

# Work Comp Roundup

Reduce Your Workers Comp Costs

## Denied Claim Zero MSAs: Still Available, But Put Through Wringer by CMS

Rita Wilson · Wednesday, May 17th, 2017



In October 2016, CMS made an unannounced policy change which effectively eliminated the ability to obtain a Zero MSA approval from CMS based upon a complete denial of the claim, without a supporting judicial decision. After only a couple weeks, CMS withdrew this policy change and again allowed for approval of Zero MSAs based solely upon a complete claim denial. Nonetheless, these Zero MSAs reviews are placed through the proverbial wringer by CMS such that it is important to understand when a case meets the criteria for a Denied Claim Zero MSA and the documentation required to obtain CMS approval.

### Denied Claim Zero MSA Approval Criteria

A Denied Claim Zero MSA (or Legal Zero MSA) approval from CMS is available when the claim has been completely denied with no medical or indemnity payments having been made with the exception of medical payments made for non-treatment purposes

such as IMEs, case management and medical records copies (Note, in certain limited situations a Zero MSA may be approved with medical treatment payments having been made. Please consult with Tower MSA).

**Importantly, CMS will not approve a Denied Claim Zero MSA if settlement is made final and/or a settlement payment or any medical or indemnity payment is made prior to CMS approval of the Zero MSA. A tentative or agreed to settlement is allowable, but please do not make the settlement final or make indemnity or medical payments prior to CMS approval of the Zero MSA.**

If the case meets this criteria, then CMS has strict documentation requirements which must be adhered to or the Zero MSA will be rejected. Notably, since the policy change and rollback occurred in October 2016, CMS has added a requirement to provide claim reserve documentation. The requirement for claim reserve documentation, as well as all other supporting documentation, is detailed below.

### **Denied Claim Zero MSA Documentation Requirements**

The following documents are required by CMS to obtain approval of a Zero MSA based upon a complete claim denial:

#### **1. Claim Payment History**

- A claim payment history printout, even if blank, representing payments since the inception of the claim. All payments must be itemized.
- Printout must be divided into categories for medical, indemnity and expenses with subtotals for each category and a grand total listed. Print or run date listed on the printout.
- Date range for listed payments – Must be since inception of claim.
- If the Claim Payment History does not meet the above requirements, then the following rules apply:

Provide a copy of the available Claim Payment History with the following statement inserted, signed and dated in the document:

*This document provides a complete representation of all payments made on the life of*

*the claim (including medical of \$0\* and indemnity of \$0)*

*Signed:*

*Date:*

\*If medical payments were made, provide the invoices or reports, i.e. IME report, associated with those payments and see below Financial Detail and Denial Letter requirement.

- Letter providing an explanation why a Claim Payment History meeting CMS's requirements is not available (See below Financial Detail and Denial Letter)

## **2. Claim Reserves**

- A Claim Reserves printout divided into categories for medical, indemnity and expenses with subtotals for each category and a grand total.
- Print or run date listed on the printout.
- If there is a legal argument for claiming the reserve information is privileged then the legal argument, including citations to statute or case law must be provided along with a copy of a redacted (reserve information blacked out) version of the Claim Reserves printout.
- If no reserves were placed on the claim, then a statement regarding the same.

## **3. Draft or final settlement documents and court orders *or* rulings or a statement that no such documents exist**

(See below Financial Detail and Denial Letter).

## **4. First Report of Injury *or* a statement that no such document exists** (See below Financial Detail and Denial Letter).

## **5. Financial Detail and Denial Letter - Tower MSA will provide draft letter upon request for submission of the Zero MSA to CMS**

- A statement indicating the claim was completely or fully denied with no medical or

indemnity payments having been made.

- If medical payments have been made for non-treatment purposes, i.e. IME, case management, medical records requests, then if the Claim Payment History does not properly explain the purpose of these payments, then provide an explanation for the payments.
- If the available Claim Payment History does not meet the requirements under #1, then state that the carrier's claim system does not have the ability to provide a Claim Payment History printout with the information requested by CMS, i.e. print date, subtotals for medical, indemnity and expenses.
- If Claim Payment History did not meet the requirements under #1, then insert the requested information into the letter, i.e. list categories for medical, indemnity and expenses with subtotals for each category and a grand total.
- If there are no draft or final settlement documents and no court orders or rulings, then a statement regarding the same.
- If there is no First Report of Injury, then a statement regarding the same.
- Letter must be placed on letterhead and hand signed.

## 6. Consent to Release form executed by claimant

While CMS places Zero MSA submissions based upon a complete denial through the wringer, these approvals remain available for workers' compensation cases meeting the applicable criteria.



Author Rita Wilson, CEO, Tower MSA Partners, LLC. Rita serves as CEO of Tower MSA Partners, LLC. With more than 20 years in leadership positions in pharmacy software development and workers' compensation managed care, Rita brings a wealth of expertise in information technology solutions and performance metric evaluation. Contact Tower MSA Partners at [referrals@towermsa.com](mailto:referrals@towermsa.com) or (888) 331-4941

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