July 20, 2015

The Honorable Paul Ryan
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Orrin G. Hatch
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Ryan, Ranking Member Levin, Chairman Hatch, and Ranking Member Wyden:

On behalf of the American Bar Association and its nearly 400,000 members, I urge you to support swift passage of the Medicare Secondary Payer and Workers’ Compensation Settlement Agreements Act of 2015 (H.R. 2649/S. 1514). This bipartisan legislation would benefit employers, insurers, and injured workers by establishing a predictable and efficient set-aside approval process that offers reasonable protection for injured workers and Medicare.

Currently, injured workers whose compensation settlements overlap with Medicare coverage are subject to a lengthy, cumbersome review by the Centers for Medicare and Medicaid Services (CMS) to determine appropriate “set-aside” coverage amounts for future medical expenses. The review process adds unnecessary delay, uncertainty, and expense for all parties involved and is clearly in need of reform. H.R. 2649 and S. 1514 would provide the necessary reform by clarifying when a set-aside may be reviewed by Medicare and determining the proper amount to be included; providing a reasonable time frame for CMS to review set-asides; and establishing an appeals process. The legislation also creates certainty in the review process by making it clear that settlements that meet the terms of federal law at the time of settlement are not disapproved based on subsequent changes, and it contains a provision allowing for an optional direct payment of set-aside amounts to Medicare. These simple changes will make it easier for injured workers to manage their accounts and should also increase revenue to Medicare.

For over a decade the ABA has supported legislation that includes these critical elements, and we are pleased to see them incorporated into this legislation. I thank you and your
staff for working with the various stakeholders to develop a legislative solution for resolving Medicare set-aside disputes in a timely, efficient, and economic manner. We stand ready to assist you in moving this legislation forward.

Sincerely,

Thomas M. Susman