

Report in Brief

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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

Medicaid is generally the payer of last resort. This means that if a Medicaid enrollee has another source of health care coverage, that source should pay its share before Medicaid pays.

Federal regulations refer to amounts owed by non-Medicaid payers as third-party liability (TPL). Prior OIG and Government Accountability Office reports identified several challenges State Medicaid agencies have encountered in their efforts to meet TPL requirements to help ensure that Medicaid functions as the payer of last resort. Some of the more recent reports suggest that many of these challenges are ongoing and that billions of dollars are at risk.

The objectives of our audit were to identify challenges States have experienced in their efforts to meet TPL requirements and actions they have taken to address those challenges. In addition, we were to determine whether States reported Medicaid TPL amounts on the CMS-64 statement according to Federal requirements.

How OIG Did This Audit

We sent questionnaires to State agency officials from all 50 States and the District of Columbia (collectively referred to as States) to inquire about TPL challenges each State has incurred and to gather information on how they responded to those challenges. We also reviewed States' TPL reporting during Federal FYs 2019 and 2020.

States Face Ongoing Challenges in Meeting Third-Party Liability Requirements for Ensuring That Medicaid Functions as the Payer of Last Resort

What OIG Found

States reported that they continue to experience several challenges in their efforts to meet TPL requirements, including: difficulties obtaining complete, accurate, and up-to-date coverage information from Medicaid enrollees and providers; difficulties obtaining timely and reliable coverage information from third parties; difficulties coordinating TPL with out-of-State third parties; technical issues related to third-party coverage information received and electronic billing of Medicaid claims with third parties; a lack of Federal prompt payment requirements and penalties for third parties that do not cooperate with States' efforts to meet TPL requirements; difficulties coordinating TPL with TRICARE, which is the U.S. military's health care program; and difficulties coordinating TPL with Medicare. While surveying the States, we found that some did not have in effect laws addressing all Deficit Reduction Act of 2005 provisions, as required. These provisions were meant to enhance States' ability to meet TPL requirements.

States did not always report TPL amounts according to Federal requirements. Specifically, 27 States either did not report or did not correctly report TPL amounts during at least one fiscal quarter of our audit period.

What OIG Recommends and CMS Comments

Our primary recommendation is for CMS to develop an action plan that addresses States' ongoing TPL challenges. We made six additional procedural recommendations and one recommendation involving \$1.25 million in questioned costs. A complete list of our recommendations is included in the body of the report.

In its comments on our draft report, CMS concurred with all our recommendations and described actions that it has taken or plans to take to address them. Among other things, CMS stated that it will provide updated guidance to States on effective practices for addressing challenges the States continue to encounter related to identifying liable third parties and recovering Medicaid payments.