



Medicare vs. Medicaid

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May 16, 2021

When your client is injured, many organizations are involved to pay for an array of healthcare costs from emergency medical procedures to rehabilitation to long term custodial care. While frequently private insurance or worker's compensation coverage is involved, many times Medicare or Medicaid, or both are primarily responsible for coverage following the date of loss and into the future after the date of settlement.

Frequently, lawyers who do not specialize in this area confuse the Medicare and Medicaid programs. That is unfortunate because both programs play such an important role for the client. In addition, it is very important to realize the impact of properly utilizing each governmental benefit to its maximum for the client while avoiding potential liability to the plaintiff's attorney.

So, if you're one of those people who accidentally confuses "Medicare" with "Medicaid", this information is for you. Here are some important points to remember. Both programs are administered at the Federal level through the U.S. Department of Health & Human Services Centers for Medicare and Medicaid Services ("CMS"). However, that's where the similarities stop.

First, Medicare is administered through various CMS regional offices throughout the United States with relatively little variation in implementation. On the other hand, the Medicaid program, is left to the States to interpret and enforce according to each State's rules - and those rules vary widely across the country. Here's a snapshot of both programs:

Medicare (Health Insurance):

1. Insurance coverage for the elderly and disabled - hospital stays, doctors' visits, acute medical procedures and rehabilitation (Parts A & B).
2. Beneficiary is typically enrolled at age 65 unless disabled younger.
3. May use traditional Medicare or Medicare Advantage program (private federal subsidy - Part C).
4. May enroll in prescription drug coverage (Part D).
5. Must be recognized in an injury case and lien resolved prior to settlement.
6. May require Set Aside amount to cover future treatment related to injury.
7. Does not require a "payback" to the government at death for benefits received.

8. Statutory liability to lawyers involved in settling case for failure to consider Medicare's interests.
9. No financial testing to enroll in program.

Medicaid (Welfare Program):

1. Various welfare programs covering young and elderly people, many with disabilities.
2. Wide variety of healthcare benefits that may cover many services not provided by traditional health insurance or Medicare.
3. Financial testing for many programs
4. Majority of long-term care in the United States paid for by this program (70 plus %).
5. Payback to the government upon the death of the client for utilization of long-term care services at home or in a facility

Why is it so important to understand the differences between these programs when settling a case? Because many clients are going to have a long-term disability which makes them eligible for Medicare as their primary insurer after the injury, regardless of age or finances. More importantly, Medicaid will probably play a larger role.

Take a look at your next Life Care Plan. Usually, the largest single item involves paying for long term custodial home or facility care - which Medicare does not cover; but, Medicaid does. So, your client needs to know how to access and balance both of these benefits, all while maintaining the highest quality of life, being able to pass on some assets to family, reduce tax exposure and reduce liability to themselves (and their attorneys).

It's a tall order - but one that can be designed and implemented with precision if done properly and before any decisions are made that cannot be retracted after settlement. Find out what each of these critical programs covers (and does not cover) before you settle your client's case and then, both the client (and you) can enjoy better results and peace of mind!

The attorneys at Julian Gray Associates have assisted numerous personal injury attorneys, their clients, and families to maximize their clients' results. For a no obligation, confidential discussion of a pending matter, please contact Julian at 412-458-6000 or visit SaveYourSettlement.com

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