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Department of Health Care Services



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DATE: May 10, 2021

ALL PLAN LETTER 21-007
SUPERSEDES ALL PLAN LETTERS 01-002, 11-012 AND 17-021

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: THIRD PARTY TORT LIABILITY REPORTING REQUIREMENTS

PURPOSE:

The purpose of this All Plan Letter (APL) is to provide guidance to Medi-Cal managed care health plans (MCPs) on the updated process for submitting service and utilization information and copies of paid invoices/claims for covered services related to third party liability (TPL) torts to the Department of Health Care Services (DHCS). The requirements in this APL do not relieve MCPs of other legal duties they may have to their members or other entities, including, without limitation, the duty to respond to members' requests for their own protected health records pursuant to the Health Insurance Portability and Accountability Act of 1996.

BACKGROUND:

DHCS has the right to recover funds related to services paid by Medi-Cal for injuries a member sustains, for which a member receives a settlement, judgment, or award from a liable third party for those same injuries. Accordingly, DHCS retains the right to impose liens in TPL tort actions or claims involving Medi-Cal members.¹ Instances that may give rise to tort liability include, but are not limited to, auto accidents, slip-and-falls, animal attacks, product or premises liability, medical malpractice, class actions, and workers' compensation claims.

POLICY:

MCPs must submit service and utilization information and, when requested, copies of paid invoices/claims for covered services to DHCS within 30 days of DHCS' request. Service and utilization information and copies of paid invoices/claims for covered services must include any services provided by the MCP, including, but not limited to, physical, mental, and dental health services. Records must include services provided on a fee-for-service, capitated, or other payment arrangement, regardless of whether payment was made or denied. This information must contain the following data elements:

¹ Welfare and Institutions Code section 14124.70 et seq. is available at:
http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=7.&article=3.5.

- Name of the MCP/Independent Physician Association (IPA)
- Member Name
- Date of Birth (provided by DHCS)
- Client Index Number (CIN)
- Date of Injury
- Claim Control Number
- Claim Line Number
- Claim Type
- Service From Date
- Service To Date
- Provider Legal Name
- National Provider Identifier
- Diagnosis Code 1 (Primary Diagnosis)
- Diagnosis Code 2 (Secondary Diagnosis)
- Drug Label Name
- Amount Billed
- Amount Paid (The actual amount the MCP paid to the provider for services. If service is capitated, indicate amount as "0")
- Reasonable Value (Absent the "Amount Paid," due to capitated or other service type, the "Reasonable Value" of the service² must be provided, pursuant to Title 28, California Code of Regulations (CCR), section 1300.71(a)(3)³)
- Current Procedural Terminology (CPT) Code
- CPT Type
- Primary/Secondary Claim Deny Reason Code and Description(s)

Required Submission Format

Service and Utilization Data

MCPs must submit the requested service and utilization information using only the standardized DHCS Excel template (Attachment A) and must compile all service and utilization information for covered services associated with a given Medi-Cal member within one Excel file. The service and utilization information for a given member cannot be separated into multiple submissions from various MCP partners, subcontractors, and/or IPAs.

² Pursuant to the MCP care contract, the reasonable value of the services, for purposes of TPL claims, must be calculated as the usual, customary, and reasonable charge made to the general public for similar services or the amount paid to Network Providers or Out-of-Network Providers for similar services.

³ CCRs are searchable at: <https://govt.westlaw.com/calregs/Search/Index>.

If MCPs or any of the MCPs' partners, subcontractors, and/or IPAs did not provide any services to the member, MCPs must include this information on the "No Services" tab within the standardized DHCS Excel template (Attachment A).

When submitting the requested information, the MCP's custodian of records, or a designee with knowledge of the submitted information, must electronically sign and comply with the attestation included in the DHCS Excel template (Attachment A).

Copies of Paid Invoices/Claims

If copies of paid invoices/claims are requested by DHCS, MCPs must compile all paid invoices/claims for covered services associated with a given Medi-Cal member within one .zip file. The paid invoices/claims for a given member cannot be separated into multiple submissions from various MCP partners, subcontractors, and/or IPAs.

Required Submission Process

MCPs must submit the requested service and utilization information or the no-claim documentation through the DHCS secure file transfer protocol (SFTP) site.⁴ DHCS' SFTP site can be accessed either through Internet Explorer or the Google Chrome web browser. Copies of paid invoices/claims can be submitted through the DHCS SFTP site or sent via email by responding to the DHCS representative who made the request.

If an MCP suspects a potential tort liability action and has insurance and/or attorney information, the MCP must notify DHCS using the online forms on the Personal Injury Program site⁵ within ten (10) calendar days of discovering that a member has initiated the action.

MCPs must designate a primary and secondary contact who will be granted access to DHCS' SFTP. DHCS will email each MCP to request contact information for this designated individual. MCPs must respond to TPLManagedCare@dhcs.ca.gov within five business days of receiving this email request. Once received, DHCS will process and provide login credentials to each designated individual.

DHCS has created SFTP accounts for each MCP and has assigned two folders to each MCP – an "In" and an "Out" folder.

⁴ The SFTP is available at: <https://etransfer.dhcs.ca.gov>.

⁵ The online forms are available at: <https://www.dhcs.ca.gov/PIForms>.

“In” Folder

MCPs will upload the requested service and utilization information and, when requested, copies of paid invoices/claims to the “In” folder.

Service and Utilization Information

Individual member files containing service and utilization information must be combined within one .zip file prior to uploading to the “In” folder in SFTP. All combined .zip file submissions must adhere to the following naming convention (further explained below):

PLAN NAME-MM-DD-YYYY- File #

The portion of the name in the MM-DD-YYYY format corresponds with the date the .zip file is uploaded to the “In” folder in SFTP. File # corresponds with the sequence of the .zip file uploaded in a given month. That is, the first .zip file uploaded would have a file # equal to 1. The second .zip file uploaded would have a file # equal to 2, and so on. (Note: the file # restarts with 1 at the beginning of every month.)

Individual member files submitted within the .zip file must contain the requested service and utilization information and must adhere to the following naming convention (further explained below):

MEMBER CIN_MEMBER LAST NAME_MEMBER FIRST NAME

Member CIN and Member Name correspond with the member’s CIN and name provided on the original request from DHCS.

Copies of Paid Invoices/Claims

When requested, copies of paid invoices/claims must be combined into a separate .zip file for each member and must adhere to the following naming convention:

MEMBER CIN_MEMBER LAST NAME_MEMBER FIRST NAME_PAID-INVOICES

Member CIN and Member Name correspond with the member’s CIN and name provided on the original request from DHCS.

“Out” Folder

The “Out” folder is where DHCS uploads its request for service and utilization information. The MCP is responsible for monitoring this folder and ensuring the requested information is submitted to DHCS within 30 calendar days of the request being uploaded to the “Out” folder.

Requests for copies of paid invoices/claims will be communicated directly to the MCP via email from DHCS. The MCP is responsible for acknowledging the email request by sending a return email to the requestor and ensuring the requested information is uploaded to the SFTP’s “In” folder or sent via email within 30 days or the timeframe specified in the request.

Included with this APL is the SFTP Manual (Attachment B). The SFTP Manual is a step-by-step guide for how MCPs are to upload and download files.

Required Communication

MCPs must use the following electronic mailbox for communications regarding their service and utilization information and copies of paid invoices/claims file submissions: TPLManagedCare@dhcs.ca.gov. MCPs must utilize this mailbox to submit questions or comments related to the preparation and submission of these reports, as well as issues related to accessing the SFTP folders.

To assist DHCS with any report inquiries, MCPs are required to provide at least a primary and secondary point of contact to DHCS via TPLManagedCare@dhcs.ca.gov, within 30 days of the publication of this APL.

Declarations

Declarations are sworn statements by individuals with direct knowledge of an issue or topic that may be used as evidence during litigation. MCPs must designate at least a primary and secondary custodian of records to facilitate DHCS’ declaration requests and to serve as a liaison between DHCS and the MCP, plan partners, subcontractors, and/or IPAs. MCPs are required to provide contact information for at least a primary and secondary custodian of records to DHCS via TPLManagedCare@dhcs.ca.gov within 30 days of the publication of this APL.

Declaration Requirements

When DHCS makes a declaration request, the custodian of records who attested to the submitted information, or a designee with knowledge of the submitted information, is required to serve as a declarant on behalf of the MCP. The declarant must authenticate the MCP’s data submissions and outline the MCP’s record reporting processes. To fulfill

the declaration request, the custodian of records must provide a signed declaration that includes, but is not limited to, the following information:

- The MCP's managed care delivery model (i.e., County Organized Health Systems, Geographic Managed Care, Two Plan, Regional, Imperial, and San Benito).
- The claims processing system the MCP has in place to receive, process, and pay claims for services rendered to its members.
- The date DHCS requested service and utilization information and copies of paid invoices/claims detailing the health care services paid by the MCP on behalf of the member.
- The exact amount of Medi-Cal services paid by the MCP on behalf of the member.
- An explanation of how the MCP pays its providers for the "reasonable value of services" rendered to the member.
 - If the MCP pays its providers per service, the documentation must show the amount the MCP paid each provider for each service.
 - If the MCP pays its providers on a capitated or risk sharing basis, the declarant must establish how the amounts provided to DHCS were determined to be reasonable and customary. This includes a disclosure of what a usual charge for each service is and how these amounts were obtained.
- A description of the declarant's title, duties performed, and years of experience working at the MCP.
- True and correct copies of service and utilization information and copies of paid invoices/claims identifying the services paid by the MCP or its partners for the Medi-Cal program.

The declarant must exercise all reasonable efforts to provide the requested information within the timeframe specified by DHCS for each requested declaration. The exact timeframe for each declaration will depend on the specific nature of the litigation. Before submitting the requested declaration to DHCS, the declarant is responsible for consulting with the MCP's legal counsel to ensure proper review and approval of the declaration, as appropriate.

Declaration Submission Format

The MCP's declarant must submit its signed declarations using the approved DHCS declaration template, which will be sent to the MCP via email with each request. A copy of the declaration template can also be obtained by submitting a written request to TPLManagedCare@dhcs.ca.gov. When requested, the declarant must submit copies of

service and utilization information using the same standardized DHCS Excel template (Attachment A) and copies of paid invoices/claims in one .zip file.

Declaration Submission Process and Communication

The declarant must submit completed declarations, including relevant service and utilization information and copies of paid invoices/claims and any supporting documentation requested by DHCS via email. The declarant must also mail a hard copy of the signed declaration and supporting documentation to the address provided by DHCS in its declaration request. Any questions or comments regarding the preparation and submission of declarations must be addressed directly to the DHCS staff who requested the declaration.

MCPs have a 90-day transition period, following the publication of this APL, to comply with the requirements of this APL. If the requirements contained in this APL, including any updates or revisions to this APL, necessitate a change in an MCP's policies and procedures (P&Ps), the MCP must submit its updated P&Ps to its Managed Care Operations Division (MCOD) contract manager within 90 days of the release of this APL. If an MCP determines that no changes to its P&Ps are necessary, the MCP must submit an email confirmation to its MCOD contract manager within 90 days of the release of this APL, stating that the MCP's P&Ps have been reviewed and no changes are necessary. The email confirmation must include the title of this APL as well as the applicable APL release date in the subject line.

MCPs are responsible for ensuring that their subcontractors and network providers comply with all applicable state and federal laws and regulations, contract requirements, and other DHCS guidance, including APLs and Policy Letters.⁶ These requirements must be communicated by each MCP to all subcontractors and network providers.

⁶ For more information on Network Providers, and Subcontractors, including the definition and requirements applicable, see the MCP's contract with DHCS, APL 19-001, or any superseding version of that APL. MCP boilerplate contracts are available at:

<https://www.dhcs.ca.gov/provgovpart/Pages/MMCDBoilerplateContracts.aspx>.

ALL PLAN LETTER 21-007
Page 8

If you have any questions regarding this APL and/or requests for copies of the Tort Liability Reporting Requirements documents, please contact TPLManagedCare@dhcs.ca.gov.

Sincerely,

Original Signed By

Nathan Nau, Chief
Managed Care Quality and Monitoring Division