THIRD PARTY RECOVERY

MA-3510 - THIRD PARTY RECOVERY
REVISED 11/01/09 – CHANGE NO. 14-09

I. POLICY RULES

A. The county department of social services must make every reasonable effort to identify all legally liable third party resources to pay for medical care and services arising out of injury, disease, or disability for any individual who applies for or receives Medicaid. This includes indemnity coverage.

B. In order for Medicaid claims to process correctly, ensure that TPR data in EIS accurately reflects the recipient's insurance coverage. Enter a termination date for insurance coverage in EIS only when the individual is no longer covered by the insurance.

C. An individual who applies for or receives Medicaid must provide all known information regarding third party resources for medical coverage for every member of the assistance unit.

D. An individual who applies for or receives Medicaid agrees to assign rights to medical support or other third party payments for medical services to the Division of Medical Assistance as provided in N.C.G.S. 108A-59. Terminate or deny individuals who fail to meet the assignment of rights provisions.

E. A caretaker who applies for or receives Medicaid for himself must cooperate in obtaining medical support or payments for any minor child in his care for whom assistance is requested. See MA-3365, Child Support.

F. Medicaid is the payer of last resort, except when certain programs are involved. Refer to V.B., below, for a listing of these programs.

II. PROCEDURES

A. Determining the Availability of Third Party Resources

1. At application, redetermination, or change in situation, ask if the a/r has medical insurance coverage. If he does, request from the a/r the names of insurance companies, policy holders, names of individuals covered, policy numbers, group names/numbers and coverage begin dates for anyone requesting assistance. See II.B., for instructions on reporting.

    a. If an applicant states that he has insurance but can not provide information regarding the company, coverage, and policy number(s), request the needed information by means of DMA-5097/DMA-5097S, Request For

(II.A.1.a.)

Information. Follow procedures in MA-3210, Verification Requirements for Applications.

b. Accept the a/r's statement when:

(1) Third party coverage is provided by the non-custodial parent (NCP) but he is unable to get the information regarding the name of the insurance company and the policy number from the non-custodial parent (NCP) or his employer.

(2) Third party coverage is provided by the NCP's spouse, but the a/r is unable to get the information regarding the name of the company and the policy number from the NCP's spouse or the spouse's employer.

(3) Third party coverage is provided by the a/r's spouse but the a/r is unable to get the information regarding the name of the company and the policy number from the spouse or the spouse's employer.

c. Deny or terminate Medicaid eligibility for individuals who fail to meet the assignment provisions including assignment of rights to medical support or other third party resources.

d. Make a referral to IV-D if appropriate. See MA-3365, Child Support.

e. Do not pend the application. Process according to procedures in MA-3215, Processing the Application, and report any third party resource information using the DMA-2041, Third Party Health and Accident Resources Information as soon as it is known.

2. At each application or reenrollment, perform a TPR Individual Data (TI) inquiry. Use each a/r's individual ID to ensure correct data displays in EIS. Refer to EIS-1055 for instructions. If the TI inquiry displays insurance, ask if the a/r is still covered by the insurance. If he states he is no longer covered by the policy, ask when the coverage ended. Verify terminated coverage through a third party source such as an insurance company or employer. If coverage is terminated, enter a termination date in the system. If unable to verify coverage is terminated or if coverage is still in effect, leave insurance information unchanged in system.

The TI inquiry is necessary also to determine if there is comprehensive major medical insurance listed in EIS for North Carolina Health Choice (NCHC) and Breast and Cervical Cancer Medicaid (BCCM) cases. If comprehensive major medical insurance is in force, the a/r is ineligible for NCHC and BCCM. Refer to MA-3255, North Carolina Health Choice For Children and MA-3250, Breast and Cervical Cancer Medicaid for exceptions.

(II.A.2.)

If a child is covered by a policy with no local providers, do not enter the third party coverage in EIS. This applies to Medicaid children using the same criteria as outlined in MA-3255, North Carolina Health Choice for Children, with no creditable coverage.

NOTE: View EACH screen of the TI inquiry information. A message is displayed at the bottom of the screen when there is more than one screen of data.

B. Reporting Third Party Resources

1. Key the DMA-2041, Third Party Health and Accident Resources Information, as soon as a third party resource is known. This may include school or dental insurance or any other third party resource. Refer to EIS-3350, for detailed instructions on keying the DMA-2041.

   a. To ensure the DMA-2041 is completed accurately, view the insurance policy, insurance pocket identification card, or contact the employer or insurance agent. It is preferable to use the insurance policy.

   b. Enter each insurance policy in EIS when the applicant/recipient or budget unit member has more than one medical and/or accident insurance policy.

2. When approving an application, use the information from the TPR inquiry results in II.A.2 to make corrections/additions/changes to TPR data in EIS. The Medicaid claims contractor uses the TPR Individual Data (TI) inquiry in EIS to ensure Medicaid claims are paid correctly. Key changes to data on the TPR Individual Update Screen or the TPR Policy Update Screen.

3. If TPR coverage has terminated, enter an individual end date indicating the date the insurance ended. **Do not terminate TPR in EIS unless the insurance coverage actually ends.** EIS does not allow approval or continuation of NCHC or BCCM if comprehensive insurance is open in EIS.

4. EIS closes TPR automatically after the a/r's case has been closed for six months. Automated closure by EIS does not mean that coverage has terminated. Automatic closure of TPR occurs once a month.

5. When Medicaid providers report the existence or termination of TPR coverage to the TPR section at DMA, TPR staff verifies the new information before updating EIS. When State TPR staff enters TPR data in EIS, the District Number is TPR. When the State has entered the TPR information, a county or the state may discover this information is incorrect. If either verifies the information is indeed incorrect, then either must update EIS with the corrected information.

(II.B.)

6. Complete DMA-2043, Third Party Recovery "Accident" Information Report, (MA-3510-Figure 1) to report tort liability third party coverage. See III.E., for procedures for handling tort liability.

7. Medicare information is generated by system exchanges with the Social Security Administration (SSA) through the Buy-In process and is entered into EIS on the DSS-8125, or by the automated buy-in update. Refer to MA-3525, Medicare Enrollment & Buy-In and EIS-Volume II.

8. Indemnity policies are defined as policies that pay the a/r a specific amount for certain illnesses, hospital stays, long term care and others. Code all indemnity policies other than LTC as 06 insurance type and enter into EIS. Code all LTC indemnity policies as 07 insurance type and enter in EIS. For an individual LTC indemnity policy, advise the a/r he may want to assign his rights and proceeds from the policy to the nursing facility.

C. Special Funds

When there is knowledge of the existence of a fund for payment of expenses related to traumatic/catastrophic illnesses, transplants, etc., inform the Third Party Recovery Section at Division of Medical Assistance. Do not report as a third party resource on the DMA-2041, Third Party Recovery Health & Accident Resources Information. Send a letter to the Division of Medical Assistance, providing as much information as possible.

Third Party Recovery can investigate the availability of such funds. Information in newspaper/other news media may provide leads. If possible, obtain a copy of any trust agreement or legal documentation as to how the fund is to be administered. Include the name of any person known to be associated with fund-raising events, trustee of a fund, etc. Send all information to:

Division of Medical Assistance
Third Party Recovery Section
2508 Mail Service Center
Raleigh, NC 27699-2508

Follow procedures in MA-3320, Resources, to determine whether such funds are countable in reserve.

III. TYPES OF THIRD PARTY RESOURCES

A. Types of Private Insurers

1. Any commercial insurance company offering medical or casualty insurance to individuals or groups, including indemnity contracts.

(III.A.)

2. Any profit or non-profit prepaid plan offering either medical service or full or partial payment for diagnosis or treatment of an injury, disease, or disability.

3. Any organization administering medical, casualty, or indemnity insurance plans for professional associations, unions, fraternal groups, employer/employee benefit plans, and any similar organizations offering these payments or services, including self-insured and self-funded plans.

4. Examples:

   a. Individual private medical policies including Medicare supplemental policies, sometimes called "Medi-Gap".

   b. Family medical and group medical policies.

   c. Individual or group accident policies.

   d. Prescription drug policies.

   e. Vision policies.

   f. Dental policies.

   g. Long term care policies.

   This list is not all-inclusive.

5. EIS 3350 includes description of most types of health insurance.

B. TRICARE and CHAMPVA

1. Determine whether a/r, the a/r's spouse, parent or step-parent is on active or retired military duty. Refer to questions in IV. to solicit this data.

2. If a/r indicates he has TRICARE or CHAMPVA, accept his statement.

3. If you have further questions on eligibility requirements, contact:

   a. TRICARE by calling 1-888-363-5433 or by going to the web site at http://www.tricare.osd.mil, or

   b. CHAMPVA by calling 1-888-733-8387 or by going to the web site at http://www.va.gov/hac, or

   c. Your local military personnel office.

C. Medicare Part A and B (Title XVIII)

1. Medicare is a health insurance program for people 65 years of age and older, disabled people under 65 years of age as determined by the Social Security

(III.C.1.)

Administration and people with End-Stage Renal Disease (permanent kidney failure treated with dialysis or a transplant).

2. Most people do not pay a monthly premium for Part A benefits. Medicaid pays Medicare Part B medical coverage premiums when eligibility is approved. See MA 3525, Medicare Enrollment & Buy In.

3. The Health Insurance Claim (HIC) identification number for Social Security Medicare is identifiable by an alpha suffix.

4. Information regarding Medicare coverage is generated by system exchanges. Refer to II.B.7, above.

D. Railroad Retirement Act

1. Medicare is available to every retired employee of any American railroad company through the Railroad Retirement Act.

2. Medicare Part A coverage is free to the Railroad Retirement retiree. Medicaid pays the premiums for Part B coverage when eligibility is approved.

3. The HIC identification number for Railroad Retirement Medicare is identifiable by an alpha prefix.

4. Information regarding Medicare coverage is generated by system exchanges. Refer to II.B.7., above.

E. Tort Liability

1. **Definition**

a. "Tort liability" means failure to use reasonable care when such failure results in injury to another and for which a civil action can be brought.

b. Most policies of this kind have medical payment coverage which pay a limited amount toward medical expenses related to accidents even without fault being proved against the responsible party.

2. **Types**

a. Motor vehicle accidents of all kinds,

b. Accidents in commercial buildings or businesses,

c. Medical malpractice,

(III.E.2.)

d. Accidents in or on private property not owned or occupied by the recipient,

e. Worker's Compensation,

f. Criminal assaults.

3. **Procedures**

a. At each application, redetermination, or change of situation, ask the a/r whether he has been involved in any type of accident.

b. Follow up on leads (e.g., statements by the a/r, articles in the local newspaper) regarding information that an a/r has been involved in an accident or an assault which may potentially be covered by a third party source.

c. Document the a/r's statement in the case record.

d. Report information regarding accidents involving tort liability to Division of Medical Assistance, Third Party Recovery Section, on DMA-2043, Third Party Recovery "Accident" Information Report.

Do not enter information for tort liability accidents on the DMA-2041, Third Party Health & Accident Resources Information or the TPR update screens.

IV. INTERVIEW QUESTIONS FOR DETERMINING TYPES OF THIRD PARTY RESOURCES

The following series of questions will help you determine whether the a/r has medical or accident coverage. These questions should be used as a guide and not be considered as all-inclusive.

A. Questions Regarding Private Medical Insurance

1. Do you or any member of your family have insurance that will pay for medical treatment, prescription drugs, dental treatment, vision care, long term care, or will pay directly to you (indemnity) for medical treatment?

2. Do you have medical insurance where you work?

3. Who are the family members covered by your medical policy/policies?

4. Does someone else, such as father/mother/stepfather/stepmother of child(ren), husband/wife/former husband/former wife/spouse of a non-custodial

(IV.A.4.)

parent/grandparent, include you and/or your child(ren) on his medical insurance policy where he works?

5. Does the relative with whom the child(ren) resides have medical insurance that will cover the child(ren)?

6. Do you or any member of the family have individual or group accident insurance?

7. Is there a member of the family that has school accident insurance?

B. Questions Regarding TRICARE

1. Are you or your spouse on active duty with the military (Army, Navy, Marine Corps, Air Force or Coast Guard)?

2. Does any recipient in the case have a mother, father, stepmother, or stepfather on active duty with the military?

3. Are you or your spouse retired from the military?

4. Does any assistance unit member in the case who is either active or retired military have an unmarried child(ren) who is either:

   a. Under age 21

   b. 18 or over and severely handicapped and the condition existed prior to his 18th birthday,

   or

   c. Up to age 23 and a full-time student?

   Any responses of "yes", please refer to the TRICARE web site at http://www.tricare.osd.mil or toll free at 1-888-363-5433.

C. Questions Regarding CHAMPVA

1. Are you or your spouse totally and permanently disabled?

2. Is the disability service connected?

3. Was the spouse totally and permanently disabled at the time of death?

4. Was the disability service connected?

(IV.C.4.)

Any responses of 'yes', please refer to the CHAMPVA web site at http://www.va.gov/hac or toll free at 1-888-733-8387.

V. MEDICAID AS PAYER OF LAST RESORT OR AS PRIMARY PAYER

A. Payer of Last Resort

Funds appropriated under the Social Security Act should be expended for services to eligible recipients only after all other available resources, including those from legally liable third parties, have been applied toward the cost of medical care services. There are exceptions when certain programs are involved. See B., below.

B. Primary Payer

Medicaid is the primary payer when the following programs are involved:

1. Division of Vocational Rehabilitation Services
2. Division of Services for the Blind
3. Public Health "Purchase of Care" programs:
   a. Cancer program
   b. Sickle Cell program
   c. Children's Special Health Services (formerly Crippled Children's)
   d. Kidney program
   e. School health fund
   f. Tuberculosis program
   g. Maternal and Child Health Delivery funds
   h. HIV program
4. Indian Health Services

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VI. THIRD PARTY RECOVERY NON COMPLIANCE

A. Withholding Information

N.C. General Statute 108A-57 states it is a Class 1 Misdemeanor for any person seeking or having obtained assistance under this part for himself or another to willfully fail to disclose to the county department of social services or its attorney the identity of any person or organization against whom the recipient has a right of recovery, contractual or otherwise.

B. Denial or Termination of Eligibility

Deny eligibility for an applicant or terminate any recipient who:

1. Refuses to assign his own rights or those of any other individual for whom he can legally make an assignment.

2. Refuses to cooperate in identifying and providing third party information (unless cooperation has been waived for good cause).

   In denying or terminating eligibility, comply with the notice and hearings requirements in section MA-3430, Notice and Hearings Process.

   EXAMPLES:

   Recipient refuses to provide information or answer questions on an accident in which the client may receive a payout from a lawsuit or insurance company.

   Provider reports that the client refuses to give him information on the accident.