



Improving Medicaid Policies Related to Third-Party Liability

Medicaid and CHIP Payment and Access Commission

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Overview

- Background
- Medicaid third-party liability (TPL) policies
- Coordination with TRICARE
- Effects on Medicaid
- Next steps

Background

- By statute, Medicaid is the payer of last resort
 - All other sources of coverage must pay claims under their policies before Medicaid will pay
- The Government Accountability Office (GAO) estimated that in 2012, 56 million Medicaid enrollees had access to other public and private sources of health insurance
- The U.S. Department of Health and Human Services Office of the Inspector General (OIG) estimated that in 2011, Medicaid savings from coordination with other insurers was \$13.6B

Medicaid Third-Party Liability

- Medicaid coordinates benefits with other insurers as a secondary payer
- Effective identification and collection of TPL requires:
 - Periodic enrollment data matches to determine which individuals have more than one source of coverage
 - Allows Medicaid to proactively deny claims that are the responsibility of another insurer (instead of “pay and chase”)
 - Fills in data gaps when Medicaid enrollees fail to identify other sources of coverage during the application process
 - Claims-level coordination of benefits (COB)
 - Allows Medicaid (or its designees) to recoup payments that should be the responsibility of another insurer
 - Ensures that claims are processed and paid correctly

Medicaid Third-Party Liability Policies

- Federal statutes assign liability when an individual is covered by multiple public programs
- In 2005 Congress added a number of requirements to improve Medicaid recoveries
 - States must take reasonable measures to identify and collect TPL
 - State-licensed insurers must conduct data matches with Medicaid and accept claims for up to 3 years
- States can exclude beneficiaries with other coverage from managed care or require managed care plans to coordinate benefits

Medicaid and TRICARE

- Approximately 867,000 active duty military members and dependents receive coverage through both TRICARE and Medicaid
- As the secondary payer, Medicaid covers cost-sharing for TRICARE services and fully covers services that are not covered by TRICARE (e.g., dental services for children, home and community-based waiver services)

Medicaid and TRICARE

Coordination: Data Matches

- Federal privacy law requires a data match agreement between agencies to share health and eligibility information
- Department of Defense and Department of Health and Human Services do not have a data match agreement covering TRICARE and Medicaid, so there is no active coordination between TRICARE and Medicaid programs
- When there was an active data match agreement, TRICARE would only share information with states once a year

Medicaid and TRICARE Coordination: COB Policies

- Federal statute requires state-licensed insurers to accept claims for coordination of benefits for up to 3 years after date of service
- TRICARE is not a state-licensed insurer and will not accept COB claims more than 1 year after date of service
- States have found that annual eligibility data match results in identification of many Medicaid claims with dates of service more than 1 year old

Medicaid and TRICARE Coordination: Managed Care

- TRICARE coordinates benefits only with state Medicaid agencies and does not accept claims from Medicaid managed care organizations
- States have the option (under federal Medicaid regulation) to require managed care plans to coordinate benefits
- Failure to effectively coordinate benefits can result in rate-setting errors and overpayments to Medicaid managed care plans

Medicaid and TRICARE Coordination: Cost Shifts

- Lack of an active data sharing agreement, 1-year timely filing limit, and failure to coordinate with Medicaid managed care plans can all limit effective TPL collections
- Potential cost shifts include shift from the Department of Defense to the Department of Health and Human Services and from the federal government to states
- There are no well-documented cost estimates of the amount of TRICARE TPL that is potentially uncollected by state Medicaid agencies

Next Steps

- Seek Commissioner feedback for possible additional work
 - Specific challenges to emphasize?
 - Areas where more information needed?



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