

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**REQUIREMENTS FOR THIRD PARTY LIABILITY
PAYMENT OF CLAIMS**

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- §1. Probable liability is established at the time claim is filed.
- a. When the Title XIX agency has established the probable existence of third party liability at the time the claim is filed, the agency rejects the claim and returns it to the provider for a determination of the amount of liability. The establishment of third party liability takes place when the agency receives confirmation from the provider or a third party resource indicating the extent of third party liability. When the amount of liability is determined, the agency pays the claim to the extent that maximum payment allowed under the agency's payment schedule exceeds the amount of the third party payment.
 - b. Exhausting all available third party resources is the responsibility of the providers. The Medicaid Enterprise System (MES) does not allow payments to be made by Virginia Medicaid unless the invoice indicates that the third party has either paid or denied the claim.
 - c. There are certain circumstances in which cost avoidance may not be utilized:
 1. Medical support enforcement. In the case of any service covered under Medicaid provided to an individual on whose behalf child support enforcement is being carried out by the IV-D agency, Medicaid makes payment for such service in accordance with the usual payments schedule. These payments are made without regard to any third party liability, if such third party liability is derived, through insurance or otherwise, from the parent whose obligation to pay support is being enforced by the IV-D agency. Medicaid shall make these payments providing that they have not been made by such third party within 100 days after such service is furnished.
Providers shall not be required to bill the third party in this situation. When the provider does bill Medicaid, it must certify either:
 - (a) that it has not billed the third party documented on the claim due to medical support enforcement, or
 - (b) that it has billed the third party documented on the claim but that he has not received payment or denial for the service from the third party within 100 days after the provider of such services has initially submitted a claim. In this case, up to 100 days must elapse after the provider of such services has initially submitted a claim.
 2. Preventive Pediatric Care. When the claim is for preventive pediatric care, including Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services that are covered under the State Plan, the Commonwealth makes payment for such services in accordance with the usual payment schedule without regard to the liability of a third party for payment for such services, unless the state has made a determination related to cost effectiveness and access to care that warrants cost avoidance for up to 90 days.

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3. In order to accomplish this pay and chase activity, in accordance with 42 CFR 433.139, (once the claims have been processed for payment), a report is generated advising the third party unit so that recovery of funds can be made.
- §2. Virginia complies with the following requirements.
- SSA section 1902 (a)(25)(E): the requirement for states to apply cost avoidance procedures to claims for prenatal services, including labor, delivery, and postpartum care services.
 - SSA section 1902 (a)(25)(E): the requirement for states to make payments without regard to potential third party liability for pediatric preventive services, unless the state has made a determination related to cost-effectiveness and access to care that warrants cost avoidance for up to 90 days.
 - SSA section 1902 (a)(25)(F): State flexibility to make payments without regard to potential third party liability for up to 100 days for claims related to child support enforcement beneficiaries.
- §3. Probable liability is not established or benefits are not available at the time claim is filed.
- a. If the probable existence of third party liability cannot be established or third party benefits are not available to pay the recipient's medical expenses at the time the claim is filed, the agency pays the full amount allowed under the agency's payment schedule.
- §4. Recovery of reimbursement.
- a. When the Title XIX agency learns of the existence of a liable third party after a claim is paid, or benefits become available from a third party after a claim is paid, the Title XIX agency seeks recovery of reimbursement within 60 days after the end of the month it learns of the existence of the liable third party or benefits become available.
- b. Reimbursement is sought by the Title XIX agency unless the agency determines that recovery will not be cost effective. The agency uses the threshold amount of \$50 as a guideline in its attempts to recover from liable third parties in casualty cases. This \$50 guideline is used in consideration with other factors (i.e., expense and difficulty of recovery) in deciding whether to pursue recoveries in the range of smaller dollar expenditures (less than \$50). The threshold amount in the determination for the recovery of funds by the health insurance unit is \$40. However, the threshold amount may be waived when the agency deems it to be economically and administratively feasible to collect less than the stated amounts. The threshold amounts are based on effectiveness with normal effort for the recovery of funds. Should it be determined that a recovery effort would be cost effective, then attempts are made for recovery of amounts below the threshold levels.

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