

Table of Contents

State/Territory Name: Montana

State Plan Amendment (SPA) #: 22-0013

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 601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

July 13, 2022

Michael Randol
Montana Medicaid and Health Services Executive Director/State Medicaid Director
Montana Department of Public Health & Human Services
P.O. Box 4210
Helena, MT 59604

Dear Mr. Randol:

We have completed our review of the enclosed State Plan Amendment (SPA) Transmittal Number MT-22-0013. This amendment addresses third party liability and related Medicaid payments associated with prenatal care, preventive pediatric services, and medical child support. These changes comply with the requirements of the Bipartisan Budget Act of 2018, and the Medicaid Services Investment and Accountability Act of 2019.

Please be informed that this State Plan Amendment was approved on July 13, 2022, with an effective date of April 1, 2022. Enclosed is a copy of the CMS 179 summary page and the amended plan page(s).

If you have any questions or need further assistance, please contact Barbara Prehmus at (303) 844-7472 or barbara.prehmus@cms.hhs.gov.

Sincerely,

 Electronically signed by
Nicole M. McKnight -S
2022.07.13
13:38 -04'00'

Nicole McKnight, Acting Director
Division of Program Operations

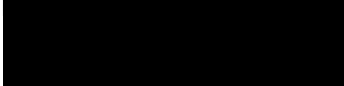
cc: Adam Meier, Department Director
Marie Matthews
Mary Eve Kulawik

| | | |
|--|---|----------------------------|
| TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES | 1. TRANSMITTAL NUMBER 22-0013 | 2. STATE Montana |
| | 3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="checkbox"/> XIX <input type="checkbox"/> XXI | |
| TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES | 4. PROPOSED EFFECTIVE DATE 04/01/2022 | |
| 5. FEDERAL STATUTE/REGULATION CITATION Bipartisan Budget Act of 2018 | 6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY 2022 \$ 0 b. FFY 2023 \$ 0 | |
| 7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Citation 4.22 Third Party Liability, Pages 69, 69a and 70 4.22 Attachments A, B, and G- | 8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Citation 4.22 Third Party Liability, Pages 69, 69a and 70 4.22 Attachments A, B, and G- | |

9. SUBJECT OF AMENDMENT
This state plan amendment brings the Department in compliance with the Bipartisan Budget Act of 2018 requiring states to apply cost avoidance procedures to prenatal service claims; to make payments without regard to potential TPL for pediatric preventive services, unless a determination related to cost-effectiveness and access to care warrants cost avoidance for up to 90 days; and flexibility to make payments without regard to potential TPL for up to 100 days for child support enforcement beneficiary claims.

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:
 Single State Agency Review

| | |
|---|---|
| 11. SIGNATURE OF STATE AGENCY OFFICIAL  | 15. RETURN TO Montana Department of Public Health and Human Services State Medicaid Director Attn: Mary Eve Kulawik PO Box 4210, Helena, MT 59601 |
| 12. TYPED NAME Mike Randol | |
| 13. TITLE Medicaid and Health Services Executive Director/ State Medicaid Director | |
| 14. DATE SUBMITTED 6-23-22 | |

FOR CMS USE ONLY

| | |
|---|---|
| 16. DATE RECEIVED June 23, 2022 | 17. DATE APPROVED July 13, 2022 |
|---|---|

PLAN APPROVED - ONE COPY ATTACHED

| | |
|---|--|
| 18. EFFECTIVE DATE OF APPROVED MATERIAL April 1, 2022 | 19. SIGNATURE OF APPROVING OFFICIAL  <small>by Nicole M. Mcknight 3 11:24:21 -0400</small> |
| 20. TYPED NAME OF APPROVING OFFICIAL Nicole McKnight | 21. TITLE OF APPROVING OFFICIAL Acting Director, Division of Program Operations |

22. REMARKS
Authorization received via email (6/30/22) for Pen & Ink changes in Boxes 7 and 8 to reflect removal of Attachment 4.22C from the submission.

Revision: HCFA-PM-94-1 (MB)
FEBRUARY 1994

MONTANA

Citation 4.22 Third Party Liability

- 42 CFR 433.137 (a) The Medicaid agency meets all requirements of:
- (1) 42 CFR 433.138 and 433.139,
 - (2) 42 CFR 433.145 through 433.148.
 - (3) 42 CFR 433.151 through 433.154.
 - (4) Sections 1902(a)(25)(H) and (I) of the Act.
- 42 CFR 433.138 (f) (b) ATTACHMENT 4.22-A -
- (1) Specifies the frequency with which the data exchange required in § 433.138 (d) (1), (d) (3) and (d) (4) and the diagnosis and trauma code edits required in § 433.138(e) are conducted;
- 42 CFR 433.138 (g) (1) (ii) (2) Describe the methods the agency uses for and (2) (ii) meeting the follow up requirements contained in §433.138 (g) (1) (i) and (g) (2) (i);
- 42 CFR 433.138 (g) (3) (i) (3) Describes the methods the agency uses for and (iii) following up on information obtained through the State motor vehicle accident report file data exchange required under §433.138 (d) (4) (ii) and specifies the time frames for incorporation into the eligibility case file and into its third party data base and third party recovery unit of all information obtained through the follow up that identifies legally liable third party resources; and
- 42 CFR 433.138 (g) (4) (i) (4) Describes the methods the agency uses for through (iii) following upon paid claims identified under §433.138 (e) (methods include a procedure for periodically identifying those trauma codes that yield the highest third party collections and giving priority to following up on those codes) and specifies the time frames for incorporation into the eligibility case tile and into its third party database and third party recovery unit of all information obtained through the follow up that identifies legally liable third party resources.

TN No. 22-0013 Approval Date: 7/13/22
Supersedes TN No. 01-016

Effective Date: 4/01/22

Revision: HCFA-PM-94-1 (MB)
FEBRUARY 1994

MONTANA

Citation 4.22 (Continued)

42 CFR 433.139 (3) ATTACHMENT 4.22-B-

- 42 CFR 433.139(b) (3) (ii) (A) (1) X 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.
- 42 CFR 433.139 (b) (3) (ii) (B) (1) Providers are required to certify the provider has waited 100 days from the initially submitted claim and has not received payment from the third party before billing Medicaid.
- 42 CFR 433.139 (b) (3) (ii) (C) (1) 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 (d) (2) (1) The Medicaid agency ensures that recovery of reimbursement is sought within 60 days after the end of the month when end of the month it learns of the existence of the liable third party or benefits become available.
- 42 CFR 433.139 (f) (2) (1) The threshold amount or other guideline used in determining whether to seek recovery of 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) (2) 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.
- 42 CFR 477.20 (1) The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 477.20.

Revision: HCFA-PM-94-1 (MB)
FEBRUARY 1994

MONTANA

Citation

4.22 (continued)

- 42 CFR 433.15 1 (f) The Medicaid agency has written cooperative agreements for the enforcement of rights to and collection of third party benefits assigned to the State as a condition of eligibility for medical assistance with the following: (Check as appropriate.)
- State title IV-D agency. The requirements of 42 CFR 433.152 (b) are met.
- Other appropriate State agency(s)
- Other appropriate agency(s) of another State
- Courts and law enforcement officials.
- 1902 (a) (60) of the Act (g) The Medicaid agency assures that the State has in effect the laws relating to medical child support under section 1908 of the Act.
- 1906 of the Act (h) The Medicaid agency specifies the guidelines used in determining the cost effectiveness of an employer-based group health plan by selecting one of the following.
- The Secretary's method as provided in the State Medicaid Manual, Section 3910.
- The State provides methods for determining cost effectiveness on ATTACHMENT 4.22-C.

TN No. 22-0013 Approval Date: 7/13/22
Supersedes TN No. 01-016

Effective Date: 4/01/22

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory MONTANA

Citation

Condition or Requirement

Requirements for Third Party Liability
Identifying Liabile Resources

Frequency:

The Medicaid agency conducts SWICA wage and earnings matches upon application and on a quarterly basis. PPL follow-up is conducted on the results of the quarterly match. The Social Security Administration (SSA) BEERS match is conducted upon application and once a year (during the fourth quarter of Federal fiscal year) thereafter, TPL follow-up is conducted on the results of all BEERS matches.

The Department of Public Health and Human Services (DPHHS) includes the IV-A agency as well as the Medicaid agency and the third party recovery unit. The eligibility case information and third party data reside in the system and accessible to all programs.

The Medicaid agency uses an application/redetermination form containing comprehensive TPL questions which is completed at each application/redetermination by all Medicaid recipients except SSI cash recipients. SSI recipients are required to complete a health insurance questionnaire under an agreement between DPHHS and the SSA. Within 60 days of identification of third parties, data is incorporated into the eligibility case file, third party data base, and third party recovery unit.

No data match is conducted with State Workers' Compensation files.

No data match is conducted with State Motor Vehicle Department.

The Medicaid Management Information System conducts Diagnosis and Trauma Code edits against all services billed on a HCFA-1500 or UB-04 claim form, for all diagnosis codes in the ICD-10 codes cross walked from the ICD-9 800 or 900 series , at the time the claim is processed, reports are generated from weekly pay cycles.

Follow-up:

The Medicaid agency follows up on SWICA and SSA wage and earnings matches, within 30 days on a priority basis, beginning with those recipients whose most recently reported quarter of earnings exceed the current federal minimum wage times 520 hours. Contact is made with the recipient, the employer or both as necessary. If a third party source is identified, the information is incorporated into the eligibility case file, third party database, and third party recovery unit within 30 days of discovery.

Revision: HCFA-PM-87-9
August 1987

ATTACHMENT 4.22-A
Page 2
OMB NO: 0938-0193

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory MONTANA

Citation

Condition or Requirement

Requirements for Third Party Liability
Identifying Liabile Resources

No data match is conducted with Worker's Compensation.

No data match is conducted with State Motor Vehicle accident report files.

On an annual basis, diagnosis and trauma codes are identified, which yield the highest third party collections, thus providing priority order in which claims are followed up. All other claims for which no previous TPL has been identified, are arrayed in order of dollar amount. Cost effective review and follow-up efforts are conducted by prioritization of highest dollar and/or highest cumulative dollars. Questionnaires are then sent to the recipient. The agency follows up on the responses and incorporates the findings into the TPL recovery unit files, the third party database, and the eligibility case file within 60 days of receipt of the response.

TN 22-0013
Supersedes 93-08

Approval Date: 7/13/22

Effective Date: 4/1/2022

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Montana

STATE LAWS REQUIRING THIRD PARTIES TO PROVIDE
COVERAGE ELIGIBILITY AND CLAIMS DATA

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

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: Montana

Requirements for Third Party Liability -Payment of Claims

Claims for medical services, unless excluded by federal law, are cost-avoided when a third party liability policy exists within Medicaid Management Information System (MMIS). Claims paid prior to the third party coverage being entered into MMIS are pursued by a vendor for post-payment recovery as described in this attachment.

Montana Medicaid further certifies that our claim payment system enforces cost avoidance for prenatal services. The only exceptions to the cost avoidance requirements are as follows:

- a) Under the exemption authority found in 42 CFR 433.139(b) and 42 CFR 433.147(c), children that have been legally placed in the custody of Montana Child and Family Service (CFSD) or related entities are excluded from TPL cooperation and are exempt from post-payment recovery unless it is confirmed that the child will not be put at risk for doing so (e.g. medical support order).
- b) Under exemption authority found in 42 CFR 433.139(b) (3) (i), Montana Medicaid makes payments without regard to potential third party liability for preventive pediatric services, including early and periodic screening, diagnosis and treatment services (EPSDT), except that the State may, if the State determines doing so is cost-effective and will not adversely affect access to care, only make such payment if a third party so liable has not made payment within 90 days after the initially submitted claim.
- c) Under exemption authority found in 42 CFR 433.139(b) (3) (ii), if the claim is related to medical support enforcement, providers must submit proof they billed the third party within a 100-day period and not received payment. The provider must have waited 100 days from the initially submitted claim and not received payment from the third party before the state will pay, except that the State may make such payment within 30 days after such date if the State determines so is cost-effective and necessary to ensure access to care.

If a provider has billed a third party and has not received payment, the provider will be required to submit proof that they have attempted to bill the third party within a 90-day period and not received payment. The provider must have waited 90 days from the initially submitted claim and not received payment from the third party before the State will pay.

Revision: HCFA-PM-90-2
May 1990

ATTACHMENT 4.22-B
Page 2
OMB NO.:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: Montana

Requirements for Third Party Liability -Payment of Claims

To request pay and chase the provider submits, directly to the TPL Unit, a claim which: (a) includes documentation the third party has been billed,, (b) the date of submission is the required number of days or greater, beyond the date of service as required by the State Plan, and (c) the provider certifies on the claim that no valid denial or payment has been received from the third party.

If the existence of a third party is known when claims are paid under the provisions of a cost avoidance waiver, or are paid under mandatory pay and chase provisions, those claims are accumulated for one month by recipient, by third party. If the total of accumulated claims exceeds \$100.00 during this time period, the third party is verified and billed.

If the existence of a third party is established after payment of one or more claims, that third party is verified and billed if total claims paid within the last 12 months exceed \$100.00 for a recipient. When a claim subject to the provisions under 433.139 (d) (2) is paid, Montana Medicaid will seek recovery within 60 days after the end of the month the existence of a third party is discovered, or benefits become available.

If the third party is liable in a tort or casualty situation, all claims related to the injury are accumulated. Recovery from the third party is sought if the total of those claims for a recipient exceeds \$250.00.