

## January 17, 2023, Third Party Liability Recovery

On January 17, 2023, the Department of Human Services' (Department) Division of Third-Party Liability (TPL) issued a Commercial TPL/Coordination of Benefits (COB) recoupment project through its TPL contractor, Benefit Recovery Specialists, Inc. (BRSI) related to claims originally paid by Medical Assistance (MA). The recovery was sent to provider type 01 (inpatient facility), 08 (clinic), 11 (mental health/substance abuse), 14 (podiatrist), 15 (chiropractor), 16 (nurse), 17 (therapist), 18 (optometrist), 24 (pharmacy), 25 (DME/medical supplies), 28 (laboratory), and 31 (physician),

- This TPL/COB Recoupment Project encompasses recipients having Commercial coverage.
- TPL is seeking assistance from medical providers in recouping funds associated with recipients who had both commercial and MA coverage at the time the service was delivered. The Department was not aware of the coverage at the time of service delivery.
- TPL and its contractor, BRSI, are continually identifying resources via eligibility data exchanges with commercial carriers. These are often identified after a claim is paid. It is a Federal requirement that TPL recoup payments when a third party is identified. MA is to be the payer of last resort.
- The claims in this project cover dates of service associated with Commercial resources from **February 29, 2020, through November 12, 2022**. The letter to providers related to this recoupment project includes the following: two listings of the claims being considered for recoupment; instructions for responding to the TPL/COB Recoupment Project; and BRSI contact information should the provider have questions.
- The letter also explains our expectation that the provider attempt to bill the commercial carrier. After the deadline date (60 days from the date of the letter), TPL will recoup the money electronically. Providers are asked not to submit checks or payments as a result of any payments they receive from the commercial carrier for the claims in this recoupment project, but they should supply documentation as explained in the project instructions to BRSI to confirm receipt of denial from the commercial carrier.
- Since these are MA reclamation claims, the commercial carriers must honor the timely filing limits imposed by the Public Welfare Code under §1413(b)(c)(1)(2) related to MA claims presented for payment within five years of the date of service for claims with dates prior to July 1, 2007, and within three years for claims with a date of service on or after July 1, 2007. The Department recommends using the Timely Filing letter available on the Department's website when filing these claims to the commercial carriers.
- The commercial carriers must also honor claims regardless of the type or format of the claim or a failure to present proper documentation at the

point of sale (this includes obtaining prior authorization from the commercial carriers).

- If co-insurance and deductible amounts are due, the providers should submit a new claim for these payments to BRSI according to the instructions included in the project. The new claim forms should be submitted only after the recovery has been completed. Providers will need to supply the ICN associated with the voided/retracted claim (ICN begins with Region Code '54') and the original ICN of the claim. Please send new billing forms only as the old forms will not be accepted.
- It is recommended that providers contact BRSI via the provider portal provided in the instructions.



01/17/2023

Dear Medical Assistance Provider:

The Pennsylvania Department of Human Services Third Party Liability Department (Department) has contracted with Benefit Recovery Specialists, Inc. (BRSi) to perform recovery activities to recover funds paid by Medical Assistance (MA) in error. Benefit Recovery has identified claims paid by MA to you, the provider, when another payer should have been billed as primary. Federal regulations at 42 C.F.R. Section 433.139 require that the Department recover payments when a liable third party is identified. Pursuant to 55 Pa. Code section 1101.64, Third Party Medical Resources, MA is the payer of last resort; therefore, the commercial carrier is the liable third party payer.

For claims generally paid by MA between 02/29/2020 and 11/12/2022, Benefit Recovery has identified that commercial coverage should have been billed as the primary insurance carrier and has liability to pay the identified claims. Commercial coverage was not necessarily available on the Eligibility Verification System (EVS) when services were provided. These claims largely represent Medicaid recipients whose commercial eligibility was recently discovered through data matches with various federal sources and represent retroactive commercial coverage.

The attached data sheet will provide information you need to log onto the Provider Portal to view the claims paid to you in error. In accordance with regulations, the Pennsylvania Department of Human Services Medical Assistance program will automatically recoup the total dollar amount indicated on the Provider Portal unless your facility refutes recoupment within sixty days (60) from the date of this notice. Commercial carriers must honor the timely filing limits imposed by The Public Welfare Code at 62 P.S. 1413(c)(2) related to MA claims presented for payment within three years from the date of service. Carriers cannot deny a Medicaid reclamation claim on the basis of a plan or contract provision that is inconsistent with subsection (c) which indicates that the commercial carrier must honor claims regardless of the type or format of the claim or a failure to present proper documentation at time of service. If you receive a rejection for timely filing, no prior authorization, no pre-certification, or failure to perform an administrative task pursuant to a separate agreement, please send the carrier a copy of the Timely Filing Letter available on the Department's website at <http://www.dhs.state.pa.us/provider/ThirdPartyLiability/index.htm> to assist along with your appeal. A denial associated with the untimely filing of a claim, a lack of prior authorization, a lack of pre-certification will not be acceptable to refute the recoupment of a claim.

BRSi has developed an enhancement to the previous recoupment process and all activity will be conducted via a Provider Portal. Initial sign in and credentials are provided below. Should you wish to dispute the recoupment of these funds after your review of the impacted claims on the Provider Portal, you must provide proper justification in the Claims section of the portal.



All correspondence, documentation, and inquiries regarding this recoupment notice must be addressed within the provider portal: <https://www.providerportal.benefitrecovery.com>. Claim resubmissions other than for coinsurance/deductibles will not be accepted if your facility does not follow these instructions and/or meet the required timely filing deadlines. The only course of action will be to appeal to the Bureau of Hearings and Appeals.



## Important Instructions

1. DO NOT SEND CHECKS, CASH, OR A VOID REQUEST TO THE DEPARTMENT. There will be no process in place to stop the recoupment other than those mentioned in these instructions. Refund checks cannot be accepted. Recoverable funds will be recouped on a future Remittance Advice.
2. If you receive payment from Commercial insurance equal to or greater than the MA fee you were paid, DO NOT RESPOND to this notice. The Department will process the claim adjustment to recover funds for any claim for which a response is not received.
3. Log onto the Provider Portal to view the impacted claims. If you wish to refute the claims, please follow these steps inside the portal:
  - a. Log on
  - b. Identify the claim you refute
  - c. Upload documentation supporting your request for no recoupment. Upload instructions are on the portal
4. Only AFTER the claim is processed and the funds are retracted by the Department should a new paper claim and EOB be submitted when MA is responsible for payment of the Commercial insurance deductible or coinsurance.
5. The new paper claim must follow all Department claim submission guidelines. In addition, the original ICN and the Adjustment ICN (begins with Region Code "54") should be placed on the UB-04 paper claim in Box 80-Remarks, or on the CMS-1500 in the space provided at the bottom of the claim. The Department will process these new paper claims after the recoupment has been completed.

We greatly appreciate your cooperation in this effort to ensure appropriate expenditure of MA funds.

Sincerely,

A handwritten signature in black ink that reads "Vince A. Porter". The signature is written in a cursive, slightly slanted style.

Vince A. Porter, TPL Division Director



Your user credentials and temporary password pertaining to login are as follows:

This is a secure website, please make sure you enter <https://> in front of the web address listed above.

Please note, you will be prompted to register an Administrator and change your password after successfully logging in for the first time. Please retain your user credentials and updated password. Future correspondence regarding Commercial insurance recoupments will not contain your user credentials. You will be directed to the Provider Portal to obtain additional information.

This letter is being sent to the same location the Department issues payment. If future notices should be sent to a different address, please make the necessary change on the Provider Portal. This change will only impact future Commercial insurance recovery notices and will not change any other address with the Department.

Please contact Benefit Recovery if there are any questions.

Toll Free: 866-979-4053

Email: [providersupport@benefitrecovery.com](mailto:providersupport@benefitrecovery.com)