



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
310 Great Circle Road
Nashville, Tennessee 37243

Bill Haslam
Governor

Mark Emkes
Commissioner

IMPORTANT MEMO

DATE: May 3, 2013
TO: Medicaid Nursing Facility (NF) Providers
TennCare Managed Care Organizations
FROM: Patti Killingsworth, Assistant Commissioner
Chief of Long Term Services and Supports (LTSS)

SUBJECT: Additional Guidance Regarding Collection of Monthly Patient Liability

On September 9, 2011, the Bureau issued a memo entitled "IMPORTANT Information regarding Patient Liability and Item D Deductions." It is our expectation that all NFs and MCOs are compliant with existing federal requirements pertaining to post-eligibility provisions and the collection of monthly patient liability amounts.

This follow-up memo and the attached *Guide to Patient Liability for Nursing Facility Services* (also available online at: <https://tn.gov/tenncare/section/long-term-services-supports>) does not change any of the requirements previously communicated, but rather, provides further guidance (as well as examples) regarding the collection of monthly patient liability amounts, based primarily on questions we have recently received from NFs and ongoing conversations with THCA and other stakeholder groups. For ease of application, all examples are based on a 30-day month, i.e., April.

As you are aware, any payments made by an MCO for nursing facility services or hospice room and board for which all required monthly patient liability amounts were not deducted and/or any patient liability amounts collected and retained by a facility that were not used to reduce the Medicaid payments for nursing facility or hospice services constitute an overpayment of Medicaid funds. Section 6402 of the Affordable Care Act (ACA) sets forth clear expectations around return of overpayments within 60 days from discovery to avoid additional liability under the State and Federal False Claims Acts. MCOs will be expected to review claims with dates of

service beginning January 2012 forward to ensure that patient liability has been appropriately applied, and to reprocess claims as necessary to make any appropriate adjustments.

Further, Section 6411 of the Affordable Care Act (ACA) requires all States to have a Medicaid Recovery Audit Contractor (RAC)—a private entity with which the State contracts to identify and collect improper payments made in the Medicaid program. Tennessee’s RAC is HMS. As HMS has proceeded with their audits of NF claims under the CHOICES program, they have begun (and will continue) to apply the requirements set forth in the September 2011 memo as of the date the memo was issued. Recovery will not be made based on pro-rating for actual dates of service prior to September 2011. However, overpayments must be collected for dates of service beginning as of the date the clarification was issued in September 2011 up to the dates that MCOs are responsible for reviewing—January 2012 forward.

We would expect that NFs have collected these patient liability amounts as they were clearly advised to do in the September 2011 memo, and unless full collection of such amounts has already been accomplished, that such recovery will allow the NF to resolve any payable amounts they have carried forward.

TennCare and our MCOs will be jointly offering a webinar training session to walk through the requirements pertaining to Patient Liability set forth in the *Guide*, as well as each of the examples outlined therein. MCOs will cover specific billing procedures related to the submission of nursing facility claims and the collection of monthly patient liability amounts. In addition, each of the MCOs will briefly discuss their processes for overpayment recovery. We will allow time at the end of each session to respond to questions regarding the materials covered during the session.

Participants will be asked to send any additional examples not covered in the *Guide* to THCA who will provide the information to TennCare. The *Guide* will be expanded as needed to include additional examples, so that all NFs will have benefit of the same information.

The training session will be offered at multiple times in order to accommodate all interested NFs. We ask that each facility participate in only one discussion as the materials covered will be identical. The dates the webinar training session will be offered are as follows:

Tuesday, 5/14, 10 a.m.-11 a.m. *or* 2 p.m.-3 p.m. CST

Wednesday, 5/15, 9 a.m.-10 a.m. CST

Thursday, 5/16, 10 a.m.-11 a.m. *or* 2 p.m.-3 p.m. CST

Friday, 5/17, 9 a.m.-10 a.m. CST

We can accommodate 50 callers per session; therefore you must schedule the session you will attend. Multiple people can listen from each facility, so long as they do not call in from different locations/numbers. Further, we are limited to 100 webinar log-ins per session, so staff will need to gather in order to ensure that all scheduled participants are able to view the webinar materials.

To schedule, please call Victoria White at (615) 507-6993, or you may email her at Victoria.White@tn.gov. Include your requested date/time and contact information. Once a particular training session is full, facilities requesting that session will be scheduled to participate in a different session that remains available. Email invitations will be sent to all scheduled participants in advance of the training with the webinar link and conference phone line number.

We strongly encourage your careful review of these materials and your participation in the training discussions.

After careful review and participation in the training offered, should you have any additional questions regarding this memo or your obligations regarding the collection of monthly patient liability amounts, you may contact our LTSS call center at 1-877-224-0219 between the hours of 8:00 a.m. and 4:30 p.m. CST.