1 **4**~~34001~~   **COORDINATION OF BENEFITS AND** THIRD PARTY
2   LIABILITY
3
4 REVISION DATE: XX/XX/XXXX, 4/24/2019, 9/1/2014
5 REVIEW DATE: 9/21/2023
6 EFFECTIVE DATE: January 1, 1996
7 REFERENCES: **42 § U.S.C. 1396a(a)(25)(A); 42 § C.F.R. 433.136;**
8 **ACOM 434**
9
10
11 PURPOSE

12 The purpose of this policy is to specify~~outline~~ the Division's Coordination of

13 Benefit (COB) activities and Third Party Liability (TPL) recoveries for costs of

14 services and health care items provided to Members, as required by ~~Federal~~

15 ~~law~~ 42 § U.S.C. 1396a(a)(25)(A). ~~requires Medicaid to take all reasonable~~

16 ~~measures to ascertain the legal liability of third parties for health care items~~

17 ~~and services provided to Medicaid members.~~

18 ~~Third party liability (TPL) is any funding source other than the Division of~~

19 ~~Developmental Disabilities (the Division). It includes medical insurance, for~~

20 ~~example, Medicare, CHAMPUS, TriCARE, or Blue Cross/Blue Shield. It also~~

21 ~~includes any benefits or settlements a person has as the result of an~~

22 ~~accident. It may also include eligibility for other programs such as Children's~~

23 ~~Rehabilitative Services (CRS), Arizona Health Care Cost Containment System~~

24 ~~(AHCCCS), or county funded services.~~

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.**

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

65   **a reasonable expectation of payment recovery from a**

66   **commercial insurance payor source that was not known**

67   **at the time of payment using the process outlined in the**

68   **AHCCCS Technical Interface Guidelines (TIG).**

69   12.   **"Third Party" means an individual, entity or program**

70   **that is, or may be, liable to pay all or part of the**

71   **expenditures for medical assistance furnished under a**

72   **State plan as defined in 42 § C.F.R. 433.136.**

73   13.   **"Third Party Liability" or "TPL" means the legal obligation**

74   **of Third Parties (e.g. certain individuals, entities,**

75   **insurers, or programs) that is, or may be, by agreement,**

76   **circumstance or otherwise, liable to pay part or all of the**

77   **expenditures for medical expenses for medical assistance**

78   **furnished under a Medicaid state plan.**

79   **POLICY**

80

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

82

83   ~~The Division is the payor of last resort for most services. The~~

84   ~~Division shall take reasonable measures to identify potentially~~

85   ~~legally liable Third Party sources. The Division is responsible for~~

86 ~~making Third Party payer information available through the~~
87 ~~Division's verification systems for use. Third Party payor~~
88 ~~information may also be obtained through AHCCCS verification~~
89 ~~systems.~~ **The Division is responsible for communicating TPL**
90 **responsibilities as specified in A.A.C. R9-22-1003 to its**
91 **sub~~Division~~contractors.**
92
93   1.   **The Division, as the payor of last resort, shall identify**
94   **potentially legally liable Third Party payor sources for**
95   **claims before paying for services.**
96   2.   **The Division shall make available Third Party payor**
97   **information through the Division's verification systems for**
98   **use or obtain Third Party payor information through**
99   **AHCCCS verification systems.**
100   3.   **The Division shall communicate Third Party Liability (TPL)**
101   **responsibilities as specified in A.A.C. R9-22-1033 to**
102   **Administrative Services Subcontractors and Qualified**
103   **Vendors.**
104   4.   **The Division shall issue service authorizations according**
105   **to the timeframes specified in Division Medical Policy**
106   **1610 in addition to conducting COB and identifying Third**
107   **Party payor resources.**

108	~~The Division and its subcontractors shall take all~~
109	~~reasonable measures to ascertain the legal liability of~~
110	~~Third Parties for health care items and services provided~~
111	~~to Members.~~
112	5. Regardless of a Member's TPL coverage, the Division shall timely
113	evaluate the medical necessity and coverage of a requested
114	service according to the timeframes specified in Division Medical
115	Policy 1610, even when the potential Third Party has not yet
116	issued a determination.
117	6. **The Division shall not use a denial of a service request by**
118	**a Third Party as a basis for the Division's determination of**
119	**medical necessity or coverage;**
120	7. **The Division shall independently and timely evaluate the**
121	**Member's service request using its own criteria when a**
122	**Third Party denies a service request.**
123	8. **The Division, when a Third Party has approved a service**
124	**request as medically necessary shall:**
125	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;

145		e.	The Arizona Refugee Resettlement Program
146			operated under 45 § C.F.R. Part 400, Subpart G;
147		f.	Substance Abuse Block Grant (SABG);
148		g.	Mental Health Services Block Grant (MHBG); and
149		h.	Any other awarded grants.

150. 2. The Division shall cost share payments for Members

151. covered under both Medicare and Medicaid, as required in

152. ACOM 201.

153. **C. COST AVOIDANCE**

154. ~~1.~~ The Division shall cost avoid a claim when:

155. 1~~a~~. The Division establishes the probable existence of

156. TPL; and

157. 2~~b~~. Recieves confirmation that another party is, by

158. statute, contract, or agreement, legally responsible

159. for the payment of a claim for a healthcare item or

160. service delivered to a Member.

161. **D. POST-PAYMENT RECOVERY METHODS**

162. 1. The Division shall perform the following Post-Payment

163. Recovery methods:

164   **a.   Pay and Chase;**

165   **b.   Retroactive recoveries involving commercial**

166   **insurance payor sources; and**

167   **c.   Other TPL recoveries.**

168   **2.   The Division shall perform Pay and Chase under the**

169   **following conditions:**

170   **a.   The Division is unable to confirm the probable**

171   **existence of a Third Party's liability; or**

172   **b.   For claims for the following preventive pediatric**

173   **services, including Early and Periodic Screening**

174   **Diagnosis and Treatment (EPSDT) and**

175   **administration of vaccines to children under the**

176   **Vaccines for Children (VFC) program:**

177   **i.   Screening and diagnostic services to identify**

178   **congenital, physical, mental health routine**

179   **examinations performed in the absence of**

180   **complaints; and**

181   **ii.   Screening or treatment designed to avert**

182   **various infectious and communicable diseases**

<table>
<tr><td>183</td><td>from ever occurring in children under age 21,</td></tr>
<tr><td>184</td><td>to include:</td></tr>
<tr><td>185</td><td>1)   Immunizations;</td></tr>
<tr><td>186</td><td>2)   Screening tests for congenital disorders;</td></tr>
<tr><td>187</td><td>3)   Well child visits;</td></tr>
<tr><td>188</td><td>4)   Preventive medicine visits;</td></tr>
<tr><td>189</td><td>5)   Preventive dental care;</td></tr>
<tr><td>190</td><td>6)   Screening and preventive treatment for</td></tr>
<tr><td>191</td><td>infectious and communicable diseases;</td></tr>
<tr><td>192</td><td>and</td></tr>
<tr><td>193</td><td>7)   Therapies, and behavioral health exams.</td></tr>
<tr><td>194</td><td>c.   For services covered by TPL that are derived from an</td></tr>
<tr><td>195</td><td>Absent Parent whose obligation to pay support is</td></tr>
<tr><td>196</td><td>being enforced by the Arizona Department of</td></tr>
<tr><td>197</td><td>Economic Security, Division of Child Support</td></tr>
<tr><td>198</td><td>Services.</td></tr>
<tr><td>199</td><td>3.   Retroactive Recoveries Involving Commercial Insurance</td></tr>
<tr><td>200</td><td>Payor Sources</td></tr>
</table>

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.**

219   **g.   The Division shall submit an external replacement**

220   **file via an AHCCCS approved vendor using a**

221   **prescribed AHCCCS file format in order for AHCCCS**

222   **to directly update encounters related to the**

223   **Division's retroactive recovery efforts outlined in**

224   **this section.**

225   **g.   The Division shall submit the external replacement**

226   **file within 120 days from completion of the**

227   **retroactive payment recovery project.**

228   **h.   The Division shall contact the AHCCCS Encounter**

229   **Unit at the completion of the retroactive payment**

230   **recovery project to:**

231   **i.   Obtain a list of approved AHCCCS vendors;**

232   **ii.   Obtain the acceptable external replacement file**

233   **format; and**

234   **ii.   Coordinate the submission of these files.**

235   ~~The Division is required to bill any third party for all covered services for all~~

236   ~~individuals eligible for services through the Division. A member/responsible~~

237 person is required to provide third party insurance information when

238 requested.

239 **Retroactive Recoveries Involving Commercial Insurance Payor**

240 **Sources**

241 For two years from the date of service, the Division engages in retroactive

242 third-party recovery efforts for claims paid to determine if there are

243 commercial insurance payor sources that were not known at the time of

244 payment.

245 If a commercial insurance payor source is identified, the Division seeks

246 recovery from the commercial insurance. The Division is prohibited from

247 recouping related payments from providers, requiring providers to act, or

248 requiring the involvement of providers in any way, unless the provider was

249 paid in full from both the Division and the commercial insurance.

250   43. Other TPLThird-Party Liability Recoveries

251   A.   a.   The Division shall will identify the existence of

252   potentially liable Third Pparties using a variety of methods,

253   including Rreferrals, and Ddata mining.

254   b.   The Division shalldoes not pursue payment recovery

255   in the following circumstances, unless the case has

256   been referred to the Division by AHCCCS or AHCCCS'

257   authorized representative:

- ia.   Motor vVehicle cCases;

- iib.   Other cCasualty cCases;

- iii.   Tortfeasors;

- iv.   Restitution rRecoveries;, and/or

- v.   Worker's cCompensation Cases.

EB.   **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. Upon identification of a potentially

liable third party for any of the above situations, the

Division reports the potentially liable third party to

AHCCCS' TPL DivisionContractor for determination of a

274			mass tort, total plan case, or joint case within 10 business
275			days.
276		2.	Upon identifying verified liable Third Parties via Referrals or Data
277			Mining, the Division shall, within 10 business days, report the
278			liable Third Party to AHCCCS' TPL Division Contractor for
279			determination of the following:
280			a. A mass tort case;
281			b. Total plan case; or
282			c. Joint case.
283		3.	Total Plan Cases
284			a. The Division shall process total plan cases referred from
285			the AHCCCS TPL contractor in accordance with AHCCCS,
286			Federal, and State laws and policies.
287			b. The Division shall perform all research, investigation, the
288			mandatory filing of initial liens on cases that exceed $250,
289			lien amendments, lien releases, and payment of other
290			related costs in accordance with A.R.S. § 36-2915 and
291			A.R.S. § 36-2916 for total plan cases pursued by the
292			Division.

293   c.   The Division may retain up to 100% of its recovery
294   collections from total plan cases if all of the following
295   conditions exist:

296   i.   Total collections received do not exceed the total
297   amount of the Division's financial liability for the
298   Member;

299   ii.   There are no payments made by AHCCCS related to
300   Fee-For-Service, reinsurance or administrative costs
301   (e.g. lien filing); and

302   iii.   Such recovery is not prohibited by state or federal
303   law.

304   d.   The Division shall report total plan case settlement
305   information to AHCCCS as specified in Contract, utilizing
306   Attachment A or Attachment B.

307   e.   Prior to negotiating a settlement on a total plan case, the
308   Division shall notify AHCCCS or AHCCCS' authorized TPL
309   Contractor to ensure that there is no reinsurance or fee-
310   for-service payment that has been made by AHCCCS.

311   f.   The Division shall report total plan case settlement

312   information to AHCCCS by the 10th day of each month on

313   an AHCCCS-approved monthly file.

314   4.   Joint Mass and Tort Cases

315   a.   The Division shall refer any and all relevant case

316   information to the AHCCCS authorized representative that

317   is responsible for researching, investigating, and paying

318   lien-related costs and for obtaining a settlement for

319   reimbursement net of legal and other costs.

320   b.   The Division shall be responsible for its prorated share of

321   the contingency fee which is deducted from settlement

322   proceeds prior to AHCCCS remitting the settlement to the

323   Division.

324   5.   The Division shall submit updates to AHCCCS regarding Cost

325   Avoidance and recovery activity as specified in Contract and

326   referenced in the AHCCCS Program Integrity Reporting Guide.

327   ~~The Division may refer mass tort or total plan cases to the~~

328   ~~Division's authorized~~ contractor~~contractor. The Division will~~

329   cooperate with AHCCCS' authorized representative in all

330   collection efforts.

331 **Total Plan Cases**

332 A.   In total plan cases, the Division performs all research, investigation,

333   the mandatory filing of initial liens on cases that exceed $250, lien

334   amendments, lien releases, and payment of other related costs in

335   accordance with A.R.S. §36-2915 and A.R.S. §36-2916 for cases

336   pursued by the Division. The Division may retain up to 100% of its

337   recovery collections if all of the following conditions exist:

338   1.   Total collections received do not exceed the total amount of the

339   Division's financial liability for the member

340   2.   There are no payments made by AHCCCS related to Fee-For-

341   Service, reinsurance or administrative costs (e.g. lien filing).

342   3.   Such recovery is not prohibited by state or federal law.

343 B.   Prior to negotiating a settlement on a total plan case, the Division

344   notifies AHCCCS or AHCCCS' authorized TPL DivisionContractor to

345   ensure that there is no reinsurance or Fee-For-Service payment that

346   has been made by AHCCCS. The Division must report settlement

347   information to AHCCCS by the 10th day of each month on an AHCCCS-

348   approved monthly file.

349   **Joint and Mass Tort Cases**

350   AHCCCS' authorized representative performs all research, investigation, and

351   payment of lien-related costs, subsequent to the referral of any and all

352   relevant case information to AHCCCS' authorized representative by the

353   Division.

354   In joint and mass tort cases, AHCCCS' authorized representative is also

355   negotiating and acting in the best interest of all parties to obtain a

356   reasonable settlement and may compromise a settlement in order to

357   maximize overall reimbursement, net of legal and other costs. The Division

358   will be responsible for their prorated share of the contingency fee. The

359   Division's share of the contingency fee will be deducted from the settlement

360   proceeds prior to AHCCCS remitting the settlement to the Division.

361   4. Referrals – Third Party Liability referrals may be received by the Division

362   from a variety of sources including attorneys, insurance companies,

363   members, and providers.

364 5. Data Mining – The Division shall engage in data mining through the use of

365 trauma code edits to identify claims which indicate specific codes that are

366 consistent with injuries that may be covered by liable third parties.

367 A listing of ICD-10 trauma codes can be found on the Medical Coding

368 Resources webpage on the AHCCCS website.

369 **Other Reporting Requirements**

370 A.   All TPL reporting requirements are subject to validation through

371   periodic audits and/or Operational Reviews that may include the

372   Division's submission of an electronic extract of the casualty cases,

373   including open and closed cases. Data elements may include but are

374   not limited to:

375   • The member's first and last name

376   • AHCCCS ID

377   • Date of incident

378   • Claimed amount

379   • Paid/recovered amount

380   • Case status.

381   _____

382   **A.** DISCOVERY AND REPORTING OF A LIABLE THIRD PARTY

383 1. Reporting Requirements (Involving Commercial Insurance Payor Sources)   If the ~~Division~~Contractor

384 verifies the existence of a liable Third Party that is not known to AHCCCS, or identifies any change in

385 coverage, the ~~Division~~Contractor shall report the information via the TPL Verification File or the TPL

386 Referral Web Portal as specified in Contract.   Failure to timely report these cases may result in

387 Administrative Action.

388 2. Reporting Requirements (Referrals and Data Mining): a. Upon the identification of a verified liable

389 Third Party via referrals or data mining as described above, the ~~Division~~Contractor shall, report the

390 liable third parties to AHCCCS' TPL ~~Division~~Contractor for determination of a mass tort case, total plan

391 case, or joint case. AHCCCS' TPL ~~Division~~Contractor will refer total plan cases to the

392 ~~Division~~Contractor to be processed in accordance with AHCCCS, Federal, and State laws and policies,

393 b. The ~~Division~~Contractor shall report total plan case settlement information to AHCCCS as specified in

394 Contract, utilizing Attachment A or Attachment B.

395 3. Reporting Cost Avoidance and Recovery Activity The ~~Division~~Contractor shall submit updates

396 regarding cost avoidance/recovery activity as specified in Contract and referenced in the AHCCCS

397 Program Integrity Reporting Guide.

398 **SUPPLEMENTAL INFORMATION**

399 **A.   TIMELY REPORTING OF TPL INVOLVING COMMERCIAL INSURANCE**

400 **PAYOR SOURCE**

401 **Failure to timely report TPL of a commercial insurance payor source**

402 **may result in Administrative Action by AHCCCS.**

403 **B.   AHCCCS INVOLVEMENT WITH TAGGED CLAIMS**

404   1.   If AHCCCS determines that the Division is Tagging claims that do

405   not meet the requirements in ACOM 434, AHCCCS may impose

406   sanctions.

407   2.   After two years from the date of service, AHCCCS will direct

408   recovery efforts for any claims not tagged by the Division.

409   3.   Although the Division is responsible for recovery efforts for

410   tagged claims, AHCCCS may, on a case by case basis, elect to

411   direct recovery efforts for claims which are tagged by the

412   Division.

413   4.   Any recoveries obtained by AHCCCS through its recovery efforts

414   will be retained exclusively by AHCCCS and will not be shared

415   with the Division.

416   **C.   RETROACTIVE RECOVERY AND ENCOUNTER ADJUSTMENTS**

417   1.   Encounters will not be adjusted when recoveries occur as a

418   result of AHCCCS' efforts. AHCCCS will instead flag all

419   encounters that are impacted by retroactive commercial

420   insurance recoveries and will develop and maintain a database to

421   store recovery payments.

422   2.   Utilizing the data from the replacement file submitted by the

423   Division and the database used to store AHCCCS' recoveries,

424   AHCCCS will adjust prior and current payment reconciliations

425   and reinsurance payments when appropriate.

426   D.   OTHER TPL RECOVERIES

427   1.   For Data Mining, a listing of ICD-10 trauma codes can be found

428   on the Medical Coding Resources webpage on the AHCCCS

429   website.

430   2.   For RBHA responsibilities regarding COB for Non-Title XIX/XXI

431   covered services, refer to AMPM Policy 320-T1.