



To: Ohio Medicaid Managed Care Plans
Ohio Medicaid MyCare Ohio Plans

From: Roxanne Richardson, Acting Director
Office of Managed Care

Date: March 20, 2019

Subject: Coordination of Benefits and the Bipartisan Budget Act of 2018

As previously shared, ODM is amending OAC rule 5160-26-09.1 “Managed health care programs: third party liability and recovery,” which sets forth the responsibilities of MCPs related to third party liability and coordination of benefits. One of the changes to OAC rule 5160-26-09.1 is in response to the Bipartisan Budget Act of 2018 which removed the prenatal exception to cost avoidance in 42 USC 1396(a)(25)(E).

Previously, law required that states make payments for prenatal or preventive pediatric care, including screening and diagnosis, within 30 days without regard to third party liability, and if a third party is found to be liable, seek reimbursement after payment is made “pay and chase”. The Bipartisan Budget Act of 2018 changes this requirement so that states must cost avoid prenatal claims instead of pay first, then chase the recovery. We are aware that this is in direct conflict with 42 CFR 433.139 but the United States Code supersedes the CFR. Furthermore, CMS has submitted the request to update the CFR and is currently awaiting approval.

OAC rule 5160-26-09.1 is expected to be amended effective July 1, 2019. Managed Care Plans must have systems edits in place on July 1st to accommodate this federal change.

The CMS informational bulletin can be found online at:

<https://www.medicare.gov/federal-policy-guidance/downloads/cib060118.pdf>