

From: **Doug Kreis** DKreis@awkolaw.com  
 Subject: **Biomet - Subrogation & Lien Resolution Update**  
 Date: **October 10, 2014 at 2:50 PM**  
 To:  
 Cc: **Tom Anapol (External)** tanapol@anapolschwartz.com, **Melissa Hague (External)** mhague@anapolschwartz.com



All,

In follow up to our last update, we are pleased to announce that Biomet has begun to fund the settlement. Releases on Round I settled cases have been distributed. Biomet is reviewing the first batch of returned Releases, and we hope to initiate distribution over the next few weeks. On lien resolution, Garretson continues to work with state Medicaid agencies and will be providing resolution or holdback requirements for those eligible in the near future.

In addition, we are pleased to announce that the parties are now over 60% participation on disputed Round I cases. Our expectation is that we will reach the 67% participation rate within the next week or so. If you have not received an explanation of challenges from Biomet to this point, please know they intend to reach out to you before the end of the month if not sooner.

Please also note that the fees listed below will be charged by Garretson and associated with lien resolution and administration fees shall be paid through the provisional CB fee assessment. Those fees are as follows:

1. Fund Administration Fee: There is a flat of \$300,000 which will amount to less than \$200 per claimant.
2. Medicare Parts A&B and State of Residence Medicaid Lien Resolution (fee will be \$100, \$450 or \$600).
  - a. Verification : **\$100** is charged to each claimant where GRG secures entitlement responses from at least 1 agency.
  - b. Resolution: **\$350** is charged to the first obligation of the claimant regardless of claims amount. An obligation exists when an agency deems the claimant entitled to benefits.
  - c. Additional Obligation : **\$150** is charged to each additional obligation of the claimant regardless of the claims amount.

For firms that have engaged GRG for additional services:

1. Private and Medicare Part C lien resolution for which your firm may have engaged GRG to coordinate resolution
2. Claimant specific check issuance for which your firm may have engaged GRG
3. Bankruptcy or Probate fees/expenses for which your firm may have engaged GRG to coordinate resolution
4. Structure, Special Needs Trust funding and legal loan payment Fees – These fees are case specific and will be charged to individuals who seek structures or SNT's directly from the PEC Biomet QSF.
  - a. Structure payment from PEC Biomet QSF: **\$250** per payment
  - b. SNT or legal loan payment from PEC Biomet QSF: **\$100** per payment

In addition Garretson has received final approval from CMS on Medicare lien resolution. In some instances, the resolution is better than initially advised.

Biomet Medicare Part A and Part B Global Values			
	Resolution Category	CMS Approved Global Value	
Model – Payment in Full (\$162,500-\$200,000)	1	\$17,895.90	Entitled to Medicare prior to date of injury and through date of settlement (For enhanced awards, the lien amount is per revision, absent non-revision related enhancement).
	2	\$8,210.51	Entitled to Medicare after date of injury but within 6 months of date of injury – (Medicare paid after revision-care coverage only)
	3a	\$17,895.90	Entitled to Medicare prior to date of injury, but proof of other primary payer after 6 month after date of injury (Medicare reimburses the primary)
	3b	\$9,685.39	Entitled to Medicare prior to date of injury but proof of other primary payer within 6 months of date of injury (Medicare paid revision only)
	4a	\$2,207.00	Proof of other Primary Payer for a Group Health Plan Prior to and through settlement (Medicare secondary payer)
	4b	\$1,007.00	Entitled to Medicare after date of injury but within 6 months of date of injury – and Proof of other Primary Payer for a Group Health Plan (Medicare secondary payer post revision care only)
	5	\$0.00	Proof of other Primary Payer for a Medicare Part C Plan Prior to and through settlement (Private Lien may be assert)
Model – for Compromised Value Cases	1	\$5,800.00	Entitled to Medicare prior to date of injury and through date of settlement
	2	\$5,800.00	Entitled to Medicare after date of injury but within 6 months of date of injury
	3a	\$5,800.00	Entitled to Medicare prior to date of injury, but proof of other primary payer after 6 month after date of injury
	3b	\$5,800.00	Entitled to Medicare prior to date of injury but proof of other primary payer within 6 months of date of injury
	4a	\$2,207.00	Proof of other Primary Payer for a Group Health Plan Prior to and through settlement
	..	\$1,007.00	Entitled to Medicare after date of injury but within 6 months of date of injury – and Proof of other Primary Payer for a Group Health Plan (Medicare secondary payer post revision care only)

	40	\$1,007.00	date of injury – and proof of other Primary Payer for a Group Health Plan
	5	\$0.00	Proof of other Primary Payer for a Medicare Part C Plan Prior to and through settlement

For those of you who have NOT retained GRG for private and/or Part C work, please send all questions regarding lien resolution inquiries to [BiometLRA@garretsongroup.com](mailto:BiometLRA@garretsongroup.com). You should send all questions regarding payments from the QSF to [skerr@garretsongroup.com](mailto:skerr@garretsongroup.com) and [pbainum@garretsongroup.com](mailto:pbainum@garretsongroup.com). For those who HAVE retained them for private and/or Part C work, you should have a point of contact that you may reach out to directly (if you are unsure, use this email address and it will be redirected to your case handler).

Again, as we continue to near the next participation threshold for funding, please be sure that each of your firm has submitted the GRG Medicare letter of authorization and the Payment Instructions (attached) to GRG. Again, this **must** be provided by **all included firms**.

We will be providing a Round II update in the coming days.

Please direct any questions for GRG to:

Lien Resolution Questions	David Mickus, Mass Tort Program Manager 2115 Rexford Road, 4 <sup>th</sup> Fl., Charlotte, NC 28211 Phone: 704.559.4300 <a href="mailto:dmickus@garretsongroup.com">dmickus@garretsongroup.com</a>
QSF / Payment Questions	Sheri Kerr, Asst. Treasury Manager 2115 Rexford Rd. 4th Fl., Charlotte, NC 28211 Phone: 704.559.4300 ext. 2271 <a href="mailto:skerr@garretsongroup.com">skerr@garretsongroup.com</a>  and  Paige Bainum, Treasury Manager 6281 Tri-Ridge Blvd., Suite 300, Cincinnati, OH 45140 Phone: 513.794.0400 ext. 8136 <a href="mailto:pbainum@garretsongroup.com">pbainum@garretsongroup.com</a>

Thank you all for your attention to this matter.

Best regards,

Tom Anapol & Mark Lanier, *Plaintiffs' co-lead counsel*

and

Settlement Oversight Committee

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**From:** Doug Kreis  
**Sent:** Thursday, September 25, 2014 12:56 PM  
**Cc:** Tom Anapol (External) ([tanapol@anapolschwartz.com](mailto:tanapol@anapolschwartz.com)); Hague, Melissa ([mhague@anapolschwartz.com](mailto:mhague@anapolschwartz.com))  
**Subject:** Biomet - Subrogation & Lien Resolution Update

All,

Please note that we are very close to securing funding from Biomet for cases that have resolved in Group 1. We expect funding for the non-disputed cases by the end of the month and are additionally nearing our participation levels necessary to secure funding on the previously disputed segment of Group 1 claims.

As such, we wanted to take this opportunity to update everyone on the status of lien resolution efforts by the Garretson Resolution Group ("GRG") and other aspects of settlement administration.

First, please note that the Order Establishing Qualified Settlement Fund and Appointing Fund Administrator was filed last week and is attached for your convenience. Also attached for you is a letter from GRG including several enclosures, with instructions outlining how to return documentation to the Fund Administrator. Please be sure to follow all instructions in this letter and to do so expeditiously, as this information will be absolutely necessary to move any funds related to your clients' cases.

Verification of Medicaid entitlement and lien resolution is continuing for all claimants with sufficient demographic information. To bolster resolution efforts and help ensure quick distribution of funds, GRG has obtained agreements as to protocols establishing offsets and/or holdbacks with Medicaid agencies from 35 states. The remaining are pending agency confirmation and a vast majority of those are expected to agree within the next few weeks.

GRG has sent an official proposal to the Center for Medicaid and Medicare Services ("CMS") to establish official global repayment values. A final response and establishment of resolution categories is expected from CMS within the next two weeks. Major points are expected to include:

- 1) Repayment value of \$17,895.90 in Category 1 cases (\$162,500.00 - \$200,000.00 awards)
- 2) Repayment value of \$5,800.00 in those Category 2 cases receiving EXACTLY \$20,000.00 awards
- 3) Repayment values based on a mathematical formula for those Category 2 cases receiving over \$20,000.00

a. (GSV x 0.58) / 2

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Again, as we continue to near the next participation threshold for funding, please be sure that each of your firm has submitted the GRG Medicare letter of authorization to GRG. Again, this **must** be provided by **all included firms**.

Thank you all for your attention to this matter.

Best regards,

Tom Anapol & Mark Lanier, *Plaintiffs' co-lead counsel*

and

Settlement Oversight Committee

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