



Casualty Loss Reserve Seminar: Reserving for Medicare Set-Asides

LOB-4

Bob Miccolis, FCAS, MAAA

Deloitte Consulting LLP

September, 2013



Reserving for Medicare Set-Asides

Considerations for Reserve Analysis

Medicare Set-Asides – Consideration for Analysis

Loss Development – Settlement Behavior

Shifts in Settlement Incentives

- Impact of MSA – MSA can affect settlement behaviors
- Willingness to settle – focus on future medical costs
 - Claimant can't use MSA dollars for other purposes
 - Claimant's attorneys can receive % of total amount, including MSA
 - \$120,000 settlement , \$60,000 for MSA, attorney's 30% contingency fee (\$36,000)
 - Claimant only gets \$24,000

Observations:

- This consequence of attorney fees may drive higher settlement values
- Attorneys will still want to settle, but their clients won't be happy with lower cash
- Future medical estimates will be negotiated to get the results that attorneys want
- Otherwise, settlements for cases with extensive future medical costs will dry up

Medicare Set-Asides – Consideration for Analysis

Settlements Options

Possible Change in Settlement Behaviors

- Settle Indemnity, but leave Medical open
 - claimant can get settlement dollars without jeopardizing coverage of future medical costs
 - Attorneys get fee on indemnity settlement, while keeping medical open for settlement
- Settle without Medicare approval
 - Attorney/claimant agree to accept responsibility for future cost reimbursement to Medicare
 - Insurer or self-insurer risks future reimbursement to Medicare without recourse to attorney

Observations:

- Settling only the indemnity produces limited reduction in adverse development risk
- Insurer or Self-insured still at risk for adverse medical development if Medicare finds them
- No mechanism for holding the attorney or claimant responsible to Medicare
- Could be quite difficult for insurer or self-insurer to recover Medicare reimbursements

Medicare Set-Asides – Consideration for Analysis

Loss Development – Historical Experience

Development Triangle Distortions

- Shift in settlement incentives will change future tail of the development pattern vs. historical
- Both Medical and Indemnity would be affected
- Some have recorded past total settlements as indemnity, since medical is not broken out
- With MSA, medical settlement has a distinct value and can be recorded separate from indemnity
- Issues with getting Medicare approvals can lengthen tail
- Settlements may decrease or take longer to be agreed upon

Observations:

- Paid loss development may appear like the tail is shortening when it is really lengthening
- Incurred loss development may appear to be getting a lot worse
- Average settlement values may increase as attorneys try to adjust for change in values
- Uncertainty in reserves will likely increase due to structural changes not evident in the data

Medicare Set-Asides – Consideration for Analysis

Reserving Implications – What’s an actuary to do?

Development Data Adjustments

- Separation of historical settlement data from triangles
- Separate settlement triangles – may reveal magnitude and changes, but difficult to develop
- Explore ways to “on level” the past data to current settlement conditions
- Possibly sample claims and get adjusters to revalue the claims based on current conditions
- Determine if development patterns can be decomposed to separate past out settlements
- Development separate method to estimate settlement claim count and settlement values

Observations:

- Prior settlement data may reflect value discounted for the time value of money
- Reduction in settlements can significantly impact the ultimate value of individual cases
- May need review and analysis of claim level detail to develop reasonable assumptions