

Is Your Practice Ready for MMSEA?

Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) (P.L.110-173) adds new mandatory reporting requirements for group health plan (GHP) arrangements and for Liability Insurance (including Self-Insurance), No-Fault Insurance, and Workers' Compensation. See 42 U.S.C. 1395y(b)(7) & (8). <http://www.cms.gov/MandatoryInsRep>

Sample Retainer Agreement Language Provides protection for Medicare, Structured Settlements and other items

Medicare

The Client acknowledges that a release of Medicare's separate claim for reimbursement of past or future payments may be required before any funds are disbursed. The Client acknowledges that the law firm may hire appropriate specialists to help resolve Medicare claims, and that this cost is a case expense that will not affect the law firm's fee and the cost will be paid from the Client's net recovery.

Structured Settlements

The Client and law firm agree that payments to the Client and/or for the law firm's legal fee may be paid upfront or in future periodic payments. The law firm may be paid in future periodic payments even if the Client does not receive future periodic payments. The present value of the periodic payments paid to the Client and/or the law firm shall be the cost of the funding vehicle providing the respective periodic payments. The total legal fee will equal the cost of the funding vehicle providing periodic payments to the law firm plus the amount of the legal fee paid at settlement.

Tax advice and Trusts

The Client acknowledges that the following issues may be required when resolving this matter: Tax advice, Special Needs Trusts, and trusts in general. The Client acknowledges that the law firm may hire appropriate specialists to help resolve the above listed items. Any cost related to the items listed above will be a case expense and will not affect the law firm's fee and any cost will be paid from the Client's net recovery.

Referrals

The Client acknowledges that the following issues may be required when resolving this matter: Structured Settlements, financial or settlement planning, and financial advice. An appropriate referral will be made to represent the Client on these and other matters as required.

These are illustrative issues only and attorneys should consider which ones are appropriate for their practice. This is sample language and is not legal or tax advice. Practitioners should obtain appropriate advice on this matter and check local ethics and other appropriate rules.