



State of New Jersey  
Department of Human Services  
Division of Medical Assistance & Health Services

# NEWSLETTER

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**TO:** Hospitals, Independent Clinics, Federally Qualified Health Centers, Physicians, Advanced Practice Nurses, Midwives – **For Action**  
Managed Care Organizations – **For Information Only**

**SUBJECT:** **Third Party Liability (TPL) Requirements for Prenatal, Labor, Delivery, Postpartum Care Services and the Children’s Health Insurance Program (CHIP)**

**EFFECTIVE:** Claims processed on or after August 1, 2020

**PURPOSE:** To notify providers regarding a policy change intended to ensure that the NJ FamilyCare (NJFC) Medicaid program is the payer of last resort for prenatal, labor, delivery and postpartum care services and for services provided to CHIP-eligible children.

**BACKGROUND:** The Bipartisan Budget Act of 2018 (Pubic. Law 115-123) includes several provisions which modify third party liability (TPL) rules related to special treatment of certain types of care and payment under the NJFC Medicaid Program.

The NJFC Medicaid program is generally the “payer of last resort,” meaning that NJFC Medicaid only pays for covered care and services if there are no other sources of payment available. Section 1902(a)(25) of the Social Security Act requires that states take “all reasonable measures to ascertain the legal liability of third parties,” otherwise referred to as “third party liability.” The Act further defines third party payers to include, among others, health insurers, managed care organizations (MCOs), and group health plans, as well as any other parties that are legally responsible by statute, contract, or agreement to pay for care and services.

Provisions under the Bipartisan Budget Act of 2018 also modified third party rules related to prenatal, labor, delivery and postpartum care services and services provided to children under 21 years of age who are eligible for NJFC coverage under the Children’s Health Insurance Program (CHIP). Modified provisions under the Bipartisan Budget Act of 2018 require that TPL requirements applied to Medicaid also apply to prenatal, labor, delivery and postpartum care services and to services provided to CHIP-eligible children.

The policy of paying a claim related to prenatal, labor, delivery and postpartum care services and for services provided to children under 21 years of age who are eligible for NJFC coverage under the Children’s Health Insurance Program (CHIP) even if a third party is likely liable and then seeks to recoup payment from the liable third party, also referred to as “pay and chase,” is being discontinued.

**ACTION: Effective for claims processed on or after June 15, 2020:** If the Division of Medical Assistance and Health Services determines that a third party is likely liable for a prenatal, labor, delivery, postpartum care service or a service provided to a CHIP-eligible child, the claim shall be rejected, but not denied, and the claim shall be returned to the provider noting the third party that NJFC Medicaid believes to be legally responsible for payment.

If after a provider bills the liable third party and a balance remains or the claim is denied payment for a substantive reason by the third party, the provider can submit a claim to the State’s fiscal agent for payment of the balance, up to the established maximum NJFC Medicaid payment amount. With this policy change, prenatal, labor, delivery and postpartum care service claims and CHIP claims previously subject to “pay and chase” shall first be coordinated with third party payers, consistent with Medicaid and as required by the Bipartisan Budget Act of 2018.

The following procedure codes, Diagnosis Related Groupings (DRGs) and ICD-10 diagnosis codes for prenatal, labor, delivery, and postpartum care services shall no longer be “paid and chased” and shall be subject to TPL cost avoidance.

| Code Type      | Procedure/DRG/ICD-10-CM Code   |
|----------------|--|
| Procedure Code | 59400, 59409, 59410, 59420, 59430, 59500, 59501, 59520, 59521, 59541, 59561, 59581, 90750, 90760, 90761, 90774, 90025, W9026-W9030, W9040, S9122 TV, T1001 76, S9122, T1001, T1004 22, T2022 HC, T2022 AJ, S5130 22, S5130 22 TV   |
| DRG            | 629, 640   |
| ICD-10-CM      | O09A0-O2643, O26611-O2693, O29011-O30019, O30031,-O356XX9, O358XX0-O3673X9, O368120-O368199, O368310-O4190X9, O4200-043119, O43191-O43199, O43811-O6023X9, O641XX0-O654, O658-O659, O662, O666, O670-O68, O755, O770-O779, O8611, O8613-08629, O870-O878, O88011-O8833, O88819, O9A111-O9A53, O905-O9089, O91011-O9279, O98011-O99355, O99511-O9989, Z331, Z333-Z369 |

**\*Note: TPL requirements are determined by the claim processing date and not the claim service date.**

In order to ensure the capture of TPL information for claims related to prenatal, labor, delivery and postpartum care services and for claims related to children under 21 years of age who are eligible for NJFC coverage under the Children’s Health Insurance Program (CHIP) Program, the NJFC Medicaid program is required to collect third party liability information during the application process.

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