



ALASKA NATIVE
TRIBAL HEALTH
CONSORTIUM

2017 TSGAC Consultation Conference

Recovering and Spending Third-Party Revenue

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Overview

- HHS OIG Alert
- Authority for Third-Party Collections
- Types of third-party
- Requirements and use of third-party
- VA and Facilities Construction
- Other considerations



HHS Office of Inspector General Alert

- On November 24, 2014, HHS Office of Inspector General Alert:
 - *Cautioned Tribes and Tribal Organizations (T/TO) to ensure that ISDEAA funds and M/M and CHIP reimbursements are properly allocated and spent*
- Question: What are the limits on how third-party reimbursements, for services provided to individuals with alternative health coverage, may be used?

Indian Health Care Improvement Act Authority for Third-Party

- Prior to 1976, IHS facilities could not bill for Medicare and Medicaid payments
- In 1976, Congress amended the Social Security Act through Title IV of the IHCA to allow billing of Medicare & Medicaid
- Authority applied to “facilities of the IHS” whether federally managed or operated under the ISDEAA
- Generally required placing collections in a “special fund” with resources used to make facility improvements to meet compliance requirements in order to participate in Medicare and Medicaid

Types of Third Party Collections

- Medicare (Parts A, B, C, and D)
- Medicaid
- Children's Health Insurance Program (CHIP)
- Private Insurance
- Beneficiary Medical Program (Commissioned Officers)
- CHAMPUS/Tricare
- Workmen's Compensation
- Veterans Administration



Reauthorization of IHClA: Direct Billing

- Sec. 401(c)(2) of the IHClA now exempts Tribally-operated health programs from the “special fund” requirements if they elect to directly bill M&M
- Sec. 401(d) now specifically allows Tribal health programs to directly bill M&M, CHIP, and any other third party payer



Use of Third Party Revenue

- IHClA at Sec. 401(c) include the requirements for third party revenue
- Sec. 401(c)(1) layout the requirements for IHS operated programs to use a special fund and the use of funds
- Sec. 401(d)(2)(A) layout requirements for how Tribally-operated program may use M&M and CHIP funds
- Requirements for federally managed and Tribal programs are very similar but there are distinctions



Section 401(d)(2)(A) Requirements

- M&M and CHIP funds collected under the direct billing authority must be used for:
- Achieving or maintaining compliance with the requirements applicable to M&M and CHIP programs; or
- Health care services; or
- Improvements in health facilities or health programs; or
- Any “health-related purpose;” or
- To otherwise achieve the objectives of Section 3 of the IHClA (e.g., ensure highest possible health status); [Sec. 401(c) “*for reducing the health resource deficiencies*”]



Services to Non-Beneficiaries

- The same use provisions in Section 401(d)(2)(A) apply to all third-party collections for services provided to non-beneficiaries under Section 813 of the IHCIA
- M&M and CHIP
- All other third-party reimbursements
- Statute: Sec. 813(c)(3)(A): “shall be used for the purposes listed in section 401(d)(2).”



Veterans Administration

- Section 2901(b) of ACA: Tribes and Tribal Organizations are payers of last resort
- VA must pay for services provided by Tribes and Tribal organizations to veterans pursuant to Section 405(c) of IHCIA
- Individual reimbursement agreements between Tribes and Tribal organizations and the VA may provide limitations on use of reimbursements (e.g., refer to Section 401(d) of IHCIA) or may say nothing

Third-Party Collections and Facilities Construction

- May third-party funds that are subject to 401(d)(2)(A) be used for new facility construction?
- A limitation on IHS in appropriations law, prohibiting use of M&M and CHIP collections for new facilities—does not appear in provision applicable to Tribes and Tribal Organizations
- Broad language in 401 should be read to include new facilities
- Question for the attorneys?



Other Special Issues?

- CHEF funds
- Veterans Administration reimbursements
- ISDEAA contracts may have third party requirements
- State Law requirements



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