



Compensation Recovery Program



Judgment or settlement reached

When a compensation claim reaches judgment or settlement of more than \$5000, the notifiable person—usually the compensation payer or insurer—must advise Medicare Australia in writing within 28 days of the date the judgment or settlement was reached.

Notice of judgment or settlement

A completed and signed *Notice of judgment or settlement* form must be provided to Medicare Australia within 28 days of the date of judgment or settlement.

Since 1 January 2010, Medicare Australia requires written authorisation from the claimant to allow a legal representative to sign forms and documents on their behalf, including a *Notice of judgement or settlement* form. Medicare Australia must be notified so that a *Notice of charge* can be produced including details of Medicare benefits, nursing home benefits and residential care subsidies paid for treatment of the compensable injury.

For a copy of the form go to www.medicareaustralia.gov.au then **For individuals and families > Services and programs > Compensation recipients**

Legal costs

Where a settlement is agreed to be inclusive of legal costs, the whole amount including legal costs, is considered compensation for the purposes of the *Health and Other Services (Compensation) Act 1995* (the Act). However, where a judgment awards legal costs (whether as part of a costs order or included in the judgment), they are not considered compensation for the purposes of the Act.

Apportionment of liability

Subsection 8(2) of the Act details that an amount owed to the Australian Government will be reduced if a judgment or settlement fixes the amount of compensation on the basis that liability for the injury or illness has been apportioned between the compensation payer and the compensable person. In such cases, the amount owed to the Australian Government will be reduced by the percentage of liability attributed to the compensable person.

If an apportionment of liability is applicable, this must be detailed on the *Notice of judgment or settlement* form and a copy must be provided to Medicare Australia.

For more information about required supporting documentation see the *Apportionment of liability* information sheet.

Section 23A statement

A *Section 23A statement* supported by a statutory declaration may be included with a *Notice of judgment or settlement* to indicate the following:

- since the last *Notice of past benefits* was issued, no further Medicare benefits, nursing home benefits or residential subsidies have been paid, or
- if a *Notice of past benefits* has never been issued, no Medicare benefits, nursing home benefits or residential care subsidies have ever been paid in relation to the compensable injury or illness.

Note: if neither of the above scenarios apply, a *Section 23A statement* is not required.

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To download the *Section 23A statement* and statutory declaration go to www.medicareaustralia.gov.au then **For individuals and families > Services and programs > Compensation recipients**

When Medicare Australia receives the *Section 23A statement* and statutory declaration, an assessment will be made of the services that may relate to the injury or illness. Where clarification or further information is required, a *Not substantially correct notice* will be sent to the claimant. This notice will request the claimant review their statement and return it with the statutory declaration to Medicare Australia within 28 days.

Payment options

Once a compensation claim reaches judgment or settlement there are two options to repay the Australian Government for Medicare benefits and nursing home costs. A compensation payer cannot release the compensation payment until Medicare Australia is reimbursed for any Medicare benefits, nursing home benefits or residential care subsidies.

Payment obligations to Medicare Australia can be met by the Advance Payment Option (APO) or non-advance payment option.

Advance Payment Option

This option can only be used if there is **no valid Notice of past benefits** at the time of settlement.

The amount of the APO is 10 per cent of the fixed compensation payment and will be forwarded to Medicare Australia with the completed *Notice of judgment or settlement form*.

This allows the compensation payer to release the remaining 90 per cent of the compensation payment to the claimant. If the amount payable to the Australian Government is more than the 10 per cent payment, the claimant is liable to reimburse the additional amount. For more information see the *Important information for claimants information sheet*.

The APO can be used in cases where a *Section 23A statement* has been completed.

Note: the full 10 per cent must be sent to Medicare Australia regardless of whether there is an apportionment of liability.

Non-advance payment option

This option will be used when there is a **valid Notice of past benefits** at the time of judgment or settlement. Within 28 days of judgment or settlement being reached the compensation payer will forward the completed *Notice of judgment or settlement form* and the amount of the valid *Notice of past benefits*.

In cases where there is no valid *Notice of charge/past benefits* the compensation payer or claimant may request a *Medicare claims history statement* to establish past paid Medicare benefits, nursing home benefits or residential care subsidies owed to the Australian Government.

Only when the amount detailed on the *Notice of past benefits* is sent to Medicare Australia can the compensation payer release all other monies to the claimant.

For more information

Online www.medicareaustralia.gov.au

Email NSW.comp.mgr@medicareaustralia.gov.au
QLD.comp.mgr@medicareaustralia.gov.au

Call **132 127***

TTY **1800 552 152**** (Hearing and speech impaired)

TIS **131 450*** (Translating and Interpreting Service)

If you need help translating this information call the TIS on **131 450***.

Arabic - إذا احتجت لمساعدة في ترجمة هذه المعلومات، يمكنك الإتصال بخدمة الترجمة التحريرية والشفهية على الرقم 131 450*

Korean - 본 정보의 이해를 위해 번역사의 도움이 필요하시면, 131 450*번으로 TIS에 전화하십시오

Serbian - Ако вам је потребна помоћ да преведете информације, назовите TIS на 131 450*

Spanish - Si necesita ayuda para traducir esta información, llame al TIS al 131 450*

Turkish - Bu bilgiyi tercüme etmek için yardıma ihtiyacınız varsa 131 450* numaradan TIS'i arayınız

Vietnamese - Nếu quý vị cần nhờ dịch thông tin này xin gọi cho TIS số 131 450*

* Call charges apply.

** Call charges apply from mobile or pay phones only.