

Chapter 5. Post-Settlement Processing.

A. Approval Process Time Constraints.

Once a case is tentatively settled, there is a period of time before the settlement is approved and payment can be made. Because both the client agency (Health and Human Services) and the Department of Justice must review any tentative settlement reached by the parties, the agencies must obtain final approval from the authorized agency personnel. The time frames vary, depending on whether entitlement has been determined prior to settlement. If entitlement has been determined prior to the tentative settlement, a proffer is often used, resulting in faster processing. If entitlement has not been determined, the special master will issue a "15-Week Order," setting deadlines for finalizing and filing an executed settlement agreement.

B. Issues Regarding the Purchase of Annuities.

The parties may negotiate that the annuity pay a stream of benefits, usually expressed as annual payments of certain amounts for a specific number of years or for the life of the payee. Alternatively, on some occasions, the parties negotiate a sum certain to be used to purchase an annuity. In such instances, the agreed on settlement amount is the sum used to purchase the annuity. The distinction between these two approaches is significant because fluctuations in market conditions between the time of negotiation and the time the annuity is purchased may affect the annuity's value. If a stream of benefits has been negotiated, then the amount paid to petitioner is certain and any fluctuation will affect the amount the respondent pays for that annuity, increasing or decreasing the cost. If a sum certain has been negotiated, the cost of the annuity is set, and any fluctuation will affect the stream of benefits, increasing or decreasing the amount paid to petitioner.