

April 4, 2017

Richard Stavneak
Director
Joint Legislative Budget Committee
1716 West Adams
Phoenix, Arizona 85007

Lorenzo Romero
Director
Governor's Office of Strategic Planning and Budgeting
1700 West Washington
Phoenix, Arizona 85007

SUBJECT: Third Party Liability for Behavioral Health Services

Dear Mr. Stavneak and Mr. Romero:

Pursuant to Laws 2016, Chapter 122, Section 13, the Arizona Health Care Cost Containment System (AHCCCS) is reporting on the efforts to increase Third Party Liability (TPL) payments for behavioral health services.

Background - Laws 2015, Chapter 19, Section 9, formally transitioned the ADHS Division of Behavioral Health Services (DBHS) to AHCCCS – further unifying and streamlining Arizona's oversight of its Medicaid program and other publicly-funded behavioral health services. Effective July 1, 2016, funding for the DBHS programs was shifted to AHCCCS. Included in the FY2017 appropriations was a decrease in the DBHS appropriations of \$18,975,400 Total Fund (\$5,200,000 General Fund) for increased TPL recoveries in behavioral health services. This decrease assumed that AHCCCS would increase these recoveries due to the Agency's experience in TPL with Acute Care Managed Care Organizations (MCO).

AHCCCS TPL efforts achieve cost avoidance and post-payment recoveries. Cost avoidance is achieved through coordination of benefit efforts whereby third party health insurance coverage may cover all or a portion of the services rendered to a member. The most common example of this is Medicare coverage for dual eligible enrollees. Through coordination of benefit efforts, the Agency is able to "cost avoid" expenditures that it would otherwise be liable for. Post-payment recoveries occur when a secondary insurance is discovered after a payment by AHCCCS (or AHCCCS contractor) has already been made. Example of this type would include casualty insurance or estate recoveries.

Increased TPL Efforts:

- 1) Contract Compliance - Even prior to the merger, beginning with the integration of seriously mentally ill members in Maricopa County in April 2014 followed by the Greater Arizona integration in October 2015, AHCCCS incorporated the same TPL

requirements found in the Acute Care MCO contracts into the Regional Behavioral Health Authority (RBHA) contracts. Beginning this summer, AHCCCS will be performing full-scale operational reviews; including reviews of TPL contractual standards for the RBHA contractors: Mercy Maricopa Integrated Care (MMIC) in July, Cenpatico Integrated Care (CIC) in August, and Health Choice Integrated Care (HCIC) in October. The TPL portion of the operational reviews will evaluate the RBHAs' compliance to requirements related to TPL coordination with AHCCCS, the use of trauma code edits to identify potential TPL, filing liens on TPL cases, and submitting timely TPL settlement notifications to AHCCCS.

Each of the three RBHAs has contracted with TPL vendors to help comply with AHCCCS' TPL requirements.

- MMIC contracted First Recovery Group. First Recovery Group is also the TPL subcontractor for Mercy Care Plan.
 - HCIC contracted Recovery Management Systems. Recovery Management Systems is also the TPL subcontractor for Health Choice of Arizona, Care 1st of Arizona, and Phoenix Health Plan.
 - CIC contracted The Rawlings Company. Rawlings is also the subcontractor for Health Net and Bridgeway's Health Solutions.
- 2) Post-Payment Recoveries - AHCCCS began monitoring RBHA casualty/tort recoveries through monthly settlement notification reporting in 2016. Prior to the settlement notification reporting to AHCCCS, DBHS reported no post-payment recoveries in FY14, \$6,150 in post-payment recoveries in FY15, and \$70,805 in post-payment recoveries in FY16. From May 2016 through December of 2016, the three RBHAs reported \$220,245 in post-payment recoveries involving total plan cases.
- 3) Credit Balances - AHCCCS has allowed the RBHA contractors to piggyback on AHCCCS' credit balance recovery audits of providers performed by the AHCCCS TPL contractor HMS through three-way agreements between AHCCCS, HMS, and the health plans. Credit balance audits review the claims of hospitals and other high volume providers for duplicative payments, TPL credits, and overpayments. MCOs are given the choice to perform their own audits or to join the AHCCCS audit performed by HMS. Nearly all MCOs piggyback on the AHCCCS audit. This reduces the administrative burden on providers by reducing the number of AHCCCS audits. Recoveries are disbursed to the applicable MCO after the deduction of an HMS contingency fee.
- 4) Cost Avoidance - AHCCCS flags members with TPL on the MCOs' eligibility files. The RBHAs now receive these files directly from AHCCCS. Previously, these files were routed to the RBHAs through DBHS. MCOs and RBHAs use this information to ensure that AHCCCS is the payor of last resort unless statutes direct otherwise. AHCCCS' TPL contractor, HMS, collects and verifies members' commercial insurance coverage. Verified commercial insurance coverage data, along with Medicare coverage data, is maintained on AHCCCS' PMMIS and is made available to the MCOs and

RBHAs to assist in cost avoidance activities. Encounter based cost avoidance has increased from \$16.7 million in FY2014 to \$42.5 million in FY2015, to \$88.3 million in FY2016. Again, cost avoidance does not represent cash savings to the program, but rather helps to reduce future costs by ensuring that Medicaid is the payor of last resort. Encounters that are submitted and used in capitation rate development are net of any payments made by other insurers; therefore, the growth in cost avoidance will positively impact the trend for future capitation rates.

Summary – AHCCCS has initiated a number of efforts to increase TPL within the behavioral health program and will continue to provide the RBHAs with technical assistance and training to ensure the RBHAs and their subcontractors understand the AHCCCS requirements. Cost avoidance efforts have already shown a notable improvement and that will help control future growth in the program. However, the dollars identified as a reduction in the FY2017 appropriation are not feasible for ongoing recoveries. By way of comparison, the total net state match offset for the Acute, Long-Term Care, and KidsCare programs combined in FY2016 was approximately \$1.3 million. AHCCCS would request that the \$5.2 million in TPL reduction to the behavioral health appropriations be restored until there is sufficient data to estimate a more appropriate BHS TPL offset.

If you have any questions about this report, please do not hesitate to call me at (602) 417-4111 or Jeffery Tegen at (602) 417-4705.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas J. Betlach', with a long horizontal line extending to the right.

Thomas J. Betlach
Director