

Fixed Percentage Option

What Is the Fixed Percentage Option?

In an effort to streamline the recovery process, the Centers for Medicare & Medicaid Services (CMS), directed the Benefits Coordination & Recovery Center (BCRC) to implement a new and different method of calculating the recovery amount on certain liability insurance (including self-insurance) cases.

- This new method is called the Fixed Percentage Option
- This option is available to certain beneficiaries as of November 7, 2011

What Is the Fixed Percentage Option?

If a beneficiary:

- **Has a physical, trauma-based liability insurance (including self-insurance) case, and**
- **Receives a total settlement of \$5,000 or less**

The beneficiary can resolve Medicare's recovery claim by paying Medicare 25% of the total liability insurance (including self-insurance) settlement instead of using the current, traditional recovery process.

What Is the Fixed Percentage Option?

If the Fixed Percentage Option is selected, the beneficiary:

- **Will know what they owe Medicare**
- **Will be able to immediately pay Medicare a flat 25% of the *gross settlement received**

* Gross settlement is not to be reduced for attorney fees and costs.

Calculating Fixed Percentage

Examples

Example 1

- Medicare's conditional payment amount is: \$16,665
- Total liability insurance settlement is: \$4,000
- Attorney fee is: \$1333.33
- Amount due Medicare under the Fixed Percentage Option is: **\$1,000**

Example 2

- Medicare's conditional payment amount is: \$3,055
- Total liability insurance settlement is: \$4,000
- Attorney fee is: \$0.00
- Amount due Medicare under the Fixed Percentage Option is: **\$1,000**

- These two examples demonstrate that under the Fixed Percentage Option, neither the Medicare conditional payment amount nor an Attorney Fee affects the amount due Medicare.
- In both examples, the amount due Medicare under the Fixed Percentage Option is \$1,000.

What Are the Benefits?

- The Fixed Percentage Option
 - Offers a simple, straightforward process to obtain the amount due to Medicare
 - Eliminates the time and resources typically associated with the MSP recovery process
 - Gives the beneficiary the opportunity to resolve their debt to Medicare quickly since they will no longer have to wait on a Conditional Payment amount prior to settlement

Eligibility Criteria

In order to elect this option, ALL of the following criteria must be met:



1. **Must be a liability insurance (including self-insurance) settlement, judgment, award, or other payment. (No-fault or workers' compensation settlements do not qualify)**
2. **The liability insurance (including self-insurance) settlement must be \$5,000 or less**
3. **The settlement must be for a physical trauma based injury (not related to ingestion, exposure, or medical implant)**
4. **The beneficiary must elect this option within the required timeframe and before Medicare has issued a demand letter or other request for reimbursement related to the incident**
5. **The beneficiary must not have received or expect to receive any other settlements, judgments, awards, or other payments related to the incident**

How Is this Request Submitted?

A written request for the Fixed Percentage Option must be submitted

Model language to request the Fixed Percentage Option may be found in the Attorney and Beneficiary Toolkits on the <http://go.cms.gov/cobro> website

When Should this Request Be Made?



- The request must be submitted prior to, or with, the documentation for the Notice of Settlement
- If the request is made in response to a Conditional Payment Notice (CPN), it must be received by the response due date referenced in the CPN (Refer to the Tool Kit for more information about the CPN)
- The request may not be made in response to a Conditional Payment Letter (CPL), i.e., settlement, judgment, award or other payment must occur before the request may be made (Refer to the Tool Kit for more information about the CPL)
- **Please Note: If the Fixed Percentage Option is elected and approved, the beneficiary may not seek an appeal or waiver of recovery**

How Do I Submit a Request?

- The Fixed Percentage Option request must be mailed to the following address:

**Fixed Percentage Option
P.O. Box 138880
Oklahoma City, OK 73113**

This special address is **ONLY to be used for Fixed Percentage Option requests. Failure to send requests to this address may cause a delay that could result in the request being rejected**



DO NOT fax these requests to the general BCRC Fax number.

- Faxing a request may result in the request not being received or processed timely
- Untimely receipt of a request may result in rejection

When Will a Response Be Received?

- The BCRC will review the request and make a determination as to whether the request is approved or rejected
- All requests will be worked in the order they are received
 - A response will be generated within 30 days of request receipt

Request Approved

- If the request is approved:
 - The beneficiary will receive a bill for the amount due, which will equal 25% of the total liability insurance (including self- insurance) settlement, judgment, award or other payment amount
 - Payment must be received within the timeframe specified on the bill

Request Rejected

- If the request is rejected:
 - The beneficiary will receive an explanation as to why the request was rejected
 - The case will then be processed using the traditional recovery process
 - Attorney fees and expenses if applicable will be used to issue a traditionally calculated demand amount
 - The beneficiary will receive a regular demand letter under separate cover

**Thank you for reviewing
“New Fixed Percentage Option”**