



ATTORNEYS AND COUNSELLORS AT LAW

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The A&G Report

I. HEALTH CARE Medicare Continued

This issue will provide general information on **Medicare Parts A and B** eligibility and coverage.

Medicare Part A, also known as Hospital Coverage, helps pay for inpatient care in hospitals, specialty care facilities, and rehab stays in nursing homes. It also covers hospice and home health services. Although Medicare Part A does not require most



participants to pay monthly premiums, they will be responsible for deductibles and co-payments.

Medicare Part B typically covers outpatient health care expenses, including doctors' fees. Unlike Medicare Part A, Part B participants pay a monthly premium which is automatically deducted from their Social Security payments.

CASE RESULTS DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH CASE. NO REPRESENTATION IS MADE OR INTENDED TO GUARANTEE OR PREDICT THE OUTCOME OF A PARTICULAR CASE.

MEDICARE PART A

Anyone who is entitled to benefits through Social Security or the Railroad Retirement Board (RRB) is eligible for Medicare Part A coverage at age 65.

Individuals who did not work, did not pay enough Medicare withholding while they were employed, or those under age 65 who are disabled, may be able to receive Medicare Part A coverage. However, they will be required to pay for coverage.

While Medicare Part A covers prescribed rehabilitative services in a skilled nursing facility after a hospitalization, coverage stops when the patient can no longer benefit from rehabilitation. Following a minimum 3-day hospital stay for a related illness or injury your doctor or discharge planner will determine if you require additional sub-acute or rehabilitative care in a designated skilled nursing or sub-acute facility. Based upon the extent of your disability, you may receive treatment for as long as your doctor feels it would be beneficial for your recovery, up to 100 days per benefit period. (A benefit period begins on the day you first require treatment and ends 60 days after you stop receiving any type of related treatment). After 100 days, the patient is responsible for 100 percent of the cost of care.

Medicare Part A covers a wide range of services that may be needed on a short-term basis including physical, occupational and speech therapy as well as any skilled nursing care required during the rehabilitative stay. Medicare Part A *does not* cover the cost of long-term skilled nursing care. Consequently, many people approaching retirement age are opting to supplement their coverage with some form of long-term care insurance.

MEDICARE PART B

Medicare Part B benefits were designed to cover medically necessary costs such as doctors' visits (inpatient or outpatient), laboratory tests and x-rays, ambulance services, medical equipment and supplies, and some home health care costs. It may also cover radiology treatments, emergency room services, surgical fees and anesthesia, blood transfusions, and certain mental health services. For a list of covered items, log onto www.medicare.gov.

To be covered, services must be either medically necessary or deemed to have certain accepted preventative benefits, like health screenings for breast cancer or health disease.

Services that are *not covered* by Medicare Part B include chiropractic services, acupuncture, cosmetic surgery, dental care, routine vision and hearing tests, annual wellness check-ups and health care services while traveling outside the U.S.

The Part B premium is increased each year, if necessary, to fund about 25% of the projected cost of Part B. In 2010, most people will continue to pay the 2009 Part B premium of \$96.40, even though the 2010 standard monthly Part B premium is \$110.50. Why? Most people have Part B deducted from their monthly Social Security checks. In 2010 there was no cost-of-living adjustment (COLA), so benefits checks did not increase. However, the Social Security Act prevents a decrease in benefits from one year to the next because of an increase in the Part B premium. Therefore most people who have the Part B premium deducted from their Social Security benefit check will continue to pay \$96.40 per month.

People who are not protected and will pay the standard \$110.50 per month include:

- Those who got Part B beginning January 1, 2010 or later;
- People with incomes above certain amounts. Please see the income table at www.medicare.gov.
- People who have Part B but don't get Social Security benefits.

If you still have coverage through a work-related health plan, you may not want the more basic benefits of Medicare Part B. If you fall into this category, you qualify for a Special Enrollment Period, during which you may enroll in Medicare Part B without penalty once your work-related coverage expires.

II.

Mass Torts Update

DePuy Orthopaedics, a division of pharmaceutical giant Johnson & Johnson, has recently announced the recall of two of its hip replacement products: the ASR™ XL Acetabular System and the DePuy ASR™ Hip Resurfacing System. These are “metal on metal” hip replacement devices, which appear to have a high early failure rate in many patients.

More than 90,000 DePuy ASR™ hips have been sold and new data suggests that one of every eight may fail within five years requiring additional surgery to replace the artificial hip. According to a recent New York Times report, the ASR™ device was cleared for use in traditional hip replacement through a regulatory pathway that did not require it to undergo clinical trials. Since 2008, the FDA has received hundreds of complaints on these ASR™ devices and the vast majority of those patients needed surgery to replace the device soon after getting it.

According to data from the National Joint Registry (NJR) of England and Wales, the ASR™ XL Acetabular System fails in 13% of recipients within five years with the failure rate even higher in women. Based on the data, the devices were withdrawn from the market in Australia in 2009. In a letter dated March 6, 2010, DePuy revealed to doctors in the United States that data suggested a higher than expected failure rate with the devices. In August, 2010, DePuy announced a recall of the ASR™ device in the United States.

Some medical experts maintain that the sales of these devices should have been halted much earlier based on the available data. They also indicate that the full range of medical problems associated with the device, such as severe inflammatory response associated with metallic debris from the ASR™ damaging muscle and other soft tissues, have yet to be fully explored.

For more information on Ashcraft & Gerel's mass tort/pharmaceutical practice, contact Nan Parfitt at 1-800-440-0001 or by e-mail at nparfitt@ashcraftlaw.com.

III.

Ashcraft & Gerel News



2010 Scholarship Winners!

Amber Ridings, 19, of Inwood, West Virginia, was this year's winner of Ashcraft & Gerel's **Washington construction trades scholarship**. She is pictured at left with her father, Albert Ridings, Jr., of Local 26. Ridings is a graduate of Musselman High School in Inwood, West Virginia and hopes to work for the Federal Government as a special agent forensic accountant.



Dillon Gustafson, 18, of Waldorf, Maryland, was awarded the **Lee C. Ashcraft Memorial Union Scholarship** sponsored by Ashcraft & Gerel. He is pictured here with his parents. Mark Federici, Local 400 official, is standing to his left. Gustafson is a graduate of North Point High School in Waldorf, Maryland and hopes to be a police officer.

Ashcraft & Gerel has been offering scholarships to union members and their family members for more than 20 years.

The Lee Ashcraft Memorial Union Scholarship was named in honor of Lee C. Ashcraft, one of the firm's founders. It offers a \$5,000.00 grant to non-construction trade union members and their family members in the Washington area.

The firm also awards a \$5,000.00 scholarship for Washington area construction trade union members and their family members.

A committee of union volunteers screens the applications and a finalist is chosen by the Dean of the George Washington University law school. No one at Ashcraft & Gerel participates in the selection process. This is an equal opportunity program, conducted without regard to race, gender, religion, age or disability.

For more information about eligibility requirements and application deadlines, please contact Lisa Sanders at (301) 459-8400.

BITS AND PIECES

Crime Blotter

A California roofing and general building contractor has been convicted in a \$38 million workers' compensation insurance fraud scheme, according to officials. Michael Vincent Petrone, 51, was found guilty of 33 felony counts and faces up to 49 years in prison, the Orange county District Attorney's office reported in a news release. Petronella's wife, Devon Kile, is also charged.

Petronella and his wife were accused of fraudulently submitting 42 claims for uninsured injured workers and for underreporting \$29 million in payroll to the State Compensation Insurance Fund to avoid paying workers' compensation insurance premiums, according to the Orange County District Attorney's office.

Officials say savings from the premiums afforded the couple a lavish lifestyle, including properties in California and Texas and vehicles including a Bentley, two Ferraris and a Range Rover. A search of the couple's homes and businesses revealed \$500,000.00 in jewelry, \$51,000.00 in cash and an application for Kile to appear on Bravo's "Real Housewives of Orange County".

Between 2005 and 2007, the couple is accused of claiming less than \$290,000 in income on their tax returns but spending more than \$2.1 million on their American Express card for personal items.



Ashcraft & Gerel, LLP

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