Coordination of Benefits and Third Party Liability (COB/TPL) in the Medicaid Program
A Guide to Effective and Innovative State Agency Practices
Update Issued December 2015

ACKNOWLEDGMENT

CMS wishes to extend its appreciation to the directors and staff members of the state COB/TPL units that shared their effective and innovative practices for inclusion in this update to the Guide to Effective State Agency Practices published in September 2014. The Guide has been renamed to recognize that the update includes both practices that are currently in effect and planned innovations.

CMS also acknowledges the significant and continuing support and assistance of the Chairman and State Representatives of the COB/TPL Technical Advisory Group (TAG) in contributing effective and innovative practices from their states and soliciting such practices from other states for this update.

INTRODUCTION

The intent of this updated Effective and Innovative Practices Guide is to provide state Medicaid agencies with information on practices that could assist states in improving their identification and successful pursuit of legally liable third party resources. Each practice included in the updated guide is either a practice that has proven to be effective for the submitting state or an innovative practice that is under consideration by the submitting state. State agencies that consider adopting any of these practices should assess whether the practice is transferable to their own state operations. A contact person is listed for each practice and will be available to discuss the practice in greater detail with a state that considers adopting the practice.

The Effective Practices Guide published in 2014 was developed in response to a recommendation by the Office of the Inspector General ((OIG), U.S. Department of Health and Human Services, following on a study of Medicaid COB/TPL savings from 2001 to 2011 ("Medicaid Third-Party Liability Savings Increased, but Challenges Remain", OEI-05-11-00130, issued January 2013). The study determined trends in Medicaid TPL savings during that period and gathered information from states regarding challenges and issues the states faced in trying to identify third party coverage and recover payments from liable third parties.

The 2015 update of the Effective Practices Guide includes renaming to acknowledge inclusion of innovative practices. The 2015 update was developed in response to a recommendation by the U.S. Government Accountability Office (GAO), following on a study of Medicaid COB/TPL ("Medicaid: Additional Federal Action Needed to Further Improve Third-Party Liability Efforts", GAO-15-208, issued January 2015). The study recommended that CMS provide information to ensure all states are aware of key TPL efforts and challenges. CMS agreed to continue looking at ways to provide guidance to states to allow for sharing of effective practices and to increase awareness of initiatives under development in states.

The updated Guide continues to provide an opportunity for peer assistance among the state Medicaid programs through sharing of practices that are in place and working, or in development, in the states in the summer of 2015. The update of the Guide includes practices to address some of the challenges and issues identified in the GAO study, and other challenges to maximizing third party savings.

EFFECTIVE AND INNOVATIVE STATE PRACTICES, BY TOPIC AND SUBMITTING STATES

1. Medicaid estate recovery: Michigan
2. TPL systems: Michigan/Minnesota (joint submission), Oklahoma
3. Obtaining information about third parties: Oregon
4. States' interaction with Health Insurance Carriers: Minnesota

Effective and innovative practices follow, in topic order.

Medicaid Estate Recovery

ISSUE: **Timely and effective method of identifying and automating estate recovery cases**	
STATE RESPONDING: **Michigan**	
IN THE RESPONDING STATE, THIS ISSUE: ____CURRENTLY OCCURS OR HAS OCCURRED: ____VERY FREQUENTLY __X_OFTEN ENOUGH TO REQUIRE CORRECTION ___INFREQUENTLY ____DOESN'T OCCUR OR HASN'T OCCURRED	***EFFECT OF THE PRACTICE:*** _X__RESOLVED THE ISSUE FULLY ____RESOLVED THE ISSUE PARTIALLY (*Indicate what was resolved and what remains in the Summary below.*) ____RESOLVED TEMPORARILY WITH A WORKAROUND PROCESS
WHY DOES THIS ISSUE OCCUR? There are various time limitations on filing claims against probate estates. States do not always get notified of the death of a beneficiary in a timely manner nor when a probate estate has been opened. Michigan law only allows recovery from assets going through a probate estate. Volume of cases is high and automation is necessary to accommodate staffing levels.	
SUMMARY OF EFFECTIVE PRACTICE: Michigan has implemented system advancements and automation which allow for an effective and streamlined process when identifying and creating new estate recovery cases after a beneficiary passes. Michigan uses its own system, the Third Party Liability Electronic Database (TED) for all activities. First, TED checks for any newly deceased beneficiaries by looking at claims billed into the MMIS system. TED checks for any claims that have a discharge status code of "deceased." TED then goes through a series of filters to make sure the beneficiary is subject to estate recovery and then creates a case for them. TED sends all newly created cases off to our vendor who checks for any property owned by the decedent either at death or within the last 20 years. The file comes back and the information is loaded into the case. TED then matches that same group of cases against our state's online judicial warehouse which looks for any open probate estate cases for that beneficiary. If a probate estate is found, an alert is added to the case for the caseworker and the court information is imported onto the case. This alert allows staff to file a claim in a timely manner. The process also matches cases against any death records logged in the MMIS system. Once the case is created and goes through the automated property and probate searches, TED generates the initial letters that need to go out on the cases and archives a copy to each case. TED also generates one large file with a copy of all of the created letters which can then be printed off together to mail. This avoids staff having to generate the letter individually on the cases and	

mail them out.

For cases where no probate estate was found, TED continues to run a weekly probate search on all cases and once probate is found, generates an alert on the case so that the caseworker can file the claim. This weekly probate search runs each week until three years post-death, at which time our claim is barred per state statute.

SPECIAL FACTORS THAT SUPPORT THE EFFECTIVE PRACTICE:

(Ex: State Law, Case Law, Data Exchange Agreements, Data Systems, Contractor Use, etc.)

Third Party Liability Electronic Database (TED), Online judicial warehouse, contract with vendor for property database.

FOR MORE INFORMATION, CONTACT:

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TPL Systems

ISSUE: **Modernizing In-House Third Party Liability Operating Systems**	
STATES RESPONDING: **Michigan and Minnesota**	
IN THE RESPONDING STATE, THIS ISSUE: __X__CURRENTLY OCCURS OR HAS OCCURRED: ____VERY FREQUENTLY ____OFTEN ENOUGH TO REQUIRE CORRECTION ____INFREQUENTLY ____DOESN'T OCCUR OR HASN'T OCCURRED	***EFFECT OF THE PRACTICE:*** _X___RESOLVED THE ISSUE FULLY ____RESOLVED THE ISSUE PARTIALLY (*Indicate what was resolved and what remains in the Summary below.*) ____RESOLVED TEMPORARILY WITH A WORKAROUND PROCESS
WHY DOES THIS ISSUE OCCUR? There is a significant overlap in TPL activities performed by every State and as a result States are missing out on leveraging technology and cost savings.	

SUMMARY OF EFFECTIVE PRACTICE:

The State of Michigan Third Party Liability (TPL) Division utilizes a state designed TPL system in a cloud-based environment. The Michigan TPL Division, since 2005, has been working to design and complete a system that has evolved into the TPL Electronic Database (TED). The State of Michigan believes that TED is a highly advanced TPL software application that has evolved into a dynamic in-house solution for TPL activities, while meeting federal TPL requirements.

TED, a cloud-based TPL management system, offers other tenants (including other states) the opportunity to modernize TPL operations without the costs of developing a new system from the ground up. The multi-tenant model is structured to reduce development and implementation costs by spreading the costs across all tenants while maintaining the ability to improve and maintain the system.

The TED system is comprised of a number of modules that provide tools for tenants to manage their TPL activities. The system also includes comprehensive system and user administration modules. TPL modules include multiple touch points and interfaces which can enhance a tenant's TPL billing and recovery activities.

Below is a brief overview of each module available within the Michigan TED solution:

- **Legal Liability Case Management**- Includes contact management, task workflows, document assembly, Medicaid claim review and attachment and specific TPL elements data tracking.
- **Injury Accident Questionnaires**- Medicaid claims are searched for ICD-9 and ICD-10 diagnosis codes consistent with trauma. Mailings are generated and printed in order to locate instances where a third party, such as an automobile insurance carrier, is liable for the medical expenses. The responses to these mailings are reconciled using a web based tool.
- **Medical Support Notices**- Searches Medicaid claim data for potential medical expenses related to a birth Medicaid paid. A workflow is processed that generates the appropriate mailings to return to the agency inquiring about the expenses.
- **Post-Payment Claim Identification**- TED uses coverage and claim data to identify claims that are eligible for recovery. Tenants can import previously identified post-payment claims, or utilize TED's ability to directly interface with coverage and claims files.
- **Subrogation Billing**- Creates HIPAA compliant electronic claim files and transmits them to participating payers. Tools to track and manage payer rejections are included.
- **Provider Takebacks**- Claims extracted for post-payment recovery are reported to the billing provider and marked for takeback.
- **Coverage Lead Identification**- Uses claim and coverage data to identify situations where coverage may be invalid, or a potential for other coverage exists. A dashboard and work queue tool allows users to easily correct the coverage.
- **Online Coverage Submission Portal**- Members of the public such as providers, beneficiaries and social workers need the ability to provide unverified coverage to TPL. The online coverage submission portal provides a secure method where this data can be easily submitted for verification by TPL staff.
- **Vendor Coverage Identification Management**- Allows users to audit and track the

coverage identification activities. This tool allows for long-term tracking of coverage identification operations and reconciliation of invoices.

- **Vendor Claim Billing Management**- Allows for long-term tracking of billing operations and reconciliation of invoices. Invoices can be reviewed against vendor claim billing information if present.
- **Credit Balance**- Allows providers or vendors to electronically submit claims identified for credit balance. The tool allows TPL staff to track, audit, and reconcile these activities to maximize recovery efforts.
- **Account Reconciliation**- Integrates with case management and post-payment billing activities to ensure that all the recoveries owed are paid and all the funds received are linked to Medicaid payments.
- **Reporting**- Includes standard reports in PDF and Excel format. Users can develop their own reports in the Jasper Reports format and add to the system at any time with no administrator intervention.

The push away from old mainframe IT systems to a more flexible, integrated type of model is one of the goals CMS has established through its Medicaid Information Technology Architecture initiative. Michigan believes there is a significant overlap in TPL activities performed by every State and there is an opportunity for long term continued cost savings and innovation by exploring future partnership opportunities.

Minnesota has submitted an MMIS IAPD to CMS that would allow Minnesota TPL staff to work with Michigan. Upon federal approval, Michigan and Minnesota will begin doing the gap analysis work on the system. Minnesota plans to implement TED in phases.

SPECIAL FACTORS THAT SUPPORT THE EFFECTIVE PRACTICE:
(Ex: State Law, Case Law, Data Exchange Agreements, Data Systems, Contractor Use, etc.)

Data Systems

FOR MORE INFORMATION, CONTACT:
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Benefit Recovery Section Manager

TPL Systems

ISSUE: **TPL staff members were fielding numerous phone calls from providers inquiring about Medicare eligibility for Medicaid patients they were treating.**	
STATE RESPONDING: **Oklahoma**	
IN THE RESPONDING STATE, THIS ISSUE: ____CURRENTLY OCCURS OR HAS OCCURRED: _X___VERY FREQUENTLY ____OFTEN ENOUGH TO REQUIRE CORRECTION ____INFREQUENTLY ____DOESN'T OCCUR OR HASN'T OCCURRED	***EFFECT OF THE PRACTICE:*** __X__RESOLVED THE ISSUE FULLY ____RESOLVED THE ISSUE PARTIALLY (*Indicate what was resolved and what remains in the Summary below.*) ____RESOLVED TEMPORARILY WITH A WORKAROUND PROCESS
WHY DOES THIS ISSUE OCCUR? Because providers didn't have access to this information, most likely because the patient did not inform them of their dually eligible status.	
SUMMARY OF EFFECTIVE PRACTICE: Providers have the ability to access member information electronically, to check eligibility, etc. We made the decision to add Medicare eligibility information to Medicaid's secure web portal, so when a provider goes to check they are able to learn of Medicare eligibility upfront, without bothering to call and ask our TPL department or submit a claim which would then be denied. We have approximately 110,000 dually eligible members, so this has been a tremendous help in lessening the burden on our TPL staff.	
SPECIAL FACTORS THAT SUPPORT THE EFFECTIVE PRACTICE: (Ex: State Law, Case Law, Data Exchange Agreements, Data Systems, Contractor Use, etc.)	
FOR MORE INFORMATION, CONTACT: Sloan Wood, Director of Financial Resources - Oklahoma Health Care Authority (405) 522-7708, sloan.wood@okhca.org	

Obtaining Information about Third Parties

ISSUE: **Difficulty of states to obtain third party insurance information from Medicaid recipients, state staff, providers and managed care organizations**

STATE RESPONDING: **Oregon**

IN THE RESPONDING STATE, THIS ISSUE:	***EFFECT OF THE PRACTICE:***
_x__ CURRENTLY OCCURS OR HAS OCCURRED: ____ VERY FREQUENTLY ____ OFTEN ENOUGH TO REQUIRE CORRECTION ____ INFREQUENTLY ____ DOESN'T OCCUR OR HASN'T OCCURRED	__X__RESOLVING THE ISSUE ____ RESOLVED THE ISSUE PARTIALLY (*Indicate what was resolved and what remains in the Summary below.*) ____ RESOLVED TEMPORARILY WITH A WORKAROUND PROCESS

WHY DOES THIS ISSUE OCCUR?

Medicaid recipients frequently do not report they have TPL or circumstances change during their certification and they obtain or lose TPL but don't know or remember that they are required to report it. There has also been a long held belief that many clients fail to report because they think they will lose Medicaid if they report TPL. They do not understand that in most cases you can be covered by both.

In addition to the client caused failure to report, there are also challenges with the quality of information that is asked and collected at the point of application/reapplication. Implementation of ACA added constraints with how much TPL information can be requested and the how the information is reported back to the TPL Units tasked with verifying the insurance and updating MMIS. Since ACA our state has been more challenged than ever to identify TPL.

In the past a variety of methods were used to collect TPL from clients, providers, managed care plans and state workers and other external partners. This included paper forms that were emailed, faxed or sent by postal mail; phone calls, and general email. Over the years forms were revised but some users continued to use obsoleted versions. Forms submitted were rarely complete and required extensive research to process. We also had special agreements with several high volume submitters and were receiving notification on spreadsheets. In total we had 14 different ways we were receiving information and 14 different work processes in place for them. The workload associated with each method was growing. Organizing and storing the 3,000-4,000 paper referrals each month until they could be worked was labor intensive. Assigning work, tracking statistics and creating reports also needed improvement.

SUMMARY OF EFFECTIVE PRACTICE:

The Oregon Solution – Phase 1

It was clear that to improve our process we needed to become paperless and we needed to move toward a single method to report third party insurance. To accomplish this we contacted the vendor that has a master agreement with Oregon to provide web site services. Our goal was to create an online web form that could be easily submitted through the internet by any end user (client, provider, managed care plan, state worker or other). We worked with our vendor, designed and implemented a product that met our exact needs. We purchased a vanity URL (very inexpensive at $145 for five years) that is an easy web address for submitters to remember (www.reportTPL.org). We used drop down menus, radio buttons and encryption technology that made the form quick and easy to use but meets HIPAA security requirements. Many fields were made mandatory so users have to include that information in order to submit. We also use the form to collect information for our health insurance premium reimbursement program and to determine if there safety concerns if the state pursues the insurance. Because we use an internet process the form includes functionality for users to attach and send copies of their medical cards, proof of premium payment or other relevant documents they want to send us.

Oregon went live with the online form in December 2014. We did a soft launch with three of our managed care plans before launching statewide. This gave us the ability to make a few adjustments and was a critical component to our success. We went live statewide in late January and to date have received 15,000 submissions. The quality of what we are receiving is extraordinary high. Users love the process because when they click the submit button they are immediately sent a confirmation email with a tracking number and time stamp of when they submitted. They also have the ability to print or save a summary page that details the information they submitted.

Prior to going live statewide, notifications were sent to potential users. Dozens of trainings were done. We disconnected our fax machine on March 31, 2015 so users are no longer able to fax paper forms. As stray paper is received, we work one on one with submitters to educate them to use the web form. Submitters are excited about the form and the new process and it has been very well received. Client application and handbook materials have been updated to include information about the web form and client call center staff/workers have been trained to assist clients to use the form.

Interesting side note: Because clients are now using the web form, we are seeing a very large increase in Health Insurance Premium Payment Program (HIPP) applications.

During Phase 1 of the project all submissions are sent in file format to a secure email box 1 time each day. The file is retrieved and is managed in an Access data base. Work is temporarily assigned through the data base until Phase 2 is complete.

The Oregon Solution – Phase 2

Phase two is currently in development and went live in September of 2015. It creates an Administrative Interface that will house all web form submissions in real time, meaning that when a form is submitted, it is immediately available in the Admin Interface. When fully operational, Administrators will be able to assign work into a worker queue, pull reports and check statistics. Staff will not only be able to process the submissions but will be able to enter the status of each submission, narrate and easily search for a submission when needed. All

records are archived for seven years and will be easy to recall if needed.

Cost: We pay a small ongoing monthly fee to the vendor which includes design, development, maintenance, and file storage.

SPECIAL FACTORS THAT SUPPORT THE EFFECTIVE PRACTICE:

To implement this project it is necessary to determine what resources are already available. If you have a web design team, check with them to see if the creation of web forms is something they can assist with. A hurdle using your own internal web team will be whether or not they can provide a web form that meets HIPAA encryption for security requirements. If they can't it may be necessary to contract with a vendor. Check to see if your team already has a Master Agreement with a vendor to perform internet services.

Other steps will be meeting with your third party staff/units to identify what data you will need to collect, how it will be organized and received. Oregon chose to extend the project to include the Administrative Interface to enhance workload management. You'll want to decide what your states needs are regarding how the information received on the web form will be assimilated into your workload.

Once launched, we recommend doing a soft launch of pre-selected users. This step is important to identify any areas on the form that were missed or need to be "tweaked" before going statewide. We also found that having a few experience users at go-live created a good PR platform. At go-live we were able to specifically use them as "references" and that helped with bringing the other users on board.

You will also need a solid post implementation plan for transition users from your current state to use of the web form. Decide what processes should be ended (such as faxing), how you will notify your targeted user groups, and what follow up or training will be needed for the education of users who attempt to use the old process. We found that it took about 90 days to get 99% of the users converted and educate the other 1% as they pop up.

In conclusion, the result of the creation of the web form is that we now: 1) Have more accurate information on team and individual productivity; 2) Know the volume of work to be completed; 3) Have a quick way to assign work and; 4) Have the capability to quickly and easily produce a robust set of reports.

FOR MORE INFORMATION, CONTACT:

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States' interaction with Health Insurance Carriers

ISSUE: **Lack of any kind of penalty for insurance companies that will not provide eligibility information**	
STATE RESPONDING: **Minnesota**	
IN THE RESPONDING STATE, THIS ISSUE: __X__CURRENTLY OCCURS OR HAS OCCURRED: __X__VERY FREQUENTLY ____OFTEN ENOUGH TO REQUIRE CORRECTION ____INFREQUENTLY ____DOESN'T OCCUR OR HASN'T OCCURRED	
WHY DOES THIS ISSUE OCCUR? Insurance companies claim that eligibility is protected/private based on HIPAA. They often request a release of information form. They ask for the policyholders address and in the cases of absent parents we don't always have it, or the one we have is not current. Clients do not always know or report their third party coverage information directly. This means we erroneously pay claims that are the legal liability of a third party.	***EFFECT OF THE PRACTICE:*** ____RESOLVED THE ISSUE FULLY ____RESOLVED THE ISSUE PARTIALLY (*Indicate what was resolved and what remains in the Summary below.*) ____RESOLVED TEMPORARILY WITH A WORKAROUND PROCESS _X_ Proposed Solution
SUMMARY OF EFFECTIVE PRACTICE: Minnesota is implementing CAQH's (Center for Affordable Quality Healthcare) COB Smart solution. They created a centralized COB database as a one stop shop for payers and providers to use for verifying private coverage. Health plans/payers will provide weekly eligibility data. CAQH will match that against other information and provide back a file of other health insurance coverage for each individual. Providers will be able to access all of the information from one system. It will also give primacy of coverage, so that providers will know who to bill first, second, etc. We will be working with CAQH to use the system to identify private coverage for Medicaid clients, There will be a charge of 6 cents per client per year, but the savings we would realize could be in the millions. As this is an administrative contract, we expect that there will be federal financial participation at the administrative rate (50%). Their registry currently contains records for over 100 million patients, and as more health plans join and the system becomes more robust, savings could escalate. Because the data is directly from the health plan on a weekly basis, it is likely to be more up-to-date than information from other sources. We are currently testing our data files and will begin exchanging data files very soon.	

SPECIAL FACTORS THAT SUPPORT THE EFFECTIVE PRACTICE:
(Ex: State Law, Case Law, Data Exchange Agreements, Data Systems, Contractor Use, etc.)

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