

May 13, 2010



Ms. Cindy Mann
Director
Center for Medicaid, CHIP and Survey & Certification
Centers for Medicare and Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850

Dear Cindy,

On behalf of the Medicaid Health Plans of America, I am writing to seek CMS' assistance in resolving an issue concerning the adjudication of claims for Medicaid health plan enrollees for whom TRICARE has primary medical liability.

As you know, under Federal law, Medicaid is the "payor of last resort", and states are required to take reasonable measures to identify other sources of health coverage that Medicaid beneficiaries may have. In cases where Medicaid ends up making the primary payment, the state must seek reimbursements for those claims. As agents of state Medicaid agencies, **Medicaid Managed Care Organizations (MCOs) must abide by the same mandates imposed on states to identify cases where valid third party liability insurance exists and recover these costs.**

TRICARE, the Department of Defense's healthcare program, is primary to Medicaid under Federal law. As such, TRICARE has liability for claims even when a state Medicaid agency or Medicaid MCO made primary payment. To adjudicate these claims, State Medicaid agencies have billing arrangements in place which allow the agency to directly bill TRICARE and receive reimbursement for these claims.

Medicaid MCOs have been unsuccessful in setting up similar agreements with TRICARE and as a result are not currently able to adjudicate claims for cases in which TRICARE has primary liability. Such billing agreements with Medicaid health plans exist for all other federal government programs, including Medicare, Veterans Administration, Indian Health Service and Federal Employees Health Benefits Program carriers.

Attempts have been made to work with TRICARE to set up billing agreements with Medicaid MCOs, however, TRICARE's position is that it will only enter into an agreement directly with state Medicaid agencies and does not recognize the contracts between states and Medicaid MCOs, despite the long history of Medicaid managed care and large number Medicaid enrollees in MCOs.

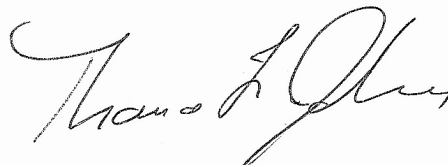
As a result of TRICARE's refusal to set up billing agreements with Medicaid MCOs, each year more than \$30 million dollars is not rightfully reimbursed to Medicaid MCOs by TRICARE. This loss ultimately increases state and federal costs in Medicaid. Incorrect assignment of benefits without proper reconciliation harms program integrity and compliance efforts. This policy also places an unfair financial burden on Medicaid MCOs and goes against the spirit

of the Medicaid managed care program as a tool for states to manage financial risk and improve quality of care.

We recommend that CMS work with and urge DOD and TRICARE to recognize the federally authorized contracts between states and health plans to provide Medicaid benefits, and establish billing relationships with Medicaid health plans to appropriately adjudicate claims.

MHPA appreciates any support and/or guidance CMS can provide on this issue. We would very much like to identify an acceptable solution for our plans that is in line with the legal liability of Medicaid statute and rules governing the coordination of benefits. MHPA supports the correct assignment of benefits and believes it's important for program integrity. We are working with HMS on this issue and support their efforts to reach a favorable resolution to this problem. Should you have any questions please contact me at 202-857-5720 or tjohnson@mhpa.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas L. Johnson". The signature is fluid and cursive, with a large initial "T" and "J".

Thomas L. Johnson
President and CEO

cc: Division of State Demonstrations, Waivers and Managed Care (DSDWMC)
Acting Director Ed Hutton
Acting Deputy Director Joe Gaiser

Center for Program Integrity
Deputy Administrator and Director Dr. Peter Budetti
Director of Medicaid Program Integrity Group Kimberly Brandt