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Third Party Liability for SHARS Interim Claims

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Note: This article applies only to claims submitted to TMHP for processing. Refer to the Medicaid managed care organizations (MCOs) for information about MCO benefits, limitations, prior authorization, reimbursement, and MCO specific claim processing procedures.

Third Party Liability

The Social Security Act generally requires the State Medicaid Agency (SMA) to seek reimbursement for covered services from legally liable third parties before paying for Medicaid-covered services (See [Social Security Act §1902\(a\)\(25\)](#) and [42 Code of Federal Regulations \[CFR\] Part 433 Subpart D - Third Party Liability](#)). "Third parties" are entities or individuals who are legally responsible for paying the medical claims of Medicaid recipients, such as private insurance ([42 CFR §433.136](#)). Medicaid pays only after the third party has met its legal obligation to pay ([42 CFR §433.139](#)). State law reiterates this requirement in [Texas Human Resources Code §32.04242](#). If an SMA fails to take all reasonable measures to ascertain and pursue claims for payment of covered services against legally liable third parties, federal financial participation (FFP) is not available and/or subject to recoupment ([42 CFR §433.140](#)).

Medicaid Recipients

As a condition of Medicaid eligibility, each applicant or recipient is required to assign to the SMA his or her rights to payment for medical care from any third party (See [42 CFR §433.145](#) and [Texas Human Resources Code § 32.033](#)). The Texas Medicaid application contains the following statement: *I am giving to HHSC the rights to pursue and get any money from other health insurance, legal settlements, or other third parties.*

Methods for Recovery of Third Party Liability

SMAs use the "pay and recover later" method or the "cost avoidance" method depending on the type of claims subject to third party liability (TPL). Using the "pay and recover later" method, the state pays the claim submitted by the provider and then seeks reimbursement from liable third parties. Cost avoidance means the claim is denied by Medicaid and third party reimbursement is sought by the provider.

School Health and Related Services (SHARS) Interim Claims

Texas Medicaid instituted TPL policy requirements using the "pay and recover later" method for SHARS providers on October 1, 2017. Using the pay and recover TPL process for SHARS means that Medicaid pays the school district for services before third party reimbursement is sought. The state is permitted a three year lookback period to seek recovery claims after the effective date of this policy. If the third party insurance denies a claim for an acceptable reason, no further action is taken.

School districts enrolled as SHARS providers do not need to change their current billing practices as a result of this notice and should continue to bill Medicaid using their current processes. Parents of students enrolled in Medicaid should be reminded that this notice does not change current Medicaid policy regarding TPL. Parents or guardians will not

incur out-of-pocket costs as a result of this notice, because Texas Medicaid pays co-payments and deductibles associated with private insurance. Lifetime benefits of private insurance could be affected depending on the policy or agreement parents or guardians have with the insurance company. However, as of the distribution date of this notice, Texas Health and Human Services (HHSC) has no evidence that this has occurred. Because the Individuals with Disabilities Education Act (IDEA) entitles children to a free and appropriate public education, parents or guardians should consult with their school districts if they anticipate a financial impact due to this notice.

For more information, call the TMHP Contact Center at 1-800-925-9126.