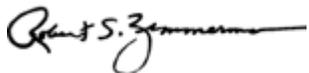


	MEDICAL ASSISTANCE BULLETIN COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE	
	SUBJECT Preparation of Statements of Claim for Recipients Enrolled in Managed Care	BY  Robert S. Zimmerman, Jr., M.P.H. Deputy Secretary for Medical Assistance Programs
NUMBER:	99-98-07, 258-98-01	
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PURPOSE:

The purpose of this bulletin is to issue a statement of policy to clarify how the Department of Public Welfare will compute the statements of claim for reimbursement of Medical Assistance (MA) funds from liable third parties when clients receive MA through a managed care organization (MCO) under contract with the Department.

SCOPE:

This bulletin applies to all providers enrolled in the Medical Assistance Program and all Managed Care Plans under contract with the Department.

BACKGROUND:

Section 1902(a)(25) of the Social Security Act, 42 U.S.C. §1396(a)(25), requires the Department of Public Welfare to operate a program to recover the costs of MA expenditures from liable third parties. Section 1912(b) of the Social Security Act, 42 U.S.C. §1396k(b), requires that third party liability reimbursement be pursued for MA services provided "on behalf of an individual" client. When MA services are delivered through managed care organizations, Federal policy requires that either the Department or the MCO fulfill Federal third party liability requirements. (State Medicaid Manual §2080.16)

DISCUSSION:

The Department's contracts with MCOs throughout the Commonwealth give the Department responsibility for pursuing casualty related post-payment recoveries from third parties who are liable for medical costs paid by the MA program. However, since MCOs are paid by the Department on a capitated basis, it is impossible to directly compute a statement of claim for MA expenditures attributable to a specific illness or injury. Accordingly, the Department must implement a methodology to estimate the liability of third parties when services are paid for by a MCO.

The Department has considered and rejected the option of recovering only the amount of the capitation payment paid by the Department to the MCO. The capitation fee is a discounted estimate of average per member costs across the entire MA population. Use of the capitation fee to compute liability in injury cases would not fairly allocate increased costs resulting from injuries in individual cases to the liable third parties. Additionally, §1912(b) of the Social Security Act, 42 U.S.C. §1396k(b), requires the Department to seek reimbursement from third parties for the cost of care attributable to individual MA clients. The capitation fee is an inappropriate statistic to estimate the costs attributable to an individual MA client.

In computing its claim for services paid through a MCO, the Department will use the amount of the payment made by the MCO to the medical provider as a reasonable estimate of the actual MA costs which are the responsibility of a third party. In the event the MCO makes a capitated payment to the provider, the Department will use its analogous fee schedule amount as a reasonable substitute for the actual amount attributable to a particular service. The Department interprets state law provisions found in §1409(b)(7)(i) and §1409(b)(8) of the Public Welfare Code, 62 P.S. §§1409(b)(7)(i) and (b)(8), to be consistent with this approach. The Department considers an MCO under contract with the Department to be an agent of the Department for the purpose of making MA expenditures subject to recovery under §1409. Accordingly, expenditures of the MCO will be considered to be expenditures of the Department for purposes of applying §1409(b)(7)(i) and (b)(8).

If the MCO fails to provide the Department with information necessary to compute the statement of claim within contractual deadlines, the Department will use the amount of the capitation payments made to the MCO since the date of the injury as its claim against the third party until sufficient information is provided to compute a statement of claim in accordance with the foregoing policy. In any case where the Department is forced to use the capitation payment to compute its statement of claim,

the MCO will be liable to the Department for the amount of the Department's diminished recovery in accordance with the terms of the MCO's contract with the Department.

POLICY:

Statement of Claim policy in 55 Pa. Code Chapter 258, is as follows:

§ 258.214a Statement of Claim – MCO Services – Statement of Policy

- a. With respect to claims against third parties for the costs of Medical Assistance services delivered through a Managed Care Organization (MCO) contract, the Department will recover the actual payment to the hospital or other medical provider for the service. In the event that no specific payment is earmarked by the MCO for the service, such as in the example of capitated payment to physicians, the Department will recover its fee schedule amount for the service.
- b. If the MCO fails to provide the Department with information necessary to compute the statement of claim within contractual deadlines, the Department will use the amount of the capitation payments made to the MCO since the date of the injury as its claim against the third party until sufficient information is provided to compute a statement of claim in accordance with paragraph (a). In any case where the Department is forced to use the capitation payment to compute its statement of claim, the MCO will be liable to the Department for the amount of the Department's diminished recovery in accordance with the terms of the MCO's contract with the Department.

NEXT STEP:

The Department will promulgate the regulations at Chapter 258 through the regulatory process.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Third Party Liability Section, Department of Public Welfare
P.O. Box 8486, Harrisburg, PA 17105-8486

7717-772-6257

Visit the Office of Medical Assistance Programs website at www.dpw.state.pa.us/omap.