434 - COORDINATION OF BENEFITS AND THIRD-PARTY LIABILITY

EFFECTIVE DATE: 10/01/13, 06/01/15, 07/01/16

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STAFF RESPONSIBLE FOR POLICY: DHCM OPERATIONS

I. PURPOSE

This Policy applies to Acute Care, ALTCS/EPD, CRS, DCS/CMDP (CMDP), DES/DDD (DDD), and RBHA Contractors. Federal law 42U.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 Contactors' requirements for Coordination of Benefit (COB) activities and Third Party Liability (TPL) recoveries.

II. DEFINITIONS

ABSENT PARENT	An individual who is absent from the home and is legally responsible for providing financial and/or medical support for a dependent child, as defined by A.A.C. R9-22-1001.
COORDINATION OF BENEFITS (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.
COPAYMENT	A monetary amount that at the member pays directly to a provider at the time covered services are rendered, as defined in A.A.C. R9-22 Article 7.
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 Article 10.
FEE FOR SERVICE (FFS)	A method of payment to registered providers on an amount-per-service basis.
NON-CONTRACTING PROVIDER	A person or entity that provides services as prescribed in A.R.S. §36-2901 who does not have a subcontract with an AHCCCS Contractor.

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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.
PROVIDER	Any person or entity that contracts with AHCCCS or a Contractor for the provision of covered services to members according to the provision A.R.S. §36-2901 or any subcontractor of a provider delivering services pursuant to A.R.S. §36-2901.
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].
THIRD PARTY LIABILITY	The legal obligation of third parties (e.g., certain individuals, entities, insurers, or programs) to pay part or all of the expenditures for medical assistance furnished under a Medicaid state plan.

III. POLICY

AHCCCS is the payor of last resort unless specifically prohibited by applicable state or federal law. This means AHCCCS shall be used as a source of payment for covered services only after all other sources of payment have been exhausted. The Contractor shall take reasonable measures to identify potentially legally liable third-party sources. The Contractor is responsible for making third party payer information available through the Contractor's verification systems for use. Third party payor information may also be obtained through AHCCCS Administration Verification Systems. The Contractor is responsible for communicating third party liability responsibilities to subcontractors per A.A.C. R9-22-1003.

The Contractor shall 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 Contractor are cost avoided or recovered from a liable third party. The term "State" shall be interpreted to mean "Contractor" for purposes of complying with the federal regulations referenced above.

AHCCCS 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),

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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., and

6. The Arizona Refugee Resettlement Program operated under 45 CFR Part 400, Subpart G.

The two methods used for Coordination of Benefits are Cost Avoidance and Post-Payment Recovery. The Contractor shall use these methods as described in A.A.C. R9-22-1001 et seq., federal and state law, and AHCCCS Policy. See ACOM Policy 201 for Contractor cost sharing responsibilities for members covered by both Medicare and Medicaid. See ACOM Policy 426 for additional information regarding Contractor responsibilities for payment of services for treatment of a CRS condition when a member uses private insurance or Medicare.

A. COST AVOIDANCE - CONTRACTOR RESPONSIBILITY

The Contractor shall cost avoid a claim if it has established the probable existence of a liable party at the time the claim is filed. However, there are limited circumstances when cost avoidance is prohibited and the Contractor must apply post-payment recovery processes as described in Section: *Post-Payment Recovery – Pay and Chase* below.

NOTE: Claims for inpatient stay for labor, delivery and postpartum care including professional fees when there is no global OB package must be cost avoided.

For purposes of cost avoidance, establishing liability takes place when the Contractor 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. If AHCCCS determines that the Contractor is not actively engaged in cost avoidance activities the Contractor shall be subject to sanctions.

For applicable payment provisions when the Contractor cost avoids a claim refer to ACOM Policy 203.

B. POST-PAYMENT RECOVERY - CONTRACTOR RESPONSIBILITY

If the probable existence of a third party's liability cannot be established or if Post-Payment Recovery is required, the Contractor must adjudicate the claim and then utilize Post-Payment Recovery processes which include: *Pay and Chase*, *Retroactive Recoveries Involving Commercial Insurance Payor Sources*, and *Other Third-Party Liability Recoveries*.

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1. Pay and Chase − The Contractor shall pay the full amount of the claim according to the AHCCCS Capped-Fee-For-Service Schedule or the contracted rate **and then** seek reimbursement from any third party if the claim is for the following:
   a. Prenatal care for pregnant women, including services which 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; or
   c. Services covered by third-party liability that are derived from an absent parent whose obligation to pay support is being enforced by the Division of Child Support Enforcement.

2. Retroactive Recoveries Involving Commercial Insurance Payor Sources:
   a. Tagging − For a period of two years from the date of service, the Contractor shall engage in retroactive recovery efforts for claims paid to determine 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 Contractor must seek recovery from the commercial insurance. The Contractor 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 Contractor and the commercial insurance.

      The Contractor 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 using a process to be developed by AHCCCS. A reasonable expectation of recovery is established when the Contractor has affirmatively identified a commercial insurance payor source and has begun the process of recovering payment prior to the end of the Contractor's two-year recovery period. The Contractor shall identify tagged claims in a monthly claims match-off file submitted to AHCCCS as outlined in the AHCCCS Technical Interface Guidelines (TIG). If AHCCCS determines that a Contractor is tagging claims that do not meet these requirements, AHCCCS may impose sanctions. After two years from the date of service, AHCCCS will direct recovery efforts for any claims not tagged by the Contractor.

      Although Contractors are 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 Contractor. Any recoveries obtained by AHCCCS through its recovery efforts will be retained exclusively by AHCCCS and will not be shared with the Contractor.

      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).

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

Instead, the Contractor 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 Contractor must contact the AHCCCS Encounter Unit at the completion of the recovery project for a list of approved AHCCCS 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.

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

3. Other Third-Party Liability Recoveries:
   a. The Contractor shall identify the existence of other potentially liable third parties through a variety of methods, including referrals and data mining related to the following:

      - Motor vehicle cases
      - Other casualty cases
      - Tortfeasors
      - Restitution recoveries
      - Workers' compensation cases

4. Additional Responsibilities for RBHAs

The RBHA shall coordinate benefits for Non-Title XIX covered services so that costs for services otherwise payable by the RBHA are cost avoided or recovered from a liable third party.

The RBHA must ensure its subcontractors educate and encourage Non-Title XIX SMI members to enroll in a qualified health plan through the federal health insurance exchange and offer assistance for those choosing to enroll during open enrollment

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periods and qualified life events. The following applies for members who enroll in a qualified health plan:

a. Members enrolled in a qualified health plan continue to be eligible for Non-Title XIX covered services that are not covered under the qualified health plan.
b. Non-Title XIX funds may not be used to cover premiums or copays associated with qualified health plans or other third party liability premiums or copays. However, Non-Title XIX funds may be used to cover Medicare Part D copays for treatment of behavioral health conditions for SMI members.
c. RBHAs must issue approval prior to any utilization of Non-Title XIX funding for services otherwise covered under a qualified plan.

5. Referrals − Third-party liability referrals may be received by the Contractor from a variety of sources including, attorneys, insurance companies, members, and providers.

6. Data Mining − The Contractor shall engage in data mining through the use of trauma code edits to identify claims which indicate specific codes that are consistent with injuries that may be covered by liable third parties.

   A listing of ICD-10 trauma codes are identified in Attachment B, Trauma Code ICD-10 List.

C. CONTRACTOR DISCOVERY AND REPORTING OF A LIABLE THIRD-PARTY

1. Reporting Requirements (Involving Commercial Insurance Payor Sources)

   If the Contractor discovers the probable existence of a liable third party that is not known to AHCCCS, or identifies any change in coverage, the Contractor must report the information via the TPL Leads File or the TPL Referral Web Portal as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9, Deliverables.

2. Reporting Requirements (Referrals and Data Mining)
   a. Upon the identification of a potentially liable third party via referrals or data mining as described above, the Contractor shall, 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 Contractor to be processed in accordance with AHCCCS, State, and Federal laws and policies.
   b. The Contractor shall report total plan case settlement information to AHCCCS, utilizing 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 AHCCCS TPL Administrator and as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9, Deliverables.

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3. Reporting Cost Avoidance and Recovery Activity

   The Contractor must submit quarterly updates regarding cost avoidance/recovery activity as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables, RBHA Contract, Exhibit-9, Deliverables, and the AHCCCS Program Integrity Reporting Guide.

IV. REFERENCES

- Acute Care Contract, Section D
- ALTCS/EPD Contract, Section D
- CRS Contract, Section D
- DCS/CMDP Contract, Section D
- DES/DDD Contract, Section D
- Contract, Section F, Attachment F3, Contractor Chart of Deliverables
- RBHA Contract, Scope of Service
- RBHA Contract, Exhibit-9, Deliverables
- ACOM Policy 201
- ACOM Policy 408
- ACOM Policy 426
- A.A.C. R9-22-1001
- A.A.C. R9-22, Article 7
- A.A.C. R9-22, Article 10
- A.R.S. §36-2901
- A.R.S. §36-2903
- A.R.S. §36-2923
- 42 CFR 400 Subpart G
- 42 CFR 433.135, et.seq
- 42 CFR 433.136
- Deficit Reduction Act of 2005 (Public Law 109-171)
- AHCCCS Program Integrity Reporting Guide
- Attachment A, Total Plan Case Settlement Notification Form
- Attachment B, Trauma Code ICD-10 List

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ATTACHMENT A, TOTAL PLAN CASE SETTLEMENT NOTIFICATION FORM

SEE THE ACOM WEBPAGE FOR ATTACHMENT A OF THIS POLICY

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ATTACHMENT B, TRAUMA CODE ICD-10 LIST

SEE THE ACOM WEBPAGE FOR ATTACHMENT B OF THIS POLICY

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