

Legal Notes: July 2012

We all are involved at some or another in a car accident, sometimes with injuries so great that medical treatment is needed. We get treated and, we hope, that the injury isn't severe or permanent. If so, then the other driver's insurance company may offer some money to settle the claim. What do you do?

Certainly, you (and probably should) see a lawyer. But what if the matter seems small and you don't want the hassle of looking for and hiring a lawyer, it may just not seem worth it. So, in that case, you may be tempted to just take the settlement money. A warning if you are currently on Medicare, or may be eligible for Medicare in the next 30 months.

There may be a repayment requirement to Medicare. If Medicare paid those doctor bills, then Medicare can seek repayment from the other driver's insurance company. If you settled the case, in theory, Medicare could come after you for not giving it a chance to get that money back from the other driver's insurer.

There are a number of options, depending on the amount of the settlement. If the settlement is less than \$5,000, Medicare will take a fixed percentage, 25% of the gross settlement amount. If the settlement is between \$5,001 and \$25,000, you can seek a conditional payment amount through Medicare's website. If \$25,001 or more, then the situation becomes even more difficult.

Medicare has always had the right to seek these kinds of reimbursements. It is only in the past couple of years that it has aggressively sought to do so. Part of the puzzle is greater reporting requirements of insurance companies for all settlements to Medicare. How aggressive Medicare (or its collection arm, CMS) will be is unknown. A small settlement may not get the notice of CMS, or it may. If so, the collection costs can easily exceed those of the settlement.

What to do? See a lawyer. In small cases just don't accept the settlement offer as it may not be worth the trouble.