



TOBY DOUGLAS
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

DATE: MAY 23 2011

MMCD All Plan Letter 11-012

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: REPORTING RESPONSIBILITIES REGARDING
THIRD-PARTY TORT LIABILITY

This purpose of this letter is to clarify the reporting responsibilities of Medi-Cal managed care health plan (Plan) contractors regarding third party liability (TPL) torts. This letter supersedes MMCD Letter 96-17, dated December 10, 1996. The Department of Health Care Services (DHCS) retains its lien rights in TPL tort actions involving Medi-Cal recipients. 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 actions.

California Code of Regulations, Title 22, Section 53222(b) and Plan contract terms specifically prohibit Plan contractors from attempting recovery in circumstances involving casualty insurance, tort liability, or workers' compensation awards, including uninsured motorist coverage and medical payments coverage.

Contractor Responsibilities Regarding Tort Liability

Plan contractors are required to comply with the contractual reporting requirements related to tort liability actions identified in the two circumstances described below.

1. Notification of a Medi-Cal Recipient's Potential TPL Action.

All Plan contracts require that contractors notify DHCS within ten (10) days of discovering that a Medi-Cal beneficiary has initiated an action that could result in a settlement, judgment, or award against which DHCS may impose a lien in accordance with California Welfare and Institutions Code Section 14124.70 et seq. If a beneficiary, attorney, or insurance carrier requests that a Plan contractor provide an itemization in a tort liability action, the contractor should direct these individuals to the appropriate program web site:

- Medi-Cal Personal Injury Program (MCPIP) - <http://dhcs.ca.gov/PI>
- Medi-Cal Workers' Compensation Program (MCWCP) - <http://dhcs.ca.gov/WC>

In addition, Plan contractors should fax a copy of the request and any supporting documents to the appropriate program. Fax numbers are available via the above web site addresses.

2. Requests for Medical Services Data.


Plan contractors must provide medical services data to the Medi-Cal Personal Injury and Workers' Compensation Programs. This data includes all inpatient, outpatient, pharmacy, dental, mental health, rehabilitative care, durable medical equipment, medical transportation, or any other service related to physical, mental, or oral health. Services should be included regardless of whether they were provided on a fee-for-service or capitated basis, and regardless of whether payment was made or denied. An itemization should include the date service was provided; claim number; provider's name; the two most relevant diagnostic codes; procedure code; and amounts billed, allowed, and paid. If the service was provided under a capitated arrangement, this should also be noted. Finally, if payment for a service was denied, include the date of and reason for the denial.

MCPIP and MCWCP have only two approved ways for contractors to report data. First, if a contractor receives a written request from DHCS or one of its workers' compensation contractors (e.g., Health Management Systems), a Plan contractor must forward an itemized list of all services for the requested periods to DHCS within thirty (30) days. To do so, the contractor should present the services data on the TPL Services Reporting Template, available at the MCPIP web site above, and send it to MCPIP or MCWCP via the Managed Care Referral online form available at the respective program's web site. Several of our larger contractors have already adopted this method.

Alternatively, contractors may send complete and accurate services data on a monthly basis to the DHCS Enterprise Data Warehouse (EDW). This method is available only for MCPIP-approved contractors. Two contractors have already successfully converted to this approach. Simply passing DHCS EDW edits is not sufficient to meet this standard. For instance, if a contractor omits pharmacy services in its submissions, its data might pass EDW edits, but fail MCPIP validation checks. MCPIP can provide feedback to assist all other plans interested in this form of reporting. This is the preferred method for obtaining contractor data, and may become the only acceptable reporting method in the future.

MCPIP is available for questions regarding the new reporting process. For questions regarding your contractual responsibility to report TPL matters, please contact your contract manager.

Sincerely,



Tanya Homman, Chief
Medi-Cal Managed Care Division