



Draft Chapter: Medicaid and TRICARE Third-Party Liability Coordination

Medicaid and CHIP Payment and Access Commission

Moira Forbes

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Session Overview

- Review draft chapter
 - Medicaid third-party liability (TPL) policies
 - Coordination between Medicaid and TRICARE
 - Barriers to effective coordination of benefits
- Review and discuss draft recommendations

Medicaid TPL Policies

- By statute, Medicaid is the payer of last resort
- Medicaid coordinates benefits with other insurers as a secondary payer
 - Identify which Medicaid enrollees have other health coverage
 - Coordinate benefits at the claim level when providers file claims with Medicaid
- It is generally better to avoid paying a claim that another insurer is responsible for, than to pay it and seek reimbursement from the other insurer

Medicaid TPL Policies

- Congress has made changes to the Medicaid statute over time to protect against improper payments
- Requires state-licensed insurers to:
 - share information with state Medicaid agencies
 - process TPL requests from states and Medicaid managed care organizations (MCOs)
 - Accept TPL requests for up to 3 years after paid date
- Congress has not extended these requirements to public programs including Medicare and TRICARE

Medicaid and TRICARE

- Approximately 867,000 active duty military members and dependents receive coverage through both TRICARE and Medicaid
- States began sharing enrollment information with the Defense Health Agency (DHA) in 1986 to support coordination of benefits
- TRICARE carriers process claims as the primary payer compared to Medicaid but otherwise follow DHA policies regarding filing deadlines, billing agreements

Problem: No Active Data Sharing Agreement

- CMS maintains a memorandum of understanding (MOU) with the DHA that specifies the terms of the state data match
- Since 2017, states have not been able to conduct the annual data match because there is no longer an active MOU
- States cannot proactively identify all Medicaid enrollees who have primary coverage through TRICARE
- As a result, states are likely paying some claims that are the responsibility of TRICARE

Problem: Infrequent Data Matches, One-Year Timely Filing Window

- Data match terms (e.g., annual match, limited fields) have not been updated since the 1990s, do not support efficient coordination, lead to more pay and chase
- DHA policy only accepts claims for one year from date of service; Medicaid allows longer so some claims filed timely (but wrongly) with Medicaid are denied when sent to TRICARE for being past the filing deadline
- As a result, states are likely paying some claims that are the responsibility of TRICARE

Problem: Lack of Coordination with Medicaid MCOs

- DHA policy is to only coordinate benefits with entities with which it has a billing agreement
- TRICARE carriers will execute billing agreements with state Medicaid agencies, not contracted MCOs
- If MCOs are aware of TRICARE enrollment, they can cost avoid by denying claims, but cannot recoup claims already paid via pay and chase
- As a result, capitation rates may be based on inaccurate assumptions and data

Draft Recommendations

Draft Recommendation #1

The Centers for Medicare & Medicaid Services should facilitate state Medicaid agency coordination of benefits with the Department of Defense TRICARE program by working with the Department of Defense to develop a mechanism for routinely sharing eligibility and coverage data between state Medicaid agencies and the Defense Health Agency.

Rationale

- Medicaid is the payer of last resort and coordinates with other insurers as a secondary payer
- Effective coordination of benefits requires information on other health insurance prior to claims payment
- Almost 900,000 individuals have both TRICARE and Medicaid but there is no automatic mechanism for states to identify whether individuals have TRICARE or changes in coverage, resulting in missed opportunities for coordination of benefits
- TRICARE is a federal program and federal-level action is needed to address operational and policy differences

Draft Recommendation #2

To protect Medicaid from improper payment of claims that are the responsibility of a third party and improve coordination of benefits for persons who have coverage through both Medicaid and TRICARE, Congress should direct the Department of Defense to require its carriers to implement the same third-party liability policies as other health insurers, as defined in section 1902(a)(25) of the Social Security Act.

Rationale

- Medicaid is the payer of last resort and coordinates with other insurers as a secondary payer
- Congress has previously take action to ensure that state-licensed insurers' coordination of benefits policies do not inappropriately limit the ability of Medicaid to collect TPL
- TRICARE is exempted from this statute and has policies that limit states' abilities to coordinate benefits and collect TPL
- Congress could take action to apply similar policies to TRICARE in order to limit any cost shift from the Department of Defense to Medicaid



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