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Maryland Department of Health and Mental Hygiene  
201 W. Preston Street • Baltimore, Maryland 21201  
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**MARYLAND MEDICAL ASSISTANCE PROGRAM**  
Managed Care Organization Transmittal No. 15

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Managed Care Organizations

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Third Party Liability and the Responsibility of MCOs to Pay an Enrollee's Co-Payment and Deductibles

**NOTE:** Please ensure that appropriate members in your organization are informed of the contents of this transmittal.

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When the HealthChoice Program began, the Department of Health and Mental Hygiene asked MCOs to pursue Third Party Liability (TPL). Recently, the Medicaid Program has received numerous questions regarding the MCO's responsibility in regard to co-payments, deductibles, and post payment recoveries. This transmittal is designed to address these questions.

*1. Are MCOs required to pay third party co-payments and deductibles so that recipients can access care?*

MCOs are not required to pay third party co-payments and deductibles. However, if the MCO chooses not to pay co-payments and deductibles, the MCO has to provide the services directly to the recipient rather than referring them to their other third party coverage. In that case, the MCO is responsible for paying for the care directly, and then for seeking reimbursement from the third party payer. The enrollee is not to be billed for the co-payments and deductibles.

Alternatively, MCOs may choose to pay co-payments and deductibles, and thereby avoid the direct cost of providing the service. If the MCO develops a system to pay co-payments and deductibles, they can require the enrollee to use their third party coverage.

*2. Are there any situations in which an enrollee would be required to pay co-payments and deductibles on their third party coverage?*

The only situation in which an enrollee is responsible for co-payments and deductibles is when the enrollee insists on using the third party coverage even though the MCO has opted not to pay third party co-payments and deductibles and has directed the enrollee to use MCO provider. The enrollee must be fully informed of this payment obligation before they refuse services through the MCO.

*3. If an MCO opts not to pay third party co-payments, what happens when there is a service the recipient needs where there is no co-payment (example - the third party insurer pays full hospitalization)?*

When the third insurer covers a service fully and there are no co-payments or deductibles, the MCO can require the recipient to seek the service from the other payer, but must inform the recipient of this when the initial request for that service is made.

*4. How does post payment recovery ("pay and chase") apply to MCOs?*

There are specific circumstances in which the Federal statute requires Medicaid to use the "pay and chase" method of post payment recovery. Specifically, in accordance with 1902(a)(25)(E) of the Social Security Act (42 U.S.C. 1396a(a)(25)), States must "pay and chase" claims for prenatal care for pregnant women or preventive pediatric services. MCOs, or their subcontracted providers, must pay for or provide these particular services and then seek reimbursement for the costs after the delivery of care. The MCO contract with providers should specify who is responsible for the post payment recoveries for these services.

*5. Can the MCO require its providers to pursue the third party insurer for reimbursement?*

The MCO is ultimately responsible for third party liability. However, the MCO can delegate this function to its subcontractors.

In summary, the above information should be relayed by all providers to all of their patients having third party insurance. The providers should advise the recipients as to their rights and responsibilities. The provider should emphasize that it is the recipient's responsibility to notify their MCO if they have private insurance, and to check first with their MCO before seeking care, except in true emergencies.