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State/Territory Name: Ohio

State Plan Amendment (SPA) #: 19-0017

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
233 N. Michigan Avenue, Suite 600
Chicago, Illinois 60601-5519

Regional Operations Group

July 18, 2019

Maureen M. Corcoran, Director
Ohio Department of Medicaid
P.O. Box 182709
50 West Town Street, Suite 400
Columbus, Ohio 43218

RE: State Plan Amendment Transmittal Number 19-017

Dear Ms. Corcoran:

Enclosed for your records is an approved copy of the following State Plan Amendment:

Transmittal #19-017
- Third Party Liability Policy Updates
- Effective Date: July 1, 2019
- Approval Date: July 18, 2019

If you have any questions regarding this State Plan Amendment, please have a member of your staff contact Christine Davidson at (312) 886-3642 or by email at christine.davidson@cms.hhs.gov.

Sincerely,

/s/
Ruth A. Hughes
Deputy Director
Center for Medicaid & CHIP Services
Regional Operations Group

Enclosures

cc: Carolyn Humphrey, ODM
Becky Jackson, ODM
Greg Niehoff, ODM

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES	1. TRANSMITTAL NUMBER: **19-017**	2. STATE **OHIO**
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE **July 01, 2019**	

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ **AMENDMENT**

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:	7. FEDERAL BUDGET IMPACT:
42 CFR 433.137-139, 433.145-148, 433.151-154, 447.20; Sections 1902(a)(25)(H) and (I), 1902(a)(60), and 1906 of the Act	a. FFY 2019 $0 b. FFY 2020 $0
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Section 4.22, pages 69, 69a and 70	Section 4.22, pages 69, 69a (TN 90-46) Section 4.22, page 70 (TN 91-22) Section 4.22, page 70a (TN 92-05) (delete)
Attachment 4.22-A, pages 1 and 2	Attachment 4.22-A, page 1 (TN 08-021) Attachment 4.22-A, pages 2-9 (TN 90-46)
Attachment 4.22-B page 1 Attachment 4.22-B page 2 (new) Attachment 4.22-C page 1	Attachment 4.22-B page 1 (TN 07-013) Attachment 4.22-C page 1 (TN 92-05)

10. SUBJECT OF AMENDMENT: Updates to Third Party Liability Policy

11. 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:
The State Medicaid Director is the Governor's designee

12. SIGNATURE OF STATE AGENCY OFFICIAL: [redacted]	16. RETURN TO:
13. TYPED NAME: **MAUREEN M. CORCORAN**	**Carolyn Humphrey** **Ohio Department of Medicaid** **P.O. BOX 182709** **Columbus, Ohio 43218**
14. TITLE: **STATE MEDICAID DIRECTOR**	
15. DATE SUBMITTED: July 1, 2019	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED:
July 1, 2019	July 18, 2019
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
July 1, 2019	/s/
21. TYPED NAME:	22. TITLE:
Ruth A. Hughes	Deputy Director

23. REMARKS:

Instructions on Back

FORM CMS-179 (07-92)

State Plan Under Title XIX of the Social Security Act
State/Territory: Ohio

Citation

42 CFR 433.137(a) 4.22 Third Party Liability

(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) Social Security Act.

42 CFR 433.138(f)

(b) ATTACHMENT 4.22-A -

(1) Specifies the frequency with which the data exchanges 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) and (2)(ii)

(2) Describes the methods the agency uses for meeting the follow-up requirements contained in 433.138(g)(1)(i) and (g)(2)(i);

42 CFR 433.138 (g)(3)(i) and (iii)

(3) Describes the methods the agency uses for 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, 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) through (iii)

(4) Describes the methods the agency uses for following up on 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 recovery unit of all information obtained through the follow-up that identifies legally liable third party resources.

State Plan Under Title XIX of the Social Security Act
State/Territory: Ohio

4.22 Third Party Liability, continued

Citation		
42 CFR 433.139 (b)(3)(ii)(A)	☒	(c) 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.
		(d) ATTACHMENT 4.22-B specifies the following:
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(f)(2)		(2) 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)		(3) 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 447.20		(e) 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.

State Plan Under Title XIX of the Social Security Act
State/Territory: Ohio

4.22 Third Party Liability, continued

Citation	
42 CFR 433.151(a)	(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 at least one of 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) Reserved

Requirements for Third Party Liability - Identifying Liable Resources

1. Frequency of data exchanges (42 CFR 433.138(f)):

   a. SSA wage: Daily
   b. State Wage Information Collection Agencies (SWICA): Quarterly
   c. Commercial health insurance carriers: Monthly
   d. Title IV-A: Quarterly
   e. Workers compensation: Monthly for eligibility system and biannually for post-payment recovery
   f. Motor vehicle: Monthly
   g. Diagnosis and Trauma codes: Monthly

2. Timeliness of follow-up (42 CFR 433.138(g)(1)(i) and (g)(2)(i)):

   a. SWICA & SSA Wage- 433.138(g)(1)(ii)
   Upon receipt of wage file from interface, logic built into the eligibility system looks for a discrepancy and generates an alert when a discrepancy occurs. The eligibility worker has 45 days to take action in response to the alert including contacting the individual, verifying the information, updating the case and re-determining eligibility.

   b. IV-A data exchange- 433.138(g)(1)(ii)
   Ohio has integrated title IV-A and Medicaid programs into one omnibus system (Ohio Benefits). Any updates to income or insurance coverage in a title IV-A program may result in change in eligibility and TPL status in the Medicaid program. The information coming from Ohio Benefits is updated in the state's Medicaid payment system known as the Medicaid Information Technology System (MITS) under the TPL subsystem and TPL staff are able to view in MITS for cost avoidance and recovery purposes. All changes in title IV-A that would impact Medicaid eligibility are acted upon within 45 days by the eligibility worker.

   c. Workers Compensation- 433.138(g)(2)
   Upon receipt of wage file from interface, logic built into the eligibility system looks for a discrepancy and generates an alert when a discrepancy occurs. The eligibility worker has 30 days to take action in response to the alert including contacting the individual, verifying the information, updating the case and re-determining eligibility. No cost avoidance occurs with this data. The wage file is also sent to the third party post-payment recovery vendor. The vendor begins the post-payment recovery process within 60 days. The vendor maintains the TPL recovery records on their database.

   d. Commercial Health Insurance Carriers- 433.138(g)(2)
   Health insurers in Ohio are required by state statute to disclose private health care eligibility information on all insured Ohio residents on a monthly basis. The interface from private health care insurers occurs daily to MITS which sends this information simultaneously to our eligibility system. Eligibility workers have 30 days to verify the information, update the file and redetermine eligibility. Eligibility workers and providers can fax a paper form to report third party coverage. These forms are worked within 72 hours and are stored electronically in MITS by ODM staff. Cost avoidance is immediate through electronic edits in the MITS system. The health insurance information is also sent to a vendor to puruse post-payment recovery within 60 days of receipt. The vendor maintains the TPL recovery records on their database.

Requirements for Third Party Liability - Identifying Liable Resources, continued.

3. Follow through on motor vehicle data match- (42 CFR 433.138(g)(3)):

ODM has an agreement in place with Ohio Department of Public Safety to retrieve motor vehicles accident/injury data. ODM contracts with a vendor to identify and pursue paid claims that are indicative of trauma and injury as the result of a motor vehicle accident for the purposes of determining the legal liability of third parties. The vendor uses various algorithms to determine which recipients should be sent a trauma code mailer based on established cost effectiveness guidelines. The vendor begins the post-payment recovery process within seven days of determing a claim meets the trauma code criteria. The collection case file maintained by the vendor contains all information relevant to the post payment recovery. The vendor notifies the county eligibility office when a settlement has been received. Eligibility workers have 45 days to verify the information, update the file and redetermine eligibility.

4. Trauma diagnosis codes (433.138(g)(4)):

ODM contracts with a vendor to identify and pursue paid claims that are indicative of trauma, injury, poisoning or other external causes for the purposes of determining the legal liability of third parties. The vendor uses various algorithms to determine which recipients should be sent a trauma code mailer based on established cost effectiveness guidelines. The vendor begins the post-payment recovery process within seven days of determing a claim meets the trauma code criteria. The collection case file maintained by the vendor contains all information relevant to the post payment recovery. The vendor notifies the county eligibility office when a settlement has been received. Eligibility workers have 45 days to verify the information, update the file and redetermine eligibility.

Requirements for Third Party Liability – Payment of Claims

ODM's TPL program is designed to function primarily as a cost avoidance system. This method was chosen as the most efficient and cost effective option. Claims for medical services, unless excluded by federal law, are cost-avoided when a third party liability policy exists within MITS. Claims paid prior to the third party coverage being entered into MITS are pursued by a vendor for post-payment recovery as described in this attachment.

1. Monitoring provider compliance (42 CFR 433.139(b)(3)(ii)(C)):

The State Plan as referenced herein requires providers to bill third parties. When the probable liability of a third party is established, ODM notifies the provider that the claim was cost avoided due to the existence of TPL. Cost avoided services are identified with an Explanation of Benefits Code which provides the third party payor information that is transmitted to the provider with non-payment remittance advice. Exceptions to this procedure are those claims as specified in 42 CFR 433.139(b)(3)(i) and (ii) and any approved cost avoidance waiver.

If a provider has billed a third party and has not received payment, the provider will be required to submit proof that he or she has attempted to bill the third party three times within a 90 day period and has not received payment. It must be at least 90 days from the date of service before the state will pay. Providers are monitored for compliance with insurance billing requirements through post payment recovery responses by a vendor. If a report of prior payment to either the provider or the insured person is received, the amount paid by the insurer is recouped from the provider. When a Medicaid-enrolled behavioral health agency certified by the Ohio Department of Mental Health and Addiction Services has billed a third party, but the third party has not paid the claim within 30 days, and the provider has verified concerns regarding recipients' access to care, the provider may submit the claim to Medicaid and must include a certification statement that the provider waited 30 days and no response was received from the third party. These claims will be pursued for post-payment recovery by a vendor as described in this attachment until the institution of new contracts subsequent to managed care re-procurement.

2. Guidelines Used to Determine When to Seek Reimbursement from a Liable Third Party (42 CFR 433.139(f)(2)):

a. Health Insurance

For medical claims that were paid by ODM prior to the TPL policy being entered into the eligibility system or MITS, recovery is pursued by a vendor from the provider for amounts greater than $25 within three years of the claim from date of service. The timeframe is only one year from date of service if the provider would need to bill Medicare.

For medical claims that were paid by ODM prior to the TPL policy being entered into the eligibility system or MITS, recovery is pursued by a vendor from the liable third party payer for amounts greater than $0.01 within a timeframe of six years of the claim from date of service.

b. Casualty Recovery

ODM uses a $250 threshold in determining whether to pursue casualty recovery after a liable third party payer has been identified. Personal injury investigative action occurs when hospital bills with trauma diagnoses having billed amounts equal to or greater than $250 that are

accumulated over a one year timeframe from date of service. Audits of past claim recoveries have shown when a tort case totals less than $250 and no response has been received from recipient, it is not cost effective to pursue these cases after sending one letter unless recipient or attorney makes contact to the State Medicaid Agency.

3. Dollar amount or timeframe for seeking recovery (42 CFR 433.139(f)(3)):

Health insurance recovery action on claim types likely to be covered by insurance occurs when payments made by the ODM are greater than $0.01.

Personal injury investigative action occurs when hospital bills with trauma diagnoses having billed amounts equal to or greater than $250 that are accumulated over a one year timeframe from date of service. Investigative resources which would be required to pursue smaller bills can be used more productively to carry out tasks that yield much higher rates of return.

State Plan Under Title XIX of the Social Security Act
State/Territory: Ohio

Citation	Condition or Requirement
1906 of the Act	State Method on Cost-Effectiveness of Employer-Based Group Health Plans

Reserved