

Information about Resolving Governmental Medical Liens for the Vioxx Settlement Program

A. General Information for All Claimants

Section VII.A of the Notice of Points Award issued by the Claims Administrator identifies whether a claimant is participating in certain government healthcare programs and has any lien reimbursement obligations.

For state Medicaid programs, the LRA verified directly with the Medicaid agency for each state and U.S. territory which participating claimants in the Vioxx Settlement Program currently are or have been entitled to Medicaid between the dates of first Vioxx ingestion through the date of settlement. If the Notice of Points Award indicates “No” for the “State Medicaid Participant” section, then the result of the LRA’s verification process is that the claimant was not a Medicaid participant and therefore has no Medicaid liens or obligations to satisfy. If you are aware of a Medicaid obligation, please contact the LRA promptly at (877) 774-1130.

For federal Medicare, the LRA: (i) *verified* which participating claimants in the Vioxx Settlement are (or have been) entitled to Medicare (Parts A and B) and who therefore may have potential Medicare obligations resulting from Vioxx-related injuries; and (ii) facilitated a “global” resolution to satisfy and discharge Medicare’s interest for all Medicare-entitled claimants. If the Notice of Points Award indicates “No” for the “Federal Medicare Participant” section, then the result of the LRA’s verification process is that the claimant was not a participant in the federal Medicare program and therefore has no Medicare liens or obligations to satisfy. If you are aware of a Medicare obligation, please contact the LRA promptly at (877) 774-1130.

If the Vioxx claimant or claimant’s counsel has not reported to the LRA participation in any Other Government Programs, such as Veterans Affairs (“VA”), TRICARE, Department of Defense (“DOD”) or Indian Health Services (“IHS”) according to prior instructions provided in *Claimant Education Materials on Government Medical Liens/Obligations*, then the LRA has presumed that the claimant has no reimbursement obligations to these government entities. While the LRA has the responsibility to resolve these Other Government Program liens, it was the responsibility of the claimant and the claimant’s counsel to report to the LRA whether or not the claimant participated in these Other Government Programs and might therefore have such a lien. (See document entitled *Claimant Education Materials on Government Medical Liens/Obligations* for more information).

The balance of this document addresses the process and procedure if “Yes” is displayed in any of Rows 1, 3 or 5 of Section VII.A of your Notice of Points Award letter.

B. Medicaid Entitlement - Resolution

If Section VII.A of the Notice of Points Award indicates “Yes” for the “State Medicaid Participant” section, then the result of the LRA’s verification process was that the claimant was a participant in a state Medicaid program.

For those claimants verified as Medicaid participants, the LRA is in the process of securing claims histories from the appropriate state Medicaid agency(ies). The LRA is individually auditing each claims history to ensure that only those medical expenses associated with Vioxx-related injuries are included in the claimant’s final reimbursement or “lien” amount. This auditing process should be completed by the time a claimant receives the Final Settlement Payment. To assist with expediting payments to Medicaid-participant claimants while these claims histories are audited and the appropriate Medicaid reimbursement amount is finalized, the LRA has achieved a “holdback” agreement with nearly all state and territory Medicaid agencies. According to the terms of that agreement with most states, a fixed percentage of the gross settlement award may be temporarily “held back” while the LRA verifies and finalizes the amount of the claimant’s Medicaid reimbursement with the relevant Medicaid agency(ies). The exact holdback percentage will be disclosed to the claimant through their counsel by a secure website prepared by the LRA and the Claims Administrator. This “holdback” process with state Medicaid agencies is a significant benefit to claimants because it caps the Medicaid reimbursement obligation at the “holdback” amount even if the Medicaid reimbursement obligation would otherwise exceed that amount. In the likely event that a claimant’s final Medicaid reimbursement claims are resolved for less than the holdback percentage as stated in the Notice of Points Award letter, the claimant will receive the difference.

In future correspondence or postings to the “Lien” section of the secure web portal, the LRA will inform claimants with state Medicaid obligations about the final amount of their Medicaid reimbursement claim. There is nothing further that a claimant needs to do at this time.

If a claimant is a current or past recipient of Medicaid coverage, this process ensures that Medicaid's reimbursement interest for Vioxx-related care has been met and is a required step in order for final settlement monies to be released. It must be stressed that while this process satisfies Medicaid's reimbursement interest in a claimant’s Vioxx settlement proceeds, **the claimant remains responsible for meeting applicable state Medicaid income and/or asset requirements in order for the claimant’s state Medicaid benefits to continue uninterrupted.** For more information about these requirements, please see prior correspondence entitled *Claimant Education Materials on Government Medical Liens/Obligations* (also available on the Claims Administrator’s website: www.browngreer.com/vioxxsettlement/images/pdfs/lien_education.pdf).

C. Medicare Entitlement -Resolution

If Section VII.A. of the Notice of Points Award indicates “Yes” for the “Federal Medicare Participant” section, then the result of the LRA’s verification process was that the claimant is a participant in the federal Medicare program. Under the terms of the Vioxx Settlement Program, any statutory Medicare lien or “reimbursement claim” obligations must be resolved in order for final settlement monies to be released.

Section II of the Notice of Points Award provides a summary of the compensable claim as determined by the Claims Administrator pursuant to the terms of the Vioxx Settlement Program. For those claimants verified as federal Medicare beneficiaries, the LRA has negotiated a Medicare global reimbursement amount to be paid on their behalf to Medicare out of the claimant’s net settlement proceeds.

Under the terms of the LRA’s agreement with Medicare, there are six (6) Global Medicare Resolution Categories. The Medicare reimbursement amount associated with each of these six (6) categories reflects routine costs incurred by the Medicare program for the treatment and management of the compensable injury associated with each category. Immediately below is a complete listing of the six categories and the global reimbursement amount associated with each type of injury.

Global Medicare Resolution Categories

- 1) **Resolution Category 1:** Applies to each claimant who was entitled to Medicare Part A or B **prior to** the date of his/her compensable injury.
- 2) **Resolution Category 2:** Applies to each claimant who became entitled to Medicare Part A or B **after** the date of his/her compensable injury.
- 3) **Resolution Category 3:** Applies to each claimant who was Medicare entitled and elected Medicare Part C coverage **prior to** the date of his/her compensable injury and through date of stabilization.
- 4) **Resolution Category 4:** Applies to each claimant who was Medicare entitled **prior to** the date of his/her compensable injury and elected Medicare Part C after the date of his/her compensable injury event.
- 5) **Resolution Category 5:** Applies to each claimant receiving a gross award of less than \$10,000 and/or any claimant who elects the “\$5,000 Fixed Payment” option.
- 6) **Resolution Category 6:** Applies to each Claimant who died suddenly on account of their compensable event.

Each claimant’s Medicare reimbursement amount is determined by the claimant’s “Global Medicare Resolution” category. By agreeing to have this amount paid to Medicare on their behalf out of the claimant’s net Vioxx settlement proceeds, the claimant will satisfy any and all federal Medicare (Part A & B) reimbursement obligations resulting from medical care paid for by Medicare in connection with their Vioxx-related injuries from the first date of Vioxx ingestion through the date of settlement. In addition, payment of this amount will ensure that Medicare does not deny the claimant coverage for any future medical expenses he/she might incur in connection

with Vioxx-related injuries, on the ground that the claimant has not satisfied their Medicare obligation.

The “Global Medicare Resolution Category and Amount” set forth in Section VII.A of the Notice of Points Award is final and will be paid to Medicare on the claimant’s behalf unless the claimant requests a re-determination of his/her Global Medicare Resolution Category by the LRA. Requesting a re-determination of the Global Lien Resolution Category will not adversely impact the Claims Administrator’s determination of the claimant’s Points Award.

It is the LRA’s judgment that the amounts specified for each of the six (6) Global Medicare Resolution Categories represents a favorable and efficient resolution of Vioxx claimants’ obligations to Medicare and these amounts satisfy the terms and conditions of the Vioxx Settlement Program. Thus, the LRA generally recommends that claimants resolve their Medicare obligations by agreeing to their specified Medicare global resolution amount.

There are two potential exceptions to this recommendation: 1) if the claimant has had an alternative primary form of health care coverage and has not used federal Medicare coverage for any medical care in connection with his/her Vioxx-related injuries; or 2) the claimant has been placed in the wrong Resolution Category (*i.e.*, his/her date of injury was prior to, rather than after, he/she became entitled to Medicare). If a claimant believes that he/she fits one of these two exceptions and would like to apply for a re-determination of the Lien Resolution Category, **the claimant must request a re-determination of the Medicare Resolution Category within 15 days of receipt of the Notice of Points Award.** If a claimant disagrees with the LRA determinations, there is a page on the secure web portal for a claimant’s counsel to indicate that they want to request a re-determination of their claimant’s Global Resolution Category. Claimants can also submit a written request directly to the Claims Administrator, but the letter must be postmarked within 15 days of the date of the Notice of Points Award. If a claimant is in agreement with his/her specified Lien Resolution Category and dollar amount as set forth above, the claimant need not do anything.

Unless a claimant requests a re-determination of his/her Medicare Resolution Category within 15 days of receipt of the Notice of Points Award, it will be assumed that the claimant has agreed to resolve his/her Vioxx-related Medicare reimbursement obligation for the value specified in Section VII.A of the Notice of Points Award.

If you are requesting a re-determination of your Global Medicare Resolution Category or you would like to contact the LRA to discuss the terms and process associated with a re-determination of your Category, please use the contact information below.

Vioxx Lien Resolution Administrator
P.O. Box 12540
Charlotte, North Carolina 28220
Phone: (877) 774-1130
vioxxlra@garretsonfirm.com
www.vioxxlienresolution.com

D. Other Government Program Entitlement – Resolution

The previous communication entitled *Claimant Education Materials on Government Medical Liens/Obligations* (also available on the Claims Administrator’s website at: www.browngreer.com/vioxxsettlement/images/pdfs/lien_education.pdf) instructed claimants and claimants’ counsel on how to report participation in, and liens asserted by, Other Government Programs including Veterans Affairs (VA), TRICARE, Department of Defense (DOD) or Indian Health Services (IHS). In this regard, if Section VII.A of the Notice of Points Award indicates “Yes” for the “Other Government Program Obligations” section, then the LRA’s records reflect that the claimant has a reimbursement obligation to satisfy with respect to one or more of these Other Government Programs.

The LRA is in the process of securing claims histories from the appropriate Governmental agency(ies) for all claimants who reported participating in any of these Other Government Programs. Further, the LRA is individually auditing each claims history to ensure that only those medical expenses associated with Vioxx-related injuries are included in the claimant’s final reimbursement or “lien” amount. To enable the release of Interim Payments to those claimants determined to be entitled to Other Government Programs, the LRA has determined an amount to be “held back” from those claimants’ Interim Payment. The “holdback” amount will be based on the agency’s claimed expenditures. In the likely event the lien is satisfied for less than the holdback amount, the balance of the holdback will be released to the claimant.

In future correspondence, the LRA will inform claimants with Other Government Program obligations about the final amount of their reimbursement claim(s). There is nothing further that a claimant needs to do at this time.