



Financial Services Group

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ALERT

Clarification of Medicare Secondary Payer (MSP) Recovery Against Awards Made Under the Camp Lejeune Justice Act (CLJA)

The Department of the Navy (“Navy”) and the Department of Justice (DOJ) are in the process of evaluating claims brought under the Camp Lejeune Justice Act (CLJA) for illnesses sustained due to exposure to contaminated drinking water. The Centers for Medicare & Medicaid Services (CMS) has received inquiries regarding potential Medicare Secondary Payer (MSP) obligations related to any settlements, judgments, awards, or other payments made in connection with the CLJA.

DOJ views the CLJA as establishing an exclusive remedy for injuries resulting from Camp Lejeune contaminated water exposures, and therefore CMS determined that the Medicare fee-for-service program serves as the primary payer of health expenses related to CLJA injuries of Medicare fee-for-service beneficiaries. Consequently, CMS will not pursue recovery under the MSP law, for Medicare fee-for-service benefits from CLJA Elective Option (EO) offer payments, nor will CMS recover under the MSP law for Medicare fee-for-service benefits from any CLJA judgments or settlements. However, the United States or HHS may still take action under a non-MSP applicable law or authority, including HHS’ authority to make Medicare benefit determinations with respect to items and services for CLJA-related injuries and illness in accord with other applicable Medicare law. In addition, Medicare Advantage Organizations and state Medicaid agencies may also have paid benefits to an individual and will independently determine whether to seek recovery of payments that have been made associated with CLJA claims. Claimants should be aware that pursuant to the provisions of the CLJA, CLJA awards or settlements made outside of the EO may be subject to offsets, including but not limited to, the amount of a disability award, payment or benefit provided to the individual under the Medicare program under title XVIII of the Social Security Act.