

434 COORDINATION OF BENEFITS AND THIRD PARTY LIABILITY

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REFERENCES: 42 § U.S.C. 1396a(a)(25)(A); 42 § C.F.R. 433.136; ACOM 434

PURPOSE

The purpose of this policy is to specify the Division's Coordination of Benefit (COB) activities and Third Party Liability (TPL) recoveries for costs of services and health care items provided to Members, 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 medical support for a dependent child, as specified by A.A.C. R9-22-1001.
2. "Coordination of Benefits" or "COB" means 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.

3. "Copayment" means money a Member is asked to pay for a covered health service when the service is given.
4. "Cost Avoidance" means the process of identifying and utilizing all confirmed sources of first or Third Party benefits before payment is made by the Division.
5. "Data Mining" means, through the use of trauma code edits, identifying claims which indicate specific codes that are consistent with injuries that may be covered by liable Third Parties.
6. "Member" means the same as "client" as defined by A.R.S. § 36-551.
7. "Pay and Chase" means a Post Payment Recovery method in which the Division pays the full amount of a claim according to the AHCCCS Capped-FFS Schedule or the contracted rate, even when a Third Party is liable, and then recoups the payment from the liable Third Party.
8. "Post Payment Recovery" means subsequent to payment of a service by the Division, efforts by the Division, to retrieve payment from a liable Third Party.

9. "Provider" means a person, institution, or group engaged in the delivery of services, or ordering and referring those services, who has an agreement with AHCCCS to provide services to AHCCCS Members.
10. "Referral" means information on potential Third Parties that may be liable for payment of claims received by the Division from a variety of sources, including attorneys, insurance companies, Members, and providers.
11. "Tag" or "Tagging" means identifying claims that have a reasonable expectation of payment recovery from a commercial insurance payor source that was not known at the time of payment using the process outlined in the AHCCCS Technical Interface Guidelines (TIG).
12. "Third Party" means 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 as defined in 42 § C.F.R. 433.136.
13. "Third Party Liability" or "TPL" means the legal obligation of the Third Parties (e.g. certain individuals, entities, insurers, or

programs) that is, or may be, by agreement, circumstance or otherwise, liable to pay part or all of the expenditures for medical expenses for medical assistance furnished under a Medicaid state plan.

POLICY

A. GENERAL THIRD PARTY LIABILITY RECOVERY REQUIREMENTS

1. The Division, as the payor of last resort, shall identify potentially legally liable Third Party payor sources for claims before paying for services.
2. The Division shall make available Third Party payor information through the Division's verification systems for use or obtain Third Party payor information through AHCCCS verification systems.
3. The Division shall communicate Third Party Liability (TPL) responsibilities as specified in A.A.C. R9-22-1033 to Administrative Services Subcontractors and Qualified Vendors.
4. The Division shall issue service authorizations according to the timeframes specified in Division Medical Policy 1610, in addition to conducting COB and identifying Third Party payor resources.

5. Regardless of a Member's TPL coverage, the Division shall evaluate the medical necessity and coverage of a requested service according to the timeframes specified in Division Medical Policy 1610, even when the potential Third Party has not yet issued a determination.
6. The Division shall not use a denial of a service request by a Third Party as a basis for the Division's determination of medical necessity or coverage;
7. The Division shall independently evaluate the Member's service request using its own criteria according to the timeframes specified in Division Medical Policy 1610, when a Third Party denies a service request.
8. The Division, 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.
9. The Division 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.

B. EXCEPTIONS TO COORDINATION OF BENEFITS WITH THIRD PARTIES

1. The Division shall not be payor of last resort when the following entities are the Third Party:
 - a. Indian Health Services (IHS/638), contract health;
 - b. Title IV-E;
 - c. Arizona Early Intervention Program (AzEIP);
 - d. Local educational agencies providing services under the Individuals with Disabilities Education Act under 34 § C.F.R. Part 300;
 - f. The Arizona Refugee Resettlement Program operated under 45 § C.F.R. Part 400, Subpart G;
 - g. Substance Abuse Block Grant (SABG);
 - h. Mental Health Services Block Grant (MHBG); and
 - i. Any other awarded grants.

2. The Division shall cost share payments for Members covered under both Medicare and Medicaid, as required in ACOM 201.

C. COST AVOIDANCE

The Division shall cost avoid a claim when:

1. The Division establishes the probable existence of TPL; and
2. 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.

D. POST-PAYMENT RECOVERY METHODS

1. The Division shall perform the following Post-Payment Recovery methods:
 - a. Pay and Chase;
 - b. Retroactive recoveries involving commercial insurance payor sources; and
 - c. Other TPL recoveries.
2. The Division shall perform Pay and Chase under the following conditions:
 - a. The Division is unable to confirm the probable existence of a Third Party's liability; or

- b. For claims for the following 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:
 - i. Screening and diagnostic services to identify congenital, physical, mental health routine examinations performed in the absence of complaints; and
 - ii. Screening or treatment designed to avert various infectious and communicable diseases from ever occurring in children under age 21, to include:
 - 1) Immunizations;
 - 2) Screening tests for congenital disorders;
 - 3) Well child visits;
 - 4) Preventive medicine visits;
 - 5) Preventive dental care;
 - 6) Screening and preventive treatment for infectious and communicable diseases; and
 - 7) Therapies, and behavioral health exams.

- c. For services covered by TPL that are derived from an Absent Parent whose obligation to pay support is being enforced by the Arizona Department of Economic Security, Division of Child Support Services.
3. Retroactive Recoveries Involving Commercial Insurance Payor Sources
 - a. The Division shall, for a period of two years from the date of service, Tag claims to recover payment.
 - b. The Division shall submit identified tagged claims in a monthly claims match-off file to AHCCCS using the process outlined in the TIG.
 - c. The Division shall seek payment recovery from the commercial payor source for all tagged claims.
 - d. The Division 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 Division 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.

- f. The Division shall not, as a result of retroactive recovery efforts, request encounter adjustments from or adjust related payments to providers.
- g. The Division shall submit an external replacement file via an AHCCCS approved vendor using a prescribed AHCCCS file format in order for AHCCCS to directly update encounters related to the Division's retroactive recovery efforts outlined in this section.
- g. The Division shall submit the external replacement file within 120 days from completion of the retroactive payment recovery project.
- h. The Division shall contact the AHCCCS Encounter Unit at the completion of the retroactive payment recovery project to:
 - i. Obtain a list of approved AHCCCS vendors;
 - ii. Obtain the acceptable external replacement file format; and

- ii. Coordinate the submission of these files.
4. Other TPL Recoveries
- a. The Division shall identify the existence of potentially liable Third Parties using a variety of methods, including Referrals and Data mining.
 - b. The Division shall not pursue payment recovery in the following circumstances, unless the case has been referred to the Division by AHCCCS or AHCCCS' authorized representative:
 - i. Motor vehicle cases;
 - ii. Other casualty cases;
 - iii. Tortfeasors;
 - iv. Restitution recoveries; and
 - v. Worker's compensation Cases.

E. DISCOVERY AND REPORTING OF A LIABLE THIRD PARTY

- 1. If the Division verifies the existence of a liable Third Party that is not known to AHCCCS, or identifies any change in coverage involving a commercial insurance payor source, the Division shall report the information via:

- a. The TPL Verification File; or
 - b. The TPL Referral Web Portal as specified in the AHCCCS Contract.
2. Upon identifying verified liable Third Parties via Referrals or Data Mining, the Division shall, within 10 business days, report the liable Third Party to AHCCCS' TPL Division Contractor for determination of the following:
- a. A mass tort case;
 - b. Total plan case; or
 - c. Joint case.
3. Total Plan Cases
- a. The Division shall process total plan cases referred from the AHCCCS TPL contractor in accordance with AHCCCS, Federal, and State laws and policies.
 - b. The Division shall perform all research, investigation, the mandatory filing of initial liens on cases that exceed \$250, lien amendments, lien releases, and payment of other related costs in accordance with A.R.S. § 36-2915 and

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

- c. The Division may retain up to 100% of its recovery collections from total plan cases if all of the following conditions exist:
 - i. Total collections received do not exceed the total amount of the Division's financial liability for the Member;
 - ii. There are no payments made by AHCCCS related to Fee-For-Service, reinsurance or administrative costs (e.g. lien filing); and
 - iii. Such recovery is not prohibited by state or federal law.
- d. The Division shall report total plan case settlement information to AHCCCS as specified in Contract, utilizing Attachment A or Attachment B.
- e. Prior to negotiating a settlement on a total plan case, the Division shall notify AHCCCS or AHCCCS' authorized TPL

- Contractor to ensure that there is no reinsurance or fee-for-service payment that has been made by AHCCCS.
- f. The Division shall report total plan case settlement information to AHCCCS by the 10th day of each month on an AHCCCS-approved monthly file.
4. Joint Mass and Tort Cases
- a. The Division shall refer any and all relevant case information to the AHCCCS authorized representative that is responsible for researching, investigating, and paying lien-related costs and for obtaining a settlement for reimbursement net of legal and other costs.
- b. The Division shall be responsible for its prorated share of the contingency fee which is deducted from settlement proceeds prior to AHCCCS remitting the settlement to the Division.
5. The Division shall submit updates to AHCCCS regarding cost avoidance and recovery activity as specified in Contract and referenced in the AHCCCS Program Integrity Reporting Guide.

SUPPLEMENTAL INFORMATION

A. TIMELY REPORTING OF TPL INVOLVING COMMERCIAL INSURANCE PAYOR SOURCE

Failure to timely report TPL of a commercial insurance payor source may result in administrative action by AHCCCS.

B. AHCCCS INVOLVEMENT WITH TAGGED CLAIMS

1. If AHCCCS determines that the Division is Tagging claims that do not meet the requirements in ACOM 434, AHCCCS may impose sanctions.
2. After two years from the date of service, AHCCCS will direct recovery efforts for any claims not tagged by the Division.
3. Although the Division is responsible for recovery efforts for tagged claims, AHCCCS may, on a case by case basis, elect to direct recovery efforts for claims which are tagged by the Division.
4. Any recoveries obtained by AHCCCS through its recovery efforts will be retained exclusively by AHCCCS and will not be shared with the Division.

C. RETROACTIVE RECOVERY AND ENCOUNTER ADJUSTMENTS

1. 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.
2. Utilizing the data from the replacement file submitted by the Division and the database used to store AHCCCS' recoveries, AHCCCS will adjust prior and current payment reconciliations and reinsurance payments when appropriate.

D. OTHER TPL RECOVERIES

1. For Data Mining, a listing of ICD-10 trauma codes can be found on the Medical Coding Resources webpage on the AHCCCS website.
2. For RBHA responsibilities regarding COB for Non-Title XIX/XXI covered services, refer to AMPM Policy 320-T1.