434 - COORDINATION OF BENEFITS AND THIRD-PARTY LIABILITY

EFFECTIVE DATES: 10/01/13, 06/01/15, 07/01/16, 10/01/17, 10/01/18, 06/01/21, 10/01/23, 05/02/25

APPROVAL DATES: 07/22/13, 05/07/15, 06/17/15, 03/03/16, 01/10/18, 09/06/18, 04/06/21, 06/15/23, 02/18/25

I. PURPOSE

This Policy applies to ACC, ACC-RHBA, ALTCS E/PD, DCS CHP (CHP), and DES DDD (DDD)Contractors. Federal law 42 USC 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 specify Contractor requirements for Coordination of Benefit (COB) activities and Third-Party Liability (TPL) recoveries as outlined in 42 CFR 433.139.

II. DEFINITIONS

Refer to the AHCCCS Contract and Policy Dictionary for common terms found in this Policy.

For purposes of this Policy, the following terms are defined as:

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].

III. POLICY

As a general rule, AHCCCS is the payor of last resort for most Title XIX and Title XXI services. This means that legally responsible sources are generally required to pay for Title XIX and Title XXI services before payment by the AHCCCS Program. The Federal and State provisions specify various exceptions to this general rule and are discussed in this Policy. The Contractor shall take reasonable measures to identify potentially legally liable third-party sources. The Contractor is responsible for making the third-party payer information available through the Contractor's verification systems for use. The third-party payor information may also be obtained through AHCCCS verification systems. The Contractor is responsible for communicating the TPL responsibilities as specified in AAC R9-22-1003 to its subcontractors.

The TPL and Coordination of Benefits (COB) issues are independent from the Contractor's responsibility to timely issue an authorization determination as specified in Federal and State provisions and as specified in ACOM Policy 414.

Regardless of an individual's TPL coverage, the Contractor is obligated to timely evaluate the medical necessity and coverage of a requested service, even when the potential third- party has not yet issued a determination. A denial of the service request by a third-party is not to be used as a basis for the Contractor's determination of medical necessity or coverage; in these instances, the Contractor shall independently and timely evaluate the member's service request using its own criteria. When a third-party has approved a service request as medically necessary, the Contractor shall not apply a secondary Prior Authorization (PA) and shall coordinate payment with the third-party, and as specified in this policy.

The Contractor shall coordinate benefits in accordance with 42 CFR 433.135 et seq., ARS 36-2903, and AAC R9-22 Article 10 et seq., so that costs for services otherwise payable by the Contractor are cost avoided or recovered from a liable third-party except as otherwise specified in this Policy. The term "State" shall be interpreted to mean "Contractor" for purposes of complying with the Federal regulations referenced above.

1. AHCCCS is not the 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 CFR Part 300,
   e. Entities and contractors of entities providing services under grants awarded as part of the Human Immunodeficiency Virus (HIV) Health Care Services Program under 42 USC 300ff et seq.,
   f. The Arizona Refugee Resettlement Program operated under 45 CFR Part 400, Subpart G,
   g. Substance Use Block Grant (SUBG),
   h. Mental Health Services Block Grant (MHBG), and
   i. Any other awarded grants.

2. The two methods used for COB are Cost Avoidance and Post-Payment Recovery. The Contractor shall use these methods as specified in AAC R9-22-1001 et seq., Federal and State law, and AHCCCS Policy. Refer to ACOM Policy 201 for Contractor cost sharing responsibilities for members covered by both Medicare and Medicaid.

   If AHCCCS determines that the Contractor is not performing COB activities consistent with this Policy, the Contractor shall be subject to Administrative Actions.

A. COST AVOIDANCE

Unless otherwise specific in the Post-Payment Recovery section below, the Contractor shall cost avoid a claim when it has established the probable existence of liability, and 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.

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

B. POST-PAYMENT RECOVERY

Post-Payment Recovery processes include: Pay and Chase, Retroactive Recoveries Involving Commercial Insurance Payor Sources, and Other TPL Recoveries.

1. Pay and Chase – In certain circumstances, the Contractor shall pay a claim even when a third-party is liable and then recoup that payment from the liable third-party. This practice is referred to as pay and chase. In pay and chase cases, the Contractor shall pay the full amount of the claim according to the AHCCCS Capped-FFS Schedule or the contracted rate and then seek reimbursement from any third-party for the following:
   a. When the Contractor is unable to confirm the probable existence of a TPL, or
   b. The claims for 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. Preventive pediatric care, including EPSDT covered services, refers to screening and diagnostic services to identify congenital, physical, mental health routine examinations performed in the absence of complaints, and screening or treatment designed to prevent various infectious and communicable diseases from ever occurring in children under age 21. This includes, but is not limited to:
      i. Immunizations,
      ii. Screening tests for congenital disorders,
      iii. Well child visits,
      iv. Preventive medicine visits,
      v. Preventive dental care,
      vi. Screening and preventive treatment for infectious and communicable diseases,
      vii. Therapies, and
      viii. Behavioral Health Exams.
   c. The 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 (DES), Division of Child Support Services (DCSS).

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 shall 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 the process outlined in the AHCCCS Technical Interface Guidelines (TIG). 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 TIG. If AHCCCS determines that a Contractor is tagging claims that do not meet these requirements, AHCCCS may impose administrative actions. 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 ARS 36-2923 and 42 USC 1396a(a)(25)(I).

b. Encounter Adjustments – Flagging − Although all encounters related to the Contractor's retroactive recovery efforts outlined above shall 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 shall 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 shall be submitted within 120 days from completion of the recovery project.

   In order to submit an external replacement file, the Contractor shall 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.

   The 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. Provider Audits/Credit Balance Audits:
   The Contractor shall perform onsite or remote reviews to identify accounts receivable credit balances. At least annually, the Contractor shall schedule a time with providers to perform these audits. The Contractor may choose to contract with AHCCCS to perform these audits on their behalf. If the Contractor opts to perform these audits itself, the Contractor shall maintain records of the following:
   a. Providers audited:
      i. Psychiatric Hospitals,
      ii. Behavioral Outpatient Clinics,
      iii. Licensed Professional Counselors (LPCs),
      iv. Community Service Agencies,
      v. Subacute Facilities (1 - 16 Beds),
      vi. Behavioral Health Residential Facilities (BHRFs),
      vii. Board Certified Behavior Analysts (BCBAs),
      viii. Federally Qualified Health Centers (FQHCs),
      ix. 638 Federally Qualified Health Centers (FQHCs),
      x. Integrated Clinics,
      xi. NEMT-TNC Transportation Company Networks, and
      xii. Travel Services.
   b. Audit results, and
   c. Provider Dollars Recovered.

4. Other TPL Recoveries:
   The Contractor shall identify the existence of other potentially liable third-parties through a variety of methods, including referrals and data mining. The Contractor shall not pursue recovery in the following circumstances, unless the case has been referred to the Contractor by AHCCCS or AHCCCS' authorized representative:
   a. Motor vehicle cases,
   b. Other casualty cases,
   c. Tortfeasors,
   d. Restitution recoveries, and/or
   e. Workers' compensation cases.

5. Referrals – TPL 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 can be found on the AHCCCS Medical Coding Resources webpage on the AHCCCS website.

7. For RBHA Responsibilities regarding COB for Non-Title XIX/XXI covered services, refer to AMPM Policy 320-T1.

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

1. Reporting Requirements (Involving Commercial Insurance Payor Sources)

   If the Contractor verifies the existence of a liable third-party that is not known to AHCCCS, or identifies any change in coverage, the Contractor shall report the information via the TPL Verification File or the TPL Referral Web Portal as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables.

   Failure to timely report these cases may result in Administrative Action.

2. Reporting Requirements (Referrals and Data Mining):
   a. Upon the identification of a verified liable third-party via referrals or data mining as described above, the Contractor shall, report the liable third-parties to AHCCCS' TPL Contractor for determination of a mass tort case, total plan case, or joint case as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables. AHCCCS' TPL Contractor will refer total plan cases to the Contractor to be processed in accordance with AHCCCS, Federal, and State laws and policies, and
   b. The Contractor shall report Attachment B information to AHCCCS as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables.

3. Reporting Cost Avoidance and Recovery Activity

   The Contractor shall submit updates regarding cost avoidance/recovery activity, utilizing the Cost Avoidance Savings Recovery Report as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables and referenced in the AHCCCS Program Integrity Reporting Guide.