434 COORDINATION OF BENEFITS AND THIRD PARTY LIABILITY

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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 § C.F.R. 433.135 et seq, 42 § C.F.R. 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 as required by 42 § U.S.C. 1396a(a)(25)(A).

DEFINITIONS

1.   "Absent Parent" means an individual who is absent from the home and is legally responsible for providing financial and

28   medical support for a dependent child, as specified by A.A.C. R9-

29   22-1001.

30   A2.   "Coordination of Benefits" or "COB" means— tThe activities
31   involved in determining Medicaid benefits when a Mmember has
32   coverage through an individual, entity, insurance, or program
33   that is liable to pay for health care services.
34   B3.   "Copayment" means— aA monetary amount that a Mmember

35   pays directly to a provider at the time a covered service is

36   rendered as defined by (A.A.C. R9-22-711).

37   C4.   "Cost Avoidance" means —tTo deny a claim and return the claim

38   to the provider for a determination of the amount of Tthird p

39   Party Lliability as defined in . Refer to A.A.C. R9-22 -1001 et

40   seq.

41   5.   "Data Mining" means, through the use of trauma code edits,

42   identifying claims which indicate specific codes that are

43   consistent with injuries that may be covered by liable Third

44   Parties.

45   6.   "Member" means the same as "client" as defined by A.R.S. § 36-

46   551.

47   7.   "Pay and Chase" means a Post Payment Recovery method in

48   which the Division pays the full amount of a claim according to

49   the AHCCCS Capped-FFS Schedule or the contracted rate,

50   even when a Third Party is liable, and then recoups the

51   payment from the liable Third Party.

52   D8. "Post -Payment Recovery" means-- Ssubsequent to payment of a

53   service by the AdSS a contractor, efforts by the AdSSat

54   contractor, to retrieve payment from a liable Tthird p Party. Pay

55   and Chase is one type of post-payment recovery.

56   9. "Provider" means any individual or entity contracted with the

57   AdSS that is engaged in the delivery of services, or ordering or

58   referring for those services, and is legally authorized to do so by

59   the State.

60   10. "Referral" means information on potential Third Parties that may

61   be liable for payment of claims received by the Division from a

62   variety of sources, including attorneys, insurance companies,

63   Members, and providers.

64   11. "Tag" or "Tagging" means identifying claims that have a

65   reasonable expectation of payment recovery from a

66   commercial insurance payor source that was not known at the

67   time of payment using the process outlined in the AHCCCS

68   Technical Interface Guidelines (TIG).

69   E12.   "Third Party" means -- aAn individual, entity or program that is,

70   or may be, liable to pay all or part of the expenditures for

71   medical assistance furnished under a State plan as defined in

72   [42 § C.F.R. 433.136].

73   F13.   "Third Party Liability" or "TPL" means – tThe legal obligation of

74   Tthird pParties (e.g., certain individuals, entities., insurers or

75   programs) that is, or may be, by agreement, circumstance or

76   otherwise, liable to pay part or all of the expenditures for

77   medical expenses for medical assistance furnished under a

78   Medicaid state plan.

79
80   **POLICY**

81
82   **A.   GENERAL THIRD PARTY LIABILITY RECOVERY REQUIREMENTS**

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85   A.1.   The AdSS, is the payor of last resort unless specifically

86   prohibited by applicable state or federal law, shall identify

87   potentially legally liable Third Party payor sources for claims

88   before paying for covered services. ~~This means AdSS must be~~

89   ~~used as a source of payment for covered services only after all~~

90   ~~other sources of payment have been exhausted. The AdSS must~~

91   ~~take reasonable measures to identify potentially legally liable~~

92   ~~third party sources.~~

93   2.   The AdSS shall obtain~~is responsible for making~~ Third Pparty

94   payoer information ~~available~~ through:

95   a.   The AdSS's verification systems; or ~~for use~~. ~~Third party~~

96   ~~payor information may also be obtained through~~

97   b.   DDD's sSystems.

98   ~~A.~~B.   3.   The AdSS shall~~is responsible for~~ communicateing Third

99   Party Liability (TPL) responsibilities to subcontractors per A.A.C.

100   R9-22-1003.

101   ~~B.~~4.   The AdSS shall~~must~~ coordinate benefits in accordance with 42 §

102   C.F.R. 433.135 et seq., A.R.S. § 36-2903, and A.A.C. R9-22-

103   1001 et seq., by the following, except as otherwise specified in

104   this policy by:

105   a.   Cost Avoidance of services; and

106   B.   b.   Post Payment Recovery of costs from a liable Third
107   Party.so that costs for services otherwise payable by the
108   AdSS are cost avoided or recovered from a liable third
109   party.

110   5.   The AdSS shall issue service authorizations according to the

111   timeframes specified in Federal and State provisions, and in

112   ACOM 414, in addition to coordinating benefits and identifying

113   Third Party payor resources.

114

115   6.   Regardless of a Member's TPL coverage, the AdSS shall timely

116   evaluate the medical necessity and coverage of a requested

117   service according to the timeframes specified ACOM 414 even

118   when the potential Third Party has not yet issued a

119   determination.

120
121

122   7.   The AdSS shall not use a denial of a service request by a Third

123   Party as a basis for the AdSS's determination of medical

124   necessity or coverage.

8.   The AdSS shall independently and timely evaluate the Member's service request using its own criteria when a Third Party denies a service request.

9.   The AdSS, when a Third Party has approved a service request as medically necessary shall:

   a.   Not apply a secondary prior authorization; and

   b.   Coordinate payment with the Third Party, and as specified in this policy.

10.   The AdSS shall coordinate benefits in accordance with 42 § C.F.R. 433.135 et seq., A.R.S. § 36-2903, and A.A.C. R9-22-1001 et seq., by the following, except as otherwise specified in this policy by:

   a.   Cost Avoidance of services; and

   b.   Post Payment Recovery of costs from a liable Third Party.

C.   EXCEPTIONS TO COORDINATION OF BENEFITS WITH THIRD PARTIES

   C.D.   C.1.   The AdSS shall is not be the payor of last resort when the following entities are the Third Party:

145 a1. Indian Health Services (IHS/638), contract health;

146 b2. Title IV-E;

147 c3. Arizona Early Intervention Program (AZEIP);

148 d4. Local educational agencies providing services under the

149   Individuals with Disabilities Education Act under 34 §

150   C.F.R. Part 300;

151 e5. Entities and contractors of entities providing services under

152   grants awarded as part of the HIV Health Care Services

153   Program under 42 § U.S.C. 300ff et seq;.

154 f6. The Arizona Refugee Resettlement Program operated

155   under 45 § C.F.R. Part 400, Subpart G;

156 g. Substance Abuse Block Grant (SABG);

157 h. Mental Health Services Block Grant (MHBG); and

158 i. Any other awarded grants.

159 2. The AdSS shall cost share payments for Members covered under

160   both Medicare and Medicaid, as required in ACOM 201.

161 ~~The two methods used for COB are Cost Avoidance and Post-Payment~~

162 ~~Recovery. The AdSS must use these methods as described in A.A.C.~~

163 ~~R9-22-1001 et seq., federal and state law, and DDD policy.~~

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165 C.   COST AVOIDANCE~~Cost Avoidance~~

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167 1.   The AdSS shall~~must~~ cost avoid a claim when:

168   a.   ~~if it~~ The AdSS has determined the probable existence of a

169   TPL~~liable party at the time the claim is filed.;~~; and

170   b.   ~~Determining liability takes place when the AdSS r~~Receives

171   confirmation that another party is, by statute, contract, or

172   agreement, legally responsible for the payment of a claim

173   for a healthcare item or service delivered to a M~~m~~ember.

174

175 D.   POST-PAYMENT RECOVERY METHODS~~Post-Payment Recovery~~

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177 1.   The AdSS shall perform the following Post-Payment Recovery

178   methods:

179   a.   Pay and Chase; ~~ The AdSS must pay the full amount of~~

180   ~~the claim according to the AdSS service rate or specified~~

181   ~~contracted rate and then seek reimbursement from any~~

182   ~~third party if the claim is for any of the following:~~

183   b.   Retroactive recoveries involving commercial insurance

184   payor sources; and

185   c.   Other TPL recoveries.

186   2.   The AdSS shall perform Pay and Chase under the following

187   conditions:

188   a.   The AdSS is unable to confirm the probable existence of a

189   Third Party's liability;

190   b.~~A.~~   For p~~P~~renatal care claims for pregnant women, including

191   services that are part of a global OB package;

192   ~~B.~~ c.   For the following ~~P~~preventive pediatric services claims,

193   including Early and Periodic Screening Diagnosis and

194   Treatment (EPSDT) and administration of vaccines to

195   children under the Vaccines for Children (VFC) program:

196   i.   Screening and diagnostic services to identify

197   congenital, physical, and mental health routine

198			examinations performed in the absence of
199			complaints; and
200		ii.	Screening or treatment designed to avert various
201			infectious and communicable diseases from ever
202			occurring in children under age 21, to include:
203			1) Immunizations;
204			2) Screening tests for congenital disorders;
205			3) Well child visits;
206			4) Preventive medicine visits;
207			5) Preventive dental care;
208			6) Screening and preventive treatment for
209			infectious and communicable diseases; and
210			7) Therapies, and behavioral health exams.
211			
212	C.d.		For Sservices covered by TPL that are derived from an
213			Aabsent Pparent whose obligation to pay support is being
214			enforced by the Division of Child Support
215			ServicesEnforcement.

3.   Retroactive Recoveries Involving Commercial Insurance Payor

Sources

a.   The AdSS shall, for a period of two years from the date of

service, Tag claims to recover payment.

b.   The AdSS shall submit identified tagged claims in a

monthly claims match-off file to DDD using the process

outlined in the TIG.

c.   The AdSS shall seek payment recovery from the

commercial payor source for all tagged claims.

d.   The AdSS shall submit tagged claims for recovery within

three years from the date of service consistent with A.R.S.

§ 36-2923 and 42 U.S.C. § 1396a(a)(25)(I).

e.   The AdSS shall not recoup payments from providers or

require the involvement of providers in any way unless the

provider was paid in full, from both the Division and the

commercial payor source.

232   f.   The AdSS shall not, as a result of retroactive recovery

233   efforts, request encounter adjustments from or adjust

234   related payments to providers.

235   g.   The AdSS shall submit an external replacement file via an

236   AHCCCS approved vendor to the Division Encounter Unit

237   using a prescribed AHCCCS file format in order to directly

238   update encounters related to the AdSS's retroactive

239   recovery efforts outlined in this section.

240   h.   The AdSS shall submit the external replacement file within

241   120 days from completion of the retroactive payment

242   recovery project.

243   i.   The AdSS shall contact the Division Encounter Unit at the

244   completion of the retroactive payment recovery project to:

245   i.   Obtain a list of approved AHCCCS vendors;

246   ii.   Obtain the acceptable external replacement file

247   format; and

248   ii.   Coordinate the submission of these files.

249   Tagging — For a period of two years from the date of service, the AdSS
250   must engage in retroactive recovery efforts for claims paid to verify if

251 there are commercial insurance payor sources that were not known at
252 the time of payment. In the event a commercial insurance payor
253 source is identified, the AdSS will seek recovery from the commercial
254 insurance. The AdSS is prohibited from recouping payments from
255 providers or requiring the involvement of providers in any way, unless
256 the provider was paid in full from both the AdSS and the commercial
257 insurance.
258
259 The AdSS has two years from the date of service to recover payments
260 for a particular claim, or to identify (tag) claims having a reasonable
261 expectation of recovery. A reasonable expectation of recovery is
262 established when the AdSS has affirmatively identified a commercial
263 insurance payor source and has begun the process of recovering
264 payment prior to the end of the AdSS' two-year recovery period. The
265 AdSS must identify tagged claims in a monthly claims match-off file
266 submitted to DDD as outlined in the AHCCCS Technical Interface
267 Guidelines (TIG).
268
269 The timeframe for submission of claims for recovery is limited to three
270 years from the date of service consistent with A.R.S. §36-2923 and
271 the Deficit Reduction Act of 2005 (Public Law 109-171).
272
273 Encounter Adjustments Flagging — Although all encounters related to
274 the AdSS' retroactive recovery efforts outlined above must be
275 adjusted, these adjustments cannot be completed through the normal
276 encounter adjustment process as the AdSS is prohibited from
277 requesting adjustments from, or adjusting related payments to,
278 providers.
279
280 Instead, the AdSS must submit an external replacement file (via an
281 AHCCCS approved vendor using a prescribed AHCCCS file format) in
282 order to directly update impacted encounters. This external
283 replacement file must be submitted within 120 days from completion
284 of the recovery project.
285

286 In order to submit an external replacement file, the AdSS must contact
287 the Division Encounter Unit at the completion of the recovery project
288 for a list of approved vendors as well as the acceptable external
289 replacement file format, and to coordinate submission of these files.
290
291 Encounters will not be adjusted when recoveries occur as a result of
292 AHCCCS' efforts. AHCCCS will instead flag all encounters that are
293 impacted by retroactive commercial insurance recoveries and will
294 develop and maintain a database to store recovery payments.
295
296 Using the data from the replacement file submitted by the AdSS, and
297 the database used to store AHCCCS' recoveries, AHCCCS will adjust
298 prior and current payment reconciliations and reinsurance payments
299 when appropriate.

301 4.   **Other TPLThird-Party Liability Recoveries**

303   a.   The AdSS shall must identify the existence of other

304   potentially liable tThird Pparties through a variety of

305   methods, including Rreferrals and Ddata Mmining.

306   b.   The AdSS shall not not pursue payment recovery in the

307   following circumstances, unless the case has been referred

308   to the Division by AHCCCS or AHCCCS' authorized

309   representative: related to the following:

311   iA.   Motor vehicle cases;

313   iiB.   Other casualty cases;

  iii<s>C</s>. Tortfeasors<u>;</u>

  iv<s>D</s>. Restitution recoveries<u>; and</u>

  v<s>E</s>. Workers' compensation cases<u>.</u>

E. **AdSS <u>DISCOVERY AND REPORTING OF A LIABLE THIRD PARTY</u>**
~~Discovery and Reporting of a Liable Third Party~~

~~Reporting Requirements (Involving Commercial Insurance Payor Sources)~~

 <u>1.</u> If the Ad<s>D</s>SS discovers the ~~probable~~ existence of a liable <u>T</u>~~t~~hird <u>P</u>~~p~~arty that is not known to AHCCCS <u>or the</u> ~~/~~ Division, or identifies any change in coverage <u>involving a commercial payor source</u>, the AdSS <u>shall</u> ~~must~~ report the information via<u>:</u>

  a. ~~-T~~<u>t</u>he TPL <u>Verification</u>~~Leads~~ File<u>;</u> or

  b. ~~t~~<u>T</u>he TPL Referral Web Portal as specified in Section F3, Contractor Chart of Deliverables.

~~**Reporting Requirements (Referrals and Data Mining)**~~
 <u>2.</u> Upon ~~the~~ identif<u>ying</u>~~ication of~~ <u>verified</u>~~a potentially~~ liable ~~t~~<u>T</u>hird <u>P</u>~~p~~art<u>y</u>~~ies~~ via <u>R</u>~~r~~eferrals or <u>D</u>~~d~~ata <u>M</u>~~m~~ining ~~as described above,~~ the AdSS <u>shall</u> ~~must~~ report the

340   potentially liable Tthird Ppartyies to the Division Encounter

341   Unit AHCCCS' TPL contractor for determination of the

342   following:

343   a.   A a mass tort case;,

344   b.   tTotal plan case;, or

345   c.   jJoint case.

346   3.   Total Plan Cases

347   a.   The AdSS shall process AHCCCS' TPL contractor will

348   refer total plan cases referred from the AHCCCS TPL

349   contractor in to the AdSS to be processed in

350   accordance with AHCCCS, Federal, and, Sstate laws ,

351   and federal laws and policies.

352

353   The AdSS shall perform all research, investigation, the

354   mandatory filing of initial liens on cases that exceed $250,

355   lien amendments, lien releases, and payment of other

356   related costs in accordance with A.R.S. § 36-2915 and

357   A.R.S. § 36-2916 for total plan cases pursued by the

358   AdSS.

359   b.   The AdSS shall not retain any of ~~up to 100% of~~ its

360   recovery collections from total plan cases and must submit

361   funds to the Division. ~~if all of the following conditions~~

362   ~~exist:~~

363   ~~i.   Total collections received do not exceed the total~~

364   ~~amount of the AdSS's financial liability for the~~

365   ~~Member;~~

366   ~~ii.   There are no payments made by AHCCCS related to~~

367   ~~Fee-For-Service, reinsurance or administrative costs~~

368   ~~(e.g. lien filing); and~~

369   ~~iii.   Such recovery is not prohibited by state or federal law.~~

370   c.   The AdSS shall~~must~~ report total plan case settlement

371   information to the Division, using Attachment A, the

372   AHCCCS-approved casualty recovery Total Plan Case

373   Settlement Notification Form, within 10 business days from

374   the settlement date and ~~or~~ in a monthly file approved by

375   the Division.

376   4.   The AdSS shall submit quarterly updates on~~that report~~ the cost

377   avoidance savings~~or~~ recovery report ~~activity~~ as specified in

378   Section F3, Contractor Chart of Deliverables.

379   **~~Reporting Cost Avoidance and Recovery Activity~~**
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381   ~~The AdSS must submit quarterly updates regarding cost~~
382   ~~avoidance/recovery activity as specified in Section F3, Contractor~~
383   ~~Chart of Deliverables.~~
384
385