

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

In Re: Reliance Insurance Company :  
in Liquidation :  
: No. 1 REL 2001  
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:  
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*In Re: Liquidator's Motion for Reconsideration of the Court's Order of April 8, 2011 concerning Charles L. Martin, Jr., Claimant on POC No. 2160328*

**ORDER**

AND NOW, this 13th day of July, 2011, upon consideration of the Motion by the Liquidator for Reconsideration or Clarification of the Court's Order of April 8, 2011, compelling the Liquidator to issue a Notice of Determination (NOD) to Charles L. Martin, Jr. on his Claim at POC No. 2160328 and consideration of Mr. Martin's Response thereto, it is hereby ORDERED that, inasmuch as there is no dispute that the liability to Mr. Martin includes compensation for future medical expenses,<sup>1</sup> the Liquidator may specify in the Notice of Determination, or in separate Notices of Determination, the amount

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<sup>1</sup> Under 42 U.S. § 1395y (b)(2)(A), Medicare is a secondary payer for medical expenses that could "reasonably be expected to be made under a . . . liability insurance policy." Further, under subsection (b)(2)(B), a liability insurer that pays a claimant for future medical expenses nevertheless remains potentially liable for repayment to the Medicare Trust if in the future Medicare pays for items or services that should have been paid from any portion of the proceeds of claimant's insurance recovery that could reasonably be attributed to future medical expenses. For this reason, a Medicare Set Aside Agreement/Trust or a Medicare waiver will be necessary prior to distribution.

proposed for allocation to a Medicare Set Aside Agreement/Trust and the amount proposed for distribution directly to Mr. Martin.<sup>2</sup>

  
**BONNIE BRIGANCE LEADBETTER,**  
President Judge

**Certified from the Record**

**JUL 14 2011**

**And Order Exit**

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<sup>2</sup> Any dispute regarding the Notice(s) of Determination, including a dispute as to the amount designated for distribution to a Medicare Set Aside Agreement/Trust will be resolved by way of the process set forth in the Case Management Order of December 12, 2008 regarding "Procedures for Disposition of Proofs of Claim." Any distribution to Mr. Martin shall occur only upon the approval of this Court, after a final resolution of any Objections to the Notice(s) of Determination.