



**CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES**

Steven L. Beshear
Governor

275 E Main St, 6W-A
Phone: (502) 564-4321
Fax: (502) 564-0509
Frankfort, KY 40621
www.chfs.ky.gov

Audrey Tayse Haynes
Secretary

Lisa D. Lee
Commissioner

March 24, 2015

TO: Managed Care Organizations
FROM: Department for Medicaid Services
RE: Third Party Liability

The Department for Medicaid Services (DMS) has received inquiries from providers regarding two issues involving when a provider must seek payment from a Third Party Resource prior to billing the Managed Care Organizations (MCOs).

The first issue involves Early and Periodic Screening, Diagnostic and Treatment (EPSDT) providers and the MCOs requiring a denial from a private insurance carrier before paying for EPSDT services. MCOs are required to pay as primary insurance for EPSDT services in accordance with 42 C.F.R. 433.139. For example, Prescribed Pediatric Extended Care (PPEC) providers are an EPSDT provider performing a component of EPSDT services. The MCOs should not require a PPEC to bill a private insurance carrier prior to submitting a claim. Rather, each MCO is required to bill the private insurance carrier once they have made payment to the EPSDT provider for the EPSDT service. Should the insurance carrier deny the claim, the MCO should consider the claim as non-recoverable and not bill the patient for the service.

A medically necessary EPSDT service for a child under the age of twenty-one should never be denied or the provider be required to have a denial from a private insurance carrier before being paid.

The second issue involves a conflict with the current MCO contract and 907 KAR 17:030 which is the regulation that governs operations and requirements of managed care organizations. The regulation that governs managed care organizations at 907 KAR 17:030 Section 7(4) states: "If an MCO becomes aware of a third party liability resource after payment for a service provided to an enrollee, the MCO shall seek recovery from the third party resource." The current MCO contract states in 15.2 Third Party Liability: "If the

Contractor does not become aware of another Third Party Resource until after the payment for service, the Contractor is responsible to seek recovery from the Third Party Resources **or** the provider on a post-payment basis."

DMS is requesting the MCOs to follow the regulation. Therefore, MCOs should not recoup from a provider if it discovers after payment that there is a third party resource. Rather, each MCO is required to bill the private insurance carrier once it has made payment. Should the insurance carrier deny the claim, the MCO should consider the claim as non-recoverable and not bill the patient for the service or recoup from the provider.

If you have any questions, please feel free to contact Teresa Shields, TPL Branch Manager, Division of Program Integrity, at 502-564-4958.

VLJC/TS