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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
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,

Nicole McKnight, Acting Director
Division of Program Operations

cc:  Adam Meier, Department Director
     Marie Matthews
     Mary Eve Kulawik
<table>
<thead>
<tr>
<th><strong>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</strong></th>
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<td><strong>1. TRANSMITTAL NUMBER</strong></td>
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**FOR CMS USE ONLY**

| **15. RETURN TO** | Montana Department of Public Health and Human Services State Medicaid Director Attn: Mary Eno Kulawik PO Box 4210, Helena, MT 59601 |
| **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** | [Redacted] |
| **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.
42 CFR 433.137 (a) The Medicaid agency meets all requirements of:

1. 42 CFR 433.138 and 433.139,
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;

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);

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

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 file 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.
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.

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.

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

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.

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.

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.

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.
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.
## Citation Condition or Requirement

<table>
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<th>Requirements for Third Party Liability</th>
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<tr>
<td><strong>Identifying Liable Resources</strong></td>
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<td>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.</td>
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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.
STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory MONTANA

Citation  Condition or Requirement

Requirements for Third Party Liability
Identifying Liable 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.
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.

TN 22-0013          Approval Date: 7/13/22          Effective Date: 4/1/2022
Supersedes 07-006
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.
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.