



Section: Third Party Liability

6.0 Third Party Liability General Information

The Division of Medicaid (DOM) by law is intended to be the “payer of last resort”; that is, all other available third party sources must meet their legal obligation to pay claims before the Medicaid program pays for the care of an individual eligible for Medicaid. A list of “Third Party Sources” can be found in this section of the handbook.

In complying with Federal statute, a Medicaid provider may not refuse to furnish covered services to a beneficiary because of a third party's potential liability for the services. The law also protects the Medicaid beneficiary when a third party source is involved. The provider must accept either Medicaid's established reimbursement or the third party payment as payment in full. The beneficiary is not liable for any more than the co-payment that has been established by DOM.

As a condition of eligibility for Medicaid, the beneficiary is required by law to assign his/ her rights to any third party benefits to the DOM. By law, DOM legally stands in place of the beneficiary to pursue recovery of Medicaid's payment from any liable third party. For detailed third party recovery policy, refer to the Administrative Code Title 23 Part 306.

State law requires the provider to identify to DOM any third party source, and to cooperate with DOM in the recovery of Medicaid's payment from the third party.

Any provider failing to cooperate with DOM in the protection and the recoupment of its payments from a legally liable third party or parties shall be liable to DOM to the extent of the payments made to the provider for services rendered to the beneficiary for which the third party or parties are or may be liable.

The exceptions to initially filing with the third party source prior to filing with Medicaid are found in this section under “Exceptions to Cost Avoidance and Casualty Cases”.

For Point of Sale (POS) pharmacy claims, see the Pharmacy Section 5.0 of the Provider Billing Handbook for detailed instructions on submitting claims with third party liability (TPL) payment.