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State/Territory Name: Massachusetts

State Plan Amendment (SPA) #: 15-0010

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
JFK Federal Building, Government Center
Room 2275
Boston, Massachusetts 02203



Division of Medicaid and Children's Health Operations / Boston Regional Office

March 2, 2016

Marylou Sudders, Secretary
Executive Office of Health and Human Services
One Ashburton Place, Room 1109
Boston, Massachusetts 02108

Dear Secretary Sudders:

We are pleased to enclose a copy of approved Massachusetts State Plan Amendment (SPA) No. 15-010, which was submitted to my office on December 31, 2015. This SPA was submitted to revise your approved Title XIX State plan to update the State's TPL State plan pages and provide detail on your casualty recovery process. This SPA has been approved effective October 1, 2015.

Enclosed are copies of the following approved State plan pages.

- Attachment 4.22-A, pages 1-3; and
- Attachment 4.22-B, pages 1-2

If you have any questions regarding this matter you may contact Julie McCarthy at (617) 565-1244 or by e-mail at Julie.McCarthy@cms.hhs.gov.

Sincerely,

/s/

Richard R. McGreal
Associate Regional Administrator

Enclosure/s

cc: Daniel Tsai, Assistant Secretary for MassHealth, Medicaid Director
Daniel Cohen, State Plan Coordinator

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER: MA-015-010	2. STATE MA
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE October 1, 2015	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)		
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 433.138, 42 CFR 433.139	7. FEDERAL BUDGET IMPACT: a. FFY 2016 \$0 b. FFY 2017 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.22-A Attachment 4.22-B	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.22-A Attachment 4.22-B	

10. SUBJECT OF AMENDMENT:

Attachment 4.22 Third Party Liability

11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		<input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Not required under 42 CFR 430.12(b)(2)(i)
12. SIGNATURE OF STATE AGENCY OFFICIAL: _____ /s/	16. RETURN TO: Daniel J. Cohen State Plan Coordinator Executive Office of Health and Human Services Office of Medicaid One Ashburton Place, 11th Floor Boston, MA 02108	
13. TYPED NAME: Marylou Sudders		
14. TITLE: Secretary		
15. DATE SUBMITTED: December 31, 2015		

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED: 12/31/2015	18. DATE APPROVED: 03/02/2016
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: 10/01/2015	20. SIGNATURE OF REGIONAL OFFICIAL: _____ /s/
21. TYPED NAME: Richard R. McGreal	22. TITLE: Associate Regional Administrator, Division of Medicaid & Children's Health Operations, Boston, MA
23. REMARKS:	

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Requirements for Third Party Liability: Identifying Liable Resources (cont.)

- A. The State Medicaid Agency meets the requirements of 42 CFR 433.138 and 433.139.
- B. The State Medicaid Agency meets the requirements for identifying liable third party resources in the following way(s):
 - 1. For the data exchanges required in 42 CFR 433.138(d)(1), (d)(3), (d)(4) and (f) and the diagnosis and trauma code edits required in §433.138(e):
 - a. The State Medicaid Agency obtains wage and earning information through a monthly data exchange with the Massachusetts Department of Revenue (DOR), and a bi-weekly data exchange with the Social Security Administration (SSA). See 42 CFR 433.138(d)(1).
 - b. EOHHS, the State Medicaid Agency, is the state Title IV-A agency and continually reviews information concerning employment obtained during the intake and redetermination processes. See 42 CFR 433.138(d)(3).
 - c. MassHealth receives a data match on a monthly basis from the Massachusetts Department of Industrial Accidents (DIA) and compares this list to a list of MassHealth members in the MMIS system. If a match occurs, then MassHealth creates a pending case in the Case Tracking System.

EOHHS uses a comprehensive Payment Intercept Program (PIP), which identifies non-recurring settlement payments for injury or trauma cases, inclusive of motor vehicle accidents, in the amount of \$500 or more. All insurance companies must report through this system, allowing the state an opportunity to intervene and follow-up with liable third parties. See 42 CFR 433.138(d)(4).
 - d. The State Medicaid Agency monitors diagnosis and trauma codes through internal reports. See 42 CFR 433.138(e). These reports determine which codes yield the highest return on TPL payments. Moreover, the State Medicaid Agency has developed the PIP process, which identifies insurance settlement payments for injury/trauma cases. This process is undertaken on a daily basis.
 - 2. For the follow-up measures for identifying third party liability resources required in 42 CFR 433.138(g)(1) and (g)(2), the State Medicaid Agency implements these follow-up mechanisms to identify legally liable third party resources:
 - a. The State Medicaid agency requests that members provide TPL information when applying for Medicaid. The Medicaid agency accepts TPL information directly from members, providers, MassHealth Enrollment Centers (MECs), Social Security Administration (SSA) local offices, Department of Transitional Assistance local offices, managed care providers and others. The Medicaid agency conducts matches

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with the Massachusetts DOR to obtain information about new employment for its members and to identify legally liable non-custodial parents. See 42 CFR 433.138(g)(1)).

- b. The State Medicaid Agency conducts a daily, weekly and monthly match to identify members who also have commercial insurance. The State Medicaid Agency conducts regular matches with CMS's Medicare Enrollment Database (EDB) and SSA's State Verification and Exchange System (SVES) files to identify members who eligible for Medicare. The State Medicaid Agency conducts regular matches with the Defense Enrollment Eligibility Reporting System (DEERS) to identify members who are eligible for Tricare. The State Medicaid agency uses the Public Assistance Reporting Information Systems (PARIS) to identify individuals who may be enrolled in another state Medicaid program. See 42 CFR 433.138(g)(2).
3. The State Medicaid Agency has implemented the PIP process, which is used to identify non-recurring settlement payments for injury or trauma cases in the amount of \$500 or more. All insurance companies must report through this system, allowing the State an opportunity to intervene and follow-up with liable third parties. This process is discussed in greater detail below. See 42 CFR 433.138(d)(4)(ii).
4. The State Medicaid Agency monitors diagnosis and trauma codes through internal reports. These reports determine which codes yield the highest return on TPL payments. Moreover, the State Medicaid Agency uses the PIP process for detailed case development within the Casualty Recovery Unit (CRU).

PIP was created by the Massachusetts Department of Revenue (DOR) Child Support Enforcement Division. In July 2003, M.G.L. c. 175, §24E was enacted, authorizing MassHealth and the Department of Transitional Assistance (DTA) to identify insurance payments for the purpose of recovering public assistance benefits. The PIP is a DOR interactive web-based application that licensed insurers to exchange settlement information with MassHealth, DOR Child Support, and DOR Tax Division.

Once an insurer makes an inquiry into the PIP, a request comes to CRU, the medical claims records are ordered from MMIS. The records, which include the trauma codes, are uploaded into the case-tracking system. Subject Matter Experts (SMEs) undertake a detailed review of all paid claims.

Starting October 1, 2015, when ICD-10 Codes were implemented, the State Medicaid Agency identifies adjudicated claims that contain ICD-10 diagnosis codes that reflect an injury or trauma for which there may be a liable third party. ICD-9 is still valid for services prior to October 1, 2015 for claims submitted within one year of the date of service, and for historic claims records. The SMEs have received training on ICD-10 codes and review those identified claims.

The State Medicaid Agency may only recover from the amount that is designated in the settlement for payment of medical expenses related to the cause of action; this may result in a recovery amount that is less than the amount Medicaid expended.

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The SME:

- obtains information concerning the client's attorney such as name, address, and telephone number. The SME contacts the attorney for case status, date of accident, and all insurance information.
- processes information received from insurance carriers to obtain policy and coverage information. If the SME determines that there is third party liability, then a notice of lien is sent to the carrier to remain on file against future settlement monies in accordance with Massachusetts General Laws Chapter 118E, §22; and
- reviews financial and medical assistance relating to the accident and provides the attorney with the amount of the lien.

If and when the case settles, the State Medicaid Agency recovers the amount it is owed and discharges the lien.

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Requirements for Third Party Liability Payment of Claims

(d)

1. The method to determine compliance with requirements of 42 CFR 433.139(b)(3)(ii)(C) is as follows: The State Plan as referenced herein requires providers to bill third parties. In a case where medical support is being enforced by the state Title IV-D Agency, the provider will be required to submit documentation that the provider has billed the third party and has not received payment from the third party.

The same method is used to meet the requirements contained in 42 CFR 433.139(b)(3)(i).

State laws are in effect that require third parties to comply with the provisions of 1902(a)(25)(I) of the Social Security Act, including those which require third parties to provide the state with coverage, eligibility, and claims data.

2. Recovery from Health Insurers

The State Medicaid Agency will seek reimbursement from a liable health insurer when the State Medicaid Agency determines that the potential accumulated recovery will amount to at least \$250, or will otherwise be cost effective.

3. Recovery from Liability Insurers or Other Third Parties for Benefits Provided for Accidents, Injuries, Illnesses and Other Losses. See 42 CFR 433.139(f)(2) and (3).

Threshold Amount: The State Medicaid Agency will seek reimbursement from a liable third party for benefits provided on account of accidents, injuries, illnesses or other losses suffered by recipients when the State Medicaid Agency determines that the potential recovery, as evidenced by accumulated billings, will amount to at least \$250, or otherwise will be cost-effective.

Cost-Effectiveness: At times the State Medicaid Agency may determine that it is more cost-effective to pursue a lesser amount than the full cost of care in order to avoid litigation. Cost-effectiveness must be determined on a case-by-case basis. For example, the State Medicaid Agency may reduce the amount of its claim, which becomes the amount of reimbursement that the State Medicaid Agency can reasonably expect to recover. The State Medicaid Agency will use cost-effective criteria such as the following:

1. Factual and legal issues of liability that may exist concerning the MassHealth recipient and the liable party; and
2. Total funds, e.g. policy limits available for settlement; and
3. An estimate of the cost to the MassHealth program to pursue the claim including attorney fees and costs.

After considering the above factors, the State Medicaid Agency may pursue a lesser recovery

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amount to the extent that the MassHealth agency determines it to be cost-effective.
Total funds available for settlement of a casualty/tort claim are the funds designated for
payment of medical expenses only.