

210-RICR-10-00-5

TITLE 210 - EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

CHAPTER 10 – EOHHS General Provisions

SUBCHAPTER 00 – N/A

PART 5 - Collections and Payments: Interception of Insurance Payments

5.1 Legal Authority

- A. Federal law requires the Executive Office of Health and Human Services (EOHHS) to seek recovery of Medicaid expenses from Medicaid beneficiaries' third-party payments. The purpose of this regulation is to set forth the process for the recovery of such payments by the State using the Medical Assistance Intercept System (MAIS) as mandated by R.I. Gen. Laws Chapter 27-57.1.
- B. In accordance with R.I. Gen. Laws § 40-6-9 and applicable administrative rules, when applying for Medicaid, an applicant automatically assigns, as a condition of eligibility, his/her rights of subrogation to the EOHHS for any third-party payments from insurers. Nothing in this Part shall limit EOHHS from recovery of any other monies allowed, to the extent of the distribution, in accordance with all state and federal laws.

5.2 Definitions

- A. For the purposes of this regulation, the following terms shall be construed as follows:
 - 1. "Executive Office of Health and Human Services" or "EOHHS" means the state agency that is designated under the Medicaid State Plan as the single state agency responsible for the administration of the Title XIX Medicaid Program.
 - 2. "Worker's Compensation" means an insurance program that provides wage replacement and medical benefits to employees injured during the course of their employment in exchange for the mandatory relinquishment of the employee's right to sue the employer.

5.3 Process for Recovery

- A. Every domestic insurer or insurance company authorized to issue policies of liability insurance and any worker's compensation insurer or self-insured employer, shall review information provided by the EOHHS, pursuant to R.I. Gen. Laws Chapter 27-57.1, indicating whether or not the claimant has received Medicaid funded services as a result of an accident or loss which is the basis of

the claim. Said review shall occur within thirty (30) days prior to making any payment equal to or in excess of five hundred dollars (\$500.00) to any claimant who is a resident of this state, for personal injury or Workers' Compensation benefits under a contract of insurance. For Workers' Compensation insurers, or self-insured employers, said review shall occur within thirty (30) days prior to making any lump sum settlement (R.I. Gen. Laws § 28-33-25), denial and dismissal settlement (R.I. Gen. Laws § 28-33-25.1) or specific compensation (R.I. Gen. Laws § 28-33-19) payment equal to or in excess of five-hundred dollars (\$500) to any claimant who is a resident of this state.

- B. The EOHHS shall electronically furnish these insurers and insurance companies with a database data match option report of names of individuals with last known addresses, as of the date of the report, who have received Medicaid in excess of five hundred dollars (\$500).
- C. To facilitate the efficient and prompt reporting of those Medicaid beneficiaries in one centralized location, the duty and responsibility of the insurance companies doing business is as follows:
 - 1. Utilize one centralized database, to which the EOHHS shall report and administer.
 - 2. Any insurer receiving information identifying a Medicaid beneficiary shall maintain the confidentiality of that information to the full extent required under federal and state law. Minimal data elements, including, but not limited to, the date of injury and other necessary identifying information, shall be shared with an agency contracted by the EOHHS which maintains a centralized database of insurance claims.
 - 3. The contracted centralized database is required to keep confidential: any personal and personnel information; records sufficient to identify a person applying for or receiving Medicaid; preliminary drafts, notes, impressions, memoranda, working papers, and work products; as well as any other records, reports, opinions, information, and statements deemed confidential pursuant to state or federal law or regulation, or rule of court. Any such confidential data shall not be disclosed to the insurer except that in the case of Workers' Compensation where the agency shall share that information necessary for the Workers' Compensation insurer or self-insured employer to comply with its obligations pursuant to R.I. Gen. Laws §§ 28-33-5 to 28-33-8.
 - 4. Matched results indicating that a beneficiary is a claimant of an insurer are returned to the EOHHS through its contracted agency. Proper quality assurance shall be performed by the contracted agency to insure the claim is open. The contracted agency may also collect additional information from the insurer, including but not limited to contact information.

- D. If the insurer determines from the information provided by the EOHHS, pursuant to R.I. Gen.Laws § 27-57.1-4, that the claimant or payee has received Medicaid funded services, as a result of an accident or loss which is the basis of the claim, the insurer shall, except to the extent that payments are subject to liens or interests (such as, health care providers, attorney fees, holders of security interests, or the assignment of rights under R.I. Gen. Laws §§ 40-6-9 and 40-6-10), withhold from payment the amount to the extent of the distribution for Medicaid as a result of an accident or loss, dating back to the date of the incident. Insurers shall not pay any amount of the settlement to the claimant or claimant's legal representative prior to payment to Medicaid in satisfaction of its lien and shall not accept promises to pay Medicaid and/or hold harmless from any person, firm, or corporation. The insurer shall pay such lien amount to the EOHHS and shall pay the balance to the claimant or other entitled person. Workers' Compensation claimants who receive Medicaid, provided in accordance with R.I. Gen. Laws Chapter 40-8, shall be subject to the provisions of R.I. Gen. Laws Chapter 27-57.1. The Workers' Compensation reimbursement payments made to the EOHHS shall be limited to that set forth in R.I. Gen. Laws Chapter 28-33 and R.I. Gen. Laws § 40-6-10.

5.4 Notice

- A. The EOHHS shall provide written notice to the insurer, claimant and his/her attorney, if any, which shall include the date, name, social security number, case number, total amount of the payment proposed to be withheld to reimburse the state for Medicaid funded services and a list of the items and services, including dates of service for which reimbursement is sought. The notice shall explain the right to request a hearing pursuant to § 5.5 of this Part.
- B. Claimant's counsel shall have access to the centralized database to update all liens prior to settlement as provided for herein; and to ensure compliance with R.I. Gen. Laws Chapter 27-57.1 and R.I. Gen. Laws §§ 40-6-9 and 40-6-10. Claimants should be aware that the liens under the intercept rules currently apply to "fee-for-service" Medicaid. If a claimant is also covered by a Medicaid Managed Care Organization (MCO), that entity may also have a Medicaid lien.

5.5 Request for Hearing

Any payments made by an insurer pursuant to these rules, shall be made to the EOHHS, unless there is a request for an administrative hearing by the claimant. Any claimant aggrieved by any action taken under these procedures may, within thirty (30) days of the date of the notice to the claimant, request an administrative hearing from the EOHHS. If there is an administrative hearing, the insurer must remit payment within ten (10) business days of and in accordance with the hearing decision.

5.6 Timeline for Payment by Insurer

The insurer shall make any payments required, pursuant to these rules, to the EOHHS, thirty (30) days after the date of notification to the claimant or his/her attorney. Provided, however, that if the claimant has requested a hearing, payment shall not be made until ten (10) days after the hearing decision and in accordance with the hearing decision.

5.7 Severability

If any provisions of these regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect, and to this end the provisions of these regulations are declared to be severable.

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PART 5 - INTERCEPTION OF INSURANCE PAYMENTS (210-RICR-10-00-5)

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