

434 COORDINATION OF BENEFITS AND THIRD PARTY LIABILITY

EFFECTIVE DATE: October 1, 2019

REFERENCES: A.R.S. §36-2923; A.A.C. R9-22-711, R9-22-1001 et seq, R9-22-1003; 42 U.S.C.1396a(a)(25)(A); 42 CFR 433.135 et seq, 42 CFR 433.136; Deficit Reduction Act of 2005 (Public Law 109-171), Section F3, Contractor Chart of Deliverables.

DELIVERABLES: Total Plan Case Settlement Reporting via Monthly File (When reporting, Contractors must use the monthly file or the ad hoc form)

This policy applies to the Division's Administrative Services Subcontractors (AdSS).

Purpose

Federal law 42 U.S.C.1396a(a)(25)(A) requires Medicaid to take all reasonable measures to ascertain the legal liability of third parties for health care items and services provided to Medicaid members. The purpose of this policy is to delineate the AdSS's requirements for Coordination of Benefit (COB) activities and Third Party Liability (TPL) recoveries.

Definitions

- A. **COB** - The activities involved in determining Medicaid benefits when a member has coverage through an individual, entity, insurance, or program that is liable to pay for health care services.
- B. **Copayment** - A monetary amount that a member pays directly to a provider at the time a covered service is rendered (A.A.C. R9-22-711).
- C. **Cost Avoidance** - To deny a claim and return the claim to the provider for a determination of the amount of third-party liability. Refer to A.A.C.R9-22 -1001 et seq.
- D. **Post-Payment Recovery** - Subsequent to payment of a service by a contractor, efforts by that contractor, to retrieve payment from a liable third-party. Pay and Chase is one type of post-payment recovery.
- E. **Third Party** - An individual, entity or program that is, or may be, liable to pay all or part of the expenditures for medical assistance furnished under a State plan [42 CFR 433.136].
- F. **TPL** - The legal obligation of third parties (e.g., certain individuals, entities. insurers or programs) to pay part or all of the expenditures or medical assistance furnished under a Medicaid state plan.

Policy

- A. The AdSS is the payor of last resort unless specifically prohibited by applicable state or federal law. This means AdSS must be used as a source of payment for covered services only after all other sources of payment have been exhausted. The AdSS must take reasonable measures to identify potentially legally liable third-party sources. The AdSS is responsible for making third party payer information available through the AdSS's verification systems for use. Third party payor information may

also be obtained through DDD Systems. The AdSS is responsible for communicating TPL responsibilities to subcontractors per A.A.C. R9-22-1003.

- B. The AdSS must coordinate benefits in accordance with 42 CFR 433.135 et seq., A.R.S. §36-2903, and A.A.C. R9-22-1001 et seq., so that costs for services otherwise payable by the AdSS are cost avoided or recovered from a liable third party.
- C. AdSS is not the payor of last resort when the following entities are the third party:
 - 1. Indian Health Services (IHS/638), contract health
 - 2. Title IV-E
 - 3. Arizona Early Intervention Program (AZEIP)
 - 4. Local educational agencies providing services under the Individuals with Disabilities Education Act under 34 CFR Part 300
 - 5. Entities and contractors of entities providing services under grants awarded as part of the HIV Health Care Services Program under 42 U.S.C. 300ff et seq.
 - 6. The Arizona Refugee Resettlement Program operated under 45 CFR Part 400, Subpart G

The two methods used for COB are Cost Avoidance and Post-Payment Recovery. The AdSS must use these methods as described in A.A.C. R9-22-1001 et seq., federal and state law, and DDD policy.

Cost Avoidance

The AdSS must cost avoid a claim if it has determined the probable existence of a liable party at the time the claim is filed. Determining liability takes place when the AdSS receives confirmation that another party is, by statute, contract, or agreement, legally responsible for the payment of a claim for a healthcare item or service delivered to a member.

Post-Payment Recovery

Pay and Chase – The AdSS must pay the full amount of the claim according to the AdSS service rate or specified contracted rate and then seek reimbursement from any third party if the claim is for any of the following:

- A. Prenatal care for pregnant women, including services that are part of a global OB package
- B. Preventive pediatric services, including Early and Periodic Screening Diagnosis and Treatment (EPSDT) and administration of vaccines to children under the Vaccines for Children (VFC) program

- C. Services covered by TPL that are derived from an absent parent whose obligation to pay support is being enforced by the Division of Child Support Enforcement.

Retroactive Recoveries Involving Commercial Insurance Payor Sources

Tagging – For a period of two years from the date of service, the AdSS must engage in retroactive recovery efforts for claims paid to verify if there are commercial insurance payor sources that were not known at the time of payment. In the event a commercial insurance payor source is identified, the AdSS will seek recovery from the commercial insurance. The AdSS is prohibited from recouping payments from providers or requiring the involvement of providers in any way, unless the provider was paid in full from both the AdSS and the commercial insurance.

The AdSS has two years from the date of service to recover payments for a particular claim, or to identify (tag) claims having a reasonable expectation of recovery. A reasonable expectation of recovery is established when the AdSS has affirmatively identified a commercial insurance payor source and has begun the process of recovering payment prior to the end of the AdSS' two-year recovery period. The AdSS must identify tagged claims in a monthly claims match-off file submitted to DDD as outlined in the AHCCCS Technical Interface Guidelines (TIG).

The timeframe for submission of claims for recovery is limited to three years from the date of service consistent with A.R.S. §36-2923 and the Deficit Reduction Act of 2005 (Public Law 109-171).

Encounter Adjustments Flagging – Although all encounters related to the AdSS' retroactive recovery efforts outlined above must be adjusted, these adjustments cannot be completed through the normal encounter adjustment process as the AdSS is prohibited from requesting adjustments from, or adjusting related payments to, providers.

Instead, the AdSS must submit an external replacement file (via an AHCCCS approved vendor using a prescribed AHCCCS file format) in order to directly update impacted encounters. This external replacement file must be submitted within 120 days from completion of the recovery project.

In order to submit an external replacement file, the AdSS must contact the Division Encounter Unit at the completion of the recovery project for a list of approved vendors as well as the acceptable external replacement file format, and to coordinate submission of these files.

Encounters will not be adjusted when recoveries occur as a result of AHCCCS' efforts. AHCCCS will instead flag all encounters that are impacted by retroactive commercial insurance recoveries and will develop and maintain a database to store recovery payments.

Using the data from the replacement file submitted by the AdSS, and the database used to store AHCCCS' recoveries, AHCCCS will adjust prior and current payment reconciliations and reinsurance payments when appropriate.

Other Third-Party Liability Recoveries

The AdSS must identify the existence of other potentially liable third parties through a variety of methods, including referrals and data mining related to the following:

- A. Motor vehicle cases
- B. Other casualty cases
- C. Tortfeasors
- D. Restitution recoveries
- E. Workers' compensation cases

AdSS Discovery and Reporting of a Liable Third-Party

Reporting Requirements (Involving Commercial Insurance Payor Sources)

If the ADSS discovers the probable existence of a liable third party that is not known to AHCCCS/ Division, or identifies any change in coverage, the AdSS must report the information via the TPL Leads File or the TPL Referral Web Portal as specified in Section F3, Contractor Chart of Deliverables.

Reporting Requirements (Referrals and Data Mining)

Upon the identification of a potentially liable third party via referrals or data mining as described above, the AdSS must report the potentially liable third parties to AHCCCS' TPL contractor for determination of a mass tort case, total plan case, or joint case. AHCCCS' TPL contractor will refer total plan cases to the AdSS to be processed in accordance with AHCCCS, state, and federal laws and policies.

The AdSS must report total plan case settlement information to the Division, using Attachment A, the AHCCCS-approved casualty recovery Total Plan Case Settlement Notification Form, within 10 business days from the settlement date or in a monthly file approved by the Division.

Reporting Cost Avoidance and Recovery Activity

The AdSS must submit quarterly updates regarding cost avoidance/recovery activity as specified in Section F3, Contractor Chart of Deliverables.