



COMMONWEALTH of VIRGINIA
Office of the Governor

Janet Vestal Kelly
Secretary of Health and Human Resources

July 28, 2025

Todd McMillion
Director
Department of Health and Human Services
Centers for Medicare and Medicaid Services
233 North Michigan Ave., Suite 600
Chicago, Illinois 60601

Dear Mr. McMillion:

Attached for your review and approval is amendment 25-013, entitled "Third Party Liability" to the Plan for Medical Assistance for the Commonwealth. I request that your office approve this change as quickly as possible.

Sincerely,

A handwritten signature in blue ink that reads "Janet V. Kelly".

Janet V. Kelly

Attachment

cc: Cheryl J. Roberts, Director, Department of Medical Assistance Services
CMS, Region III

Transmittal Summary

SPA 25-013

I. IDENTIFICATION INFORMATION

Title of Amendment: Third Party Liability

II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Purpose: The purpose of this state plan amendment is twofold:

- Add language that is needed to respond to a CMS State Medicaid Director letter (#23-002) requiring Medicaid agencies to submit amend their state plan to provide assurances that the state has rules in place that bar liable third-party payers from refusing payment for an item or service solely on the basis that such item or service did not receive prior authorization under the third-party payer's rules.
- Provide clarity relating to lien amounts arising from the Medicaid program and asserted against personal injury claims proceeds.

In 2023, DMAS submitted a third party liability SPA to CMS to incorporate the above changes. However, CMS asked DMAS to withdraw the SPA, because the agency did not have a law in place that barred liable third-party payers from refusing payment for an item or service on the basis that such item or service did not receive prior authorization under the third-party payer's rules. Item 288.KKKKK of the 2025 Appropriations Act provides such authority; therefore, DMAS can now resubmit the SPA to CMS.

Substance and Analysis: The section of the State Plan that is affected by this amendment is "Preprint Pages at the Beginning of the State Plan and Lien Recoveries".

Impact: None.

Tribal Notice: Please see attached.

Prior Public Notice: N/A

Public Comments and Agency Analysis: N/A



Tribal Notification

From Williams, Jimeequa (DMAS) <Jimeequa.Williams@dmass.virginia.gov>

Date Wed 7/9/2025 10:36 AM

To TribalOffice@MonacanNation.com <tribaloffice@monacannation.com>; Ann Richardson <chiefannerich@aol.com>; Pam Thompson <pamelathompson4@yahoo.com>; Rappahannock Tribe <rappahannocktrib@aol.com>; Reginald Stewart <regstew007@gmail.com>; Richard.matens@pamunkey.org <richard.matens@pamunkey.org>; chief@monacannation.gov <chief@monacannation.gov>; Stephen Adkins <chiefstephenadkins@gmail.com>; bradbybrown@gmail.com <bradbybrown@gmail.com>; tabitha.garrett@ihs.gov <tabitha.garrett@ihs.gov>; kara.kearns@ihs.gov <kara.kearns@ihs.gov>; Nansemond Administrator <administrator@nansemond.gov>; info@afwellness.com <info@afwellness.com>; info@fishingpointhc.com <info@fishingpointhc.com>; Nansemond Indian Nation <contact@nansemond.gov>; brandon.custalow@mattaponination.com <brandon.custalow@mattaponination.com>; admin@umitribe.org <admin@umitribe.org>; Reels-Pearson, Lorraine (IHS/NAS/AO) <lorraine.reels-pearson@ihs.gov>; Holmes, Remedios (IHS/NAS/RIC) <remedios.holmes@ihs.gov>; Lindsey.Taylor@ihs.gov <lindsey.taylor@ihs.gov>

 1 attachment (64 KB)

Tribal Notice letter (06-27-25) - signed.docx;

Good morning.

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid's Director, Cheryl J. Roberts, indicating that the Dept. of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services regarding Third Party Liability.

If you would like a copy of the SPA documents or proposed text changes, or if you have any questions, please let us know.

Thank you.

-J. Williams

Jimeequa Williams

Regulatory Coordinator

Policy Division

Department of Medical Assistance Services

Hours: 7:30 a.m. - 5:00 p.m. (Monday-Thursday); 7:30 a.m. - 11:30 a.m. (Friday)

jimeequa.williams@dmass.virginia.gov

(804) 225-3508

www.dmass.virginia.gov





COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

CHERYL J. ROBERTS
DIRECTOR

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
800/343-0634 (TDD)
www.dmas.virginia.gov

June 27, 2025

SUBJECT: Notice of Opportunity for Tribal Comment – State Plan Amendment related to Third Party Liability.

Dear Tribal Leader and Indian Health Programs:

This letter is to notify you that the Department of Medical Assistance Services (DMAS) is planning to amend the Virginia State Plan for Medical Assistance with the Centers for Medicare and Medicaid Services (CMS). Specifically, DMAS is providing you notice about a State Plan Amendment (SPA) that the Agency will file with CMS related to third party liability. Specifically, DMAS will:

- Add language that is needed to respond to a CMS State Medicaid Director letter (#23-002) requiring Medicaid agencies to amend their state plan to provide assurance that the state has rules in place that bar liable third-party payers from refusing payment for an item or service solely on the basis that such item or service did not receive prior authorization under the third-party payer's rules.
- Provide clarity relating to lien amounts arising from the Medicaid program and asserted against personal injury claims proceeds.

In 2023, DMAS submitted a third-party liability SPA to CMS to incorporate the above changes. However, CMS asked DMAS to withdraw the SPA, because the agency did not have a law in place that barred liable third-party payers from refusing payment for an item or service on the basis that such item or service did not receive prior authorization under the third-party payer's rules. Item 288.KKKKK of the 2025 Appropriations Act provides such authority; therefore, DMAS can now resubmit the SPA to CMS.

The tribal comment period for this SPA is open through August 9, 2025. You may submit your comments directly to Jimeequa Williams, DMAS Policy Division, by phone (804) 225-3508, or via email: Jimeequa.Williams@dmas.virginia.gov. Finally, if you prefer regular mail you may send your comments or questions to:

Virginia Department of Medical Assistance Services
Attn: Jimeequa Williams
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl J. Roberts".

Cheryl J. Roberts, JD
Director

LIEN
RECOVERIES

1. To obtain information about a Medicaid member's enrollment status or an itemization of lien against a personal injury claim, the member or their authorized representative shall furnish DMAS or its designated representative with any information that DMAS or its designated representative shall request. DMAS or its designated representative shall determine the form of communication by which it will receive information. The following information is required to be furnished to DMAS or its designated representative:

- a. A letter of representation signed by the Medicaid member or their authorized representative and dated within the last twelve months (if the request is made by a representative).
- b. A HIPAA-compliant release form signed by the Member and dated within the last twelve months that authorizes both DMAS and the Office of the Attorney General (OAG) to disclose medical information to the member or their authorized representative and to any other third parties or contractors that are or will be involved with the lien.
- c. The full legal name of the Medicaid member.
- d. The full social security number of the Medicaid member.
- e. A copy of the front and back of the Medicaid member's health insurance card(s).
- f. A description of the member's injuries sustained as a result of the accident.
- g. An itemized statement of the Medicaid member's medical damages including providers and dates of service, along with copies of medical bills.
- h. The date and location of the accident, the identities of all parties involved in the accident, and a copy of the police report (if available).
- i. The full name, mailing address, telephone number, and email address of the authorized representative named in the HIPAA release to whom DMAS should direct communications about the Medicaid lien.
- j. If any of the required information changes after the date the information is submitted to DMAS, the member or their authorized representative shall notify DMAS of the change as soon as the new information is made available to the member or their authorized representative.

TN No.	<u>25-0013</u>	Approval Date	<u> </u>	Effective Date	<u>7-1-25</u>
Supersedes					
TN No.	<u>95-09</u>			HCFA ID:	7983E

2. To make a request for a reduction of any portion of a Medicaid lien, the member or their authorized representative shall furnish DMAS or its designated representative with any information that DMAS or its designated representative shall request. . DMAS or its designated representative shall determine the form of communication by which it will receive information. The following information is required to be furnished to DMAS or its designated representative:

- a. The member's prognosis and anticipated future treatment expenses.
- b. If the member is permanently disabled as a result of the accident, the disability rating.
- c. The member's current income, financial resources, and employment status.
- d. The amount of all other liens or claims against the members personal injury claim.
- e. Whether any liability insurance policies are available, and if so, the amount paid by each, and the policyholder's name for each.
- f. If any settlements have occurred related to the accident, including the amount of the settlement, the terms, and a copy of the signed settlement agreement.
- g. If any lawsuits have been filed related to the accident, the jurisdiction and case number, a copy of the Complaint and any other filings.
- h. The amount of all medical reimbursement payments coverage related to the accident, such as Medical Payments Insurance, also known as "medpay."
- i. An itemized statement of all attorney's fees and costs and any voluntary reductions.
- j. A written explanation of why the request is being made, along with details about the compromise or waiver that is being requested and any other facts or documentation that are being relied upon to support the request.
- k. If any of the required information changes after the date the information is submitted to DMAS, the member or their authorized representative shall notify DMAS of the change as soon as the new information is made available to the member or their authorized representative.

3. To make a request to remove charges contained in DMAS's itemization of lien that are believed to be unrelated to the personal injury claim of the member, the member or their authorized representative shall furnish DMAS or its designated representative with any information that DMAS or its designated representative shall request. DMAS or its designated representative shall determine the form of communication by which it will receive information. The following information is required to be furnished to DMAS or its designated representative:

- a. A written statement detailing the specific charge(s) that the member or its authorized representative believes is unrelated to the personal injury claim.
- b. Any and all documentation from the member or its authorized representative to any third party detailing claimed medical damages, itemized medical bills, or other related information, including, but not limited to, demand package(s), list of medical specials, correspondence concerning medical damages, etc.
- c. Any and all documentation showing where the member or its authorized representative informed any third party that certain charges were unrelated.

LIEN
RECOVERIES

~~The Commonwealth does not recover, through the imposition of liens, funds expended for recipients.~~

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 - a. A letter of representation signed by the Medicaid member or their authorized representative and dated within the last twelve months (if the request is made by a representative).
 - b. A HIPAA-compliant release form signed by the Member and dated within the last twelve months that authorizes both DMAS and the Office of the Attorney General (OAG) to disclose medical information to the member or their authorized representative and to any other third parties or contractors that are or will be involved with the lien.
 - c. The full legal name of the Medicaid member.
 - d. The full social security number of the Medicaid member.
 - e. A copy of the front and back of the Medicaid member's health insurance card(s).
 - f. A description of the member's injuries sustained as a result of the accident.
 - g. An itemized statement of the Medicaid member's medical damages including providers and dates of service, along with copies of medical bills.
 - h. The date and location of the accident, the identities of all parties involved in the accident, and a copy of the police report (if available).
 - i. The full name, mailing address, telephone number, and email address of the authorized representative named in the HIPAA release to whom DMAS should direct communications about the Medicaid lien.
 - j. If any of the required information changes after the date the information is submitted to DMAS, the member or their authorized representative shall notify DMAS of the change as soon as the new information is made available to the member or their authorized representative.

TN No. 25-0013 95-09

Approval Date _____

Effective Date 7-1-25 11-01-95

Supersedes

TN No. N/A

HCFA ID: 7983E

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- a. The member's prognosis and anticipated future treatment expenses.
- b. If the member is permanently disabled as a result of the accident, the disability rating.
- c. The member's current income, financial resources, and employment status.
- d. The amount of all other liens or claims against the members personal injury claim.
- e. Whether any liability insurance policies are available, and if so, the amount paid by each, and the policyholder's name for each.
- f. If any settlements have occurred related to the accident, including the amount of the settlement, the terms, and a copy of the signed settlement agreement.
- g. If any lawsuits have been filed related to the accident, the jurisdiction and case number, a copy of the Complaint and any other filings.
- h. The amount of all medical reimbursement payments coverage related to the accident, such as Medical Payments Insurance, also known as "medpay."
- i. An itemized statement of all attorney's fees and costs and any voluntary reductions.
- j. A written explanation of why the request is being made, along with details about the compromise or waiver that is being requested and any other facts or documentation that are being relied upon to support the request.
- k. If any of the required information changes after the date the information is submitted to DMAS, the member or their authorized representative shall notify DMAS of the change as soon as the new information is made available to the member or their authorized representative.

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TN No. 25-0013

Approval Date

Effective Date 7-1-25

Supersedes

TN No.

HCFA ID: 7983E

Revision: HCFA-PM-94-1
February, 1994

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

Citation

42 CFR 433.139
(b)(3)(ii) (A)

☒ (c) Providers are required to bill liable third parties when services covered under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency.

(d) ATTACHMENT 4.22-B specifies the following:

42 CFR 433.139
(b)(3)(ii)(C)

() The method used in determining a provider's compliance with the third party billing requirements at § 433.139(b) (3) (ii) (C).

42 CFR 433.139
(f)(2)

(2) The threshold amount or other guideline used in determining whether to seek recovery or reimbursement from a liable third party, or the process by which the agency determines that seeking recovery of reimbursement would not be cost effective.

42 CFR 433.139
(f)(3)

(3) The dollar amount or time period the State uses to accumulate billings from a particular liable third party in making the decision to seek recovery of reimbursement.

1902(a)(25) of
the Act

(4) The Medicaid agency assures that the state has in effect the laws that require third parties to comply with the provisions, including those which require third parties to provide the state with coverage, eligibility, and claims data, under section 1902(a)(25) of the social security act, and specifies the compliance with 1902(a)(25)(E) and 1902fa)(25)(F).

1902(a)(25)(I) of
the Act

(5) The Medicaid agency ensures that laws are in effect that bar liable third-party payers from refusing payment for an item or service solely on the basis that such item or service did not receive prior authorization under the third-party payer's rules. These laws comply with the provisions of the Consolidated Appropriations Act, 2025 (P.L. 119-4).

42 CFR 447.20

(e) The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 447.20.

Revision: HCFA-PM-94-1
February, 1994

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

Citation

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1902(a)(25)(I) of
the Act

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42 CFR 447.20

(e) The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 447.20.

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL
SECURITY ACT

XIX

XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY _____ \$ _____

b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:
Secretary of Health and Human Resources

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME

13. TITLE

14. DATE SUBMITTED

15. RETURN TO

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS