



PROFESSIONAL ADMINISTRATION 101

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When settling a personal injury case there are many obstacles to overcome. One of the most frequent challenges is reaching a settlement for the injured individual's future medical costs.

For severe or chronic injuries, the uncertainty surrounding medical care and costs can often make an already difficult situation worse, typically resulting in more tension and frustration for both parties. While the insurance carrier or payer is often concerned about cost development, the injured party may also be concerned about their ability to manage their injury and the ongoing medical treatment. After all, for many injured individuals, just because the cases settle does not mean their medical care will stop. Providing a service to help the injured person save money on their ongoing medical expenses and to help coordinate their care can be a huge benefit and can move the case to settlement more quickly.

WHAT IS A PROFESSIONAL ADMINISTRATOR?

A professional administrator is a neutral third party who oversees and manages an injured individual's future medical

funds after settlement. The administrator provides core benefits such as medical support services and bill-review technology to capture savings on medical bills. In settlement conversations, the administrator acts as a neutral third party who will create a plan for the injured person's future medical care and will be there to support them upon settlement through the rest of their life. The professional administrator's role is to be the injured individual's "healthcare concierge" after they settle.

Upon settlement, the professional administrator establishes a dedicated bank account for the individual's medical settlement funds. Most administrators provide the individual with a unique card that works just like a health insurance card. When the individual shows the card at their pharmacy or doctor, the administrator receives the bill, applies group purchasing discounts, and then pays the bill automatically on behalf of the injured person from their settlement proceeds. The injured individual never has to touch the bills, but still has insight into their account balance, the discounts and transactions via statements and online portals. In addition to handling bills and securing discounts, the administrator

also has staff available to answer the individual's questions about their care and to help them find providers, facilities, equipment, prescriptions, etc.

In addition to handling the injured individual's medical concerns, a professional administrator may also automatically file reporting for Medicare Set Aside (MSA) accounts to The Centers for Medicare & Medicaid Services (CMS), thereby protecting the individual's Medicare benefits.* The service can be used for any medical allocation, whether is an MSA or not, as the many benefits of the service extend beyond just Medicare reporting.

HOW CAN A PROFESSIONAL ADMINISTRATOR HELP EASE AN INJURED INDIVIDUAL'S FEARS ABOUT FUTURE MEDICAL CARE?

Professional administrators will often speak with the injured individual and/or their attorney prior to settlement to address their concerns about managing their future medical care. The administrator will explain to the injured individual the benefits of their service which can provide them with sense of security in knowing they will have a team of healthcare advocates at their

side to assist with their treatments. With an administrator, the injured individual is free to seek treatment for their injury the way they want with the support of professionals who can secure them discounts on medical bills and ensure Medicare compliance. This enhances their quality of life and helps make their settlement dollars last as long as possible.

For workers' compensation cases in particular, some injured parties are hesitant or unwilling to settle their cases because they have fears about managing their future medical and/or remaining compliant with the law. A professional administrator is experienced in navigating these issues and will talk with the injured party about how they can minimize the risks so that the benefits of the settlement are front and center.

HOW DO ATTORNEYS ENGAGE A PROFESSIONAL ADMINISTRATOR?

Like with many services, the earlier the concept is introduced to the client, the greater impact it can have in settlement conversations. Bringing up the benefits of a professional administrator to an insurance carrier or employer client can be helpful so that they understand how it will be an effective service to offer as a negotiating tool for cases that may come up. A professional administrator can address concerns that injured individuals may have, while making them feel comfortable knowing they will be protected after settlement. By providing this service, this allows for a smoother settlement process for all parties involved.

When it comes to MSAs, many attorneys recognize the complexity of abiding by the Medicare Secondary Payer statute. The injured individual is required to report their spending annually to CMS and perhaps more frequently if they exhaust funds. Attorneys know that misuse of MSA funds could potentially eliminate the injured individual's chances of being able to receive Medicare benefits if they exhaust the MSA inappropriately.

In the case of MSAs, professional administration automates annual reporting, and ensures treatments are related to the initial injury and are Medicare-covered expenses. Many attorneys view professional administration as essential in minimizing the potential for any liability in the future. By incorporating administration, they have fulfilled their duty to their client and increased the chance that the injured individual will abide by the MSP statutes and be protected after settlement.

WHAT DOES MEDICARE SAY ABOUT THE USE OF PROFESSIONAL ADMINISTRATION?

A common use of professional administration is to manage Medicare Set Asides. CMS has come out in full support of the service. In 2017, CMS announced that it "highly recommends" professional administration in its Workers' Compensation Medicare Set Aside Reference Guide (Sec 17). In addition, in 2019, CMS included that it "highly recommends professional administrators where a claimant is taking controlled substances." (ibid)

MSAs and the use of professional administration are quite common in workers' compensation settlements. For liability settlements, allocating a portion of the settlement for future medical expenses can sometimes be more of an art than a science. Either way, the MSP statute applies to any non-group health settlements and Medicare's preferred approach to how injured individuals manage medical funds from settlement to protect their interests is with the assistance of a professional administrator.

HOW DO I EVALUATE A PROFESSIONAL ADMINISTRATION PROVIDER?

Not all professional administrators are created equal. One single factor should not drive the overall decision on which company to utilize. The service, tools, pro-

fessionalism, and savings provided by the administrator on behalf of the injured individual can vary drastically.

When it comes to cost, administrative fees charged by different administrators may vary, but it's critical to investigate the administrator's ability to secure discounts on medical treatments. These discounted rates will often have a far larger impact on the amount of money the injured party will save over time versus the administrative fees; often it is the savings rates that indicate how powerful of a benefit the service can provide. Find out if the administrator has multiple pharmacy, provider and equipment networks to help minimize the costs and if they display all of their savings.

Finally, it is worthwhile to compare the service levels of the administrators. A service-focused professional administrator puts a strong emphasis on personalized attention for the injured individual to ensure all of their questions and concerns are handled to get them back to health. This level of assistance can be captured by customer feedback. It can be helpful to check out current member testimonials and to ask for references from clients that can speak about their experiences.

HOW DO I GET STARTED ON A CASE?

Any settlement with ongoing medical costs can be a good fit for professional administration and administrators are more than willing to have a conversation about the case. Administrators do not charge for these consultations so there is no risk in reaching out to learn more. They only charge when the case settles and becomes administered.

It's worth sharing the option of professional administration with clients. It helps improve the chances of the case settling quickly and the injured individual understanding and being comfortable with how they will manage their medical care after settlement.

***The Omnibus Reconciliation Act of 1980.** 42 U.S.C. Section 1395y established the Medicare Secondary Payer (MSP) Statute which asserts that CMS will be the "secondary payer" for medical costs when a primary payer exists. This Act applies to all workers' compensation, no fault and liability settlements. On July 23, 2001, CMS circulated the "Patel Memorandum" which informed the industry that CMS would be demanding compliance and implementing guidelines specifically for workers' compensation claims and settlements. A Medicare Set Aside projection seeks to satisfy this requirement. An MSA establishes the value of future medical expenses that CMS would otherwise pay related to an injury and thus designates the amount of funds from the settlement that must be depleted before CMS will pay. In addition, CMS has released the Workers Compensation Medicare Set Aside Reference Guide which details how MSAs are to be created and includes guidelines for annual reporting to CMS to be done by the MSA account holder.



As president of Ametros, Porter Leslie directs Ametros' growth and works with their many partners. Prior, Porter worked in investment banking, private equity and corporate development. He earned a B.A. from Columbia University, and an MBA from the Wharton School. Porter is fluent in Spanish and Portuguese and resides in Boston.