – Social Security Disability and Medicare for further guidance on this matter.
5. If not a Medicare beneficiary, determine if claimant has a "reasonable expectation" of Medicare within thirty months per the April 22, 2003 Memorandum from Centers for Medicare & Medicaid Services (CMS). This includes situations where a claimant is receiving Social Security disability, has applied for or is appealing a denial of SSD benefits, or is 62½ years of age or older. If the claimant has a reasonable expectation of Medicare within 30 months and the settlement is more than \$250,000, then it meets the

threshold for review. See Section L – Social Security Disability and Medicare for further guidance on this matter.

6. Has the claimant applied for or receiving SSD? If so, the settlement documents should include Social Security pro-ration language.
7. Is there an ancillary agreement associated with this settlement? If so, see Ancillary Agreements for further guidance.
8. Is the settlement for multiple claims? If so, the parties should allocate a dollar amount for each accident and have these allocations listed in the Petition and Order.
9. Does the settlement include an annuity? If so, the settlement documents should list the amount of the annuity payments, the beginning date, the frequency of payments (monthly, yearly, etc.), and the duration of the payments. See Structured or Deferred Settlements for Payments Under an Annuity.

#### Before Circulating for Signature

1. Proofread the documents to ensure all the above information is correct as well as the JCN, and dollar amount of settlement.
2. Ensure that the provisions in the settlement documents are consistent.
3. Make sure required information has been inserted in any blanks. The parties should not insert the amount for attorney fees and costs as the Commission will make that determination. Any net proceeds to the claimant or in the Social Security pro-ration language should

also be left blank if the Commission has to award attorney fee and costs. However, any blanks for allocations for future medicals, future Medicare-covered expenses, future vocational rehabilitation, amount of indemnity and medicals paid to date, or Tax ID for claimant's counsel should be completed.

### Filing the Settlement Documents

1. Confirm that all the settlement documents have been signed by the appropriate parties and that the Affidavit has been properly notarized.
2. When webfiling the settlement documents, the Petition, Order, Affidavit, Attorney Fee Agreement, and any referenced attachments should be filed under *Petition and Order Related Docs*.
3. The claimant's pro se informational letter or claimant's counsel's informational letter should be filed under *Petition and Order Informational Letter (sealed)*. We are unable to process a settlement where the Petition and Order have been filed under the sealed informational letter. These documents should be viewable by all parties.
4. File current medical records as required by Rule 1.7(C)(1).
5. Ensure that the settlement documents have all pages and that they are in chronological order.
6. If settling multiple accidents, the settlement documents should be filed in each claim listed on the settlement documents.