Tort and Casualty

Recovery Case Manager
Ron Vialpando

Investigator
Deborah Sorensen
Topics for discussion

- Purpose of Tort and Casualty
- Referrals
- Investigator duties
- Case Manager duties
- Settlement procedures
- Settlement funds
- What attorneys should know
- Referral contact information
Purpose

To administer recoveries, overpayments, penalties, adjustments and lien rights when a third party is liable per:

- **FEDERAL**
  - 42 USCS § 1369a

- **STATE**
  - C.R.S. 25.5-4-301

- **MSB RULES**
  - 10 C.C.R. 2505-10, Section 8.061.3
Referrals

- Medicaid clients
- Insurance companies
- County technicians via the Colorado Benefits Management System (CBMS) Accident Liability window
- Client Attorneys, Defense Attorneys, District Attorneys, Office of Attorney General (AG)
- Medical Service Questionnaire (MSQ)
- Providers
- Courts
- Colorado Department of Human Services
- State and Federal auditors
Investigator Duties

- Investigate and determine potential third party liable referrals on Medicaid, CICP and CHP+ programs
- Confirm compliance with all HIPAA requirements
- Confirm compliance with all statutory requirements (i.e. notice to Department)
- Collect and document facts pertaining to incident
- Open case and direct to appropriate case manager
Case Manager Duties

• Prepare claims paid by Medicaid that are related to the case for referral
  – Bodily Injury Accidents
  – Wrongful Injury Settlement

• Represent the Department at mediations, settlements or court proceedings
Case Manager Duties

- Recover only Medicaid payments (both Federal and State taxpayer dollars) related to case
  - Third party insurance repayments
  - Workers’ Compensation repayments
  - Defendant restitution payments from Courts
    - District Attorney represents client and Medicaid
  - Client attorney cases
    - Attorney General represents Department
Settlement Procedures

• **Priority Per Colorado Statute**
  – Medicaid has priority lien over the Medical portion of the recovery
  – Medicare lien is only priority lien over Medicaid

• **IF plaintiff intends to settle, notify Medicaid Tort and Casualty unit immediately**
  – Lien may be reduced up to 25% for attorney fees (if proper notice received and the Department does not need to have AG’s office pursue referral)
  – Medicaid not liable for costs (expert witness, etc)
Settlement Funds

Settlements received by Medicaid go back into the State’s General Fund for the benefit of all Coloradans.
What attorneys should know

- Claims data goes back 7 years from date of request. Claim records are the only data we provide, no eligibility etc.
- No information can be provided to you without a HIPAA compliant release.
- Neglecting to submit the release will delay processing of your request.
- All records are filed by State ID sometimes referred to as a Medicaid ID.
  - Your clients can call the Customer Service Contact Center at 303-866-3513 or 1-800-221-3943 for their ID number.
What attorneys should know

- The Colorado Indigent Care program is not a Medicaid program
  - See the “Clients & Applicants” tab on the Department website. Website: colorado.gov/hcpf
  - The provider supplying the service has subrogation rights

- Medicaid is not an insurance company or employee benefits plan so will not respond to requests for ERISA plan documents
  - The Department is not required to or able to provide “Plan” documents under 29 U.S.C. § 1024(b)(4)
What attorneys should know

• Providers have 120 days to bill Medicaid from date of service
  – An accurate picture of the claims status may not be reflected when obtained prior to the minimum 120 days

• All requests are worked in date order

• Case managers have over 1500 open cases they are working each month
  – Two case managers process for the whole state, as well as some contracted help from Health Management Systems (HMS)
Letter of Representation

- On letter head
- Claimant name
- Medicaid/ State ID
- Date of Incident
- Type of Incident
- Nature of the Injuries
- Request (all records, related claims, notifying department)
**Elements for HIPAA compliant release**

- A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;
- A description of the purpose of the disclosure;
- The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;
- The name or other specific identification of the person or class of persons to whom the covered entity may make the requested use or disclosure;
- An expiration date or event that relates to the individual or the purpose of the use or disclosure;
- A statement of the individual’s right to revoke the authorization in writing, the exceptions to the right to revoke and a description of how the individual may revoke the authorization;
- A statement that information used or disclosed under the authorization may be redisclosed by the recipient and no longer protected by Privacy rule;
- Signature of the individual and date; and

(Letter of representation must match information to be disclosed client agreed to on the release.)
Referral contact information

Submit letter of representation and HIPPA compliant release to:
Mailing Address:
Colorado Department of Health Care Policy & Financing
Benefits Coordination Section
1570 Grant Street
Denver, Colorado 80203
Attention: Deborah Sorensen

Phone: 303-866-3109
Fax: 303-866-3552