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BULLETIN NO. 16-04

DATE: June 28, 2016

TO: Disability/Health Insurance Carriers in Group or Individual Markets

FROM: Dean L. Cameron, Director

SUBJECT: Third Party Payments of Premiums or Cost-sharing Expenses for Health Benefit Plans and Medicare Supplement Plans

Carriers in the group and individual health insurance markets may accept payments of premiums and out-of-pocket expenses from any third party.

This bulletin provides guidance regarding the circumstances under which carriers **must** accept third party payments toward a policyholder's or certificate holder's (the insured's) insurance premium or out-of-pocket expenses, including deductibles, copayments and coinsurance. This bulletin also addresses the issue of whether out-of-pocket expenses paid by a third party must be counted toward the insured's deductibles or out-of-pocket maximums.

Third party payments made by service providers are addressed at Idaho Code [§ 41-348](#)(2), which prohibits the practice of providers "waiving, rebating, giving, paying, or offering to waive, rebate, give or pay all or part of a claimant's deductible or claim for casualty, disability insurance, worker's compensation insurance, health insurance or property insurance."

Federal regulation addresses third party payments at 45 CFR [§ 156.1250](#), requiring carriers offering Qualified Health Plans (QHPs) to accept and apply third party payments of premiums or cost-sharing from the following entities:

- a Ryan White HIV/AIDS Program;
- an Indian tribe, tribal organization, or urban Indian organization; and
- local, state or federal government programs, including grantees directed by a government program to make payments on its behalf.

The Department of Insurance (Department) extends the federal requirement at 45 CFR [§ 156.1250](#) to all carriers offering health benefit plans, as defined at Idaho Code [§ 41-4703](#)(15) and [§41-5203](#)(12) in Idaho's group and individual markets, because policies that fail to do so would be unfairly prejudicial to the policyholder under Idaho Code [§ 41-1813](#).

Inasmuch as Medicare supplement insurance policies are not included in the definition of health benefit plans, carriers must accept payments from third parties toward Medicare supplement policies as long as such payments do not violate the anti-kickback provisions of the Social Security Act (§1128B codified at 42 USC [§ 1320a-7b](#)).

In addition to the federal requirement at 45 CFR [§ 156.1250](#), and for the same reason, carriers offering health benefit plans in the group and individual markets are required to accept payment on behalf of an insured from the third parties described in the next paragraph.

Carriers must accept third party payments from individuals such as family and friends. Carriers must also accept third party payments made by religious institutions and other not-for-profit organizations when each of the following three criteria is met:

- the assistance is provided on the basis of the insured's financial need;
- the institution/organization is not a healthcare provider; and
- the institution/organization is not financially interested. Financially interested institutions/organizations include institutions/organizations that receive the majority of their funding from entities with a pecuniary interest in the payment of health insurance claims, or institutions/organizations that are subject to direct or indirect control of entities with a pecuniary interest in the payment of health insurance claims.

The above language defines the minimum set of third parties from which carriers must accept third party payments. Carriers must apply cost-sharing contributions from such third parties toward deductibles and out-of-pocket maximums as if the insured made the payment directly.

Payments made directly by the insured to the carrier must be accepted, and carriers must not require certification or verification of the source of the funds.

Health benefit plans issued or renewed on or after January 1, 2017, that include a third party payer prohibition must have the prohibition as part of the insured's contract, and the language must be no more restrictive than the minimum standard of this bulletin. The carrier's third party payer policy language must not include a discretionary clause, as defined and prohibited by [IDAPA 18.01.29](#).

The requirement that carriers, at a minimum, accept third party payments as set forth in this bulletin is effective immediately for health insurance policies regulated under Title 41, including policies currently in force that contain a third party payer prohibition, and the Department will interpret any third party payer prohibition included in any such health insurance policies consistent with this bulletin. The Department encourages carriers to proactively contact the Department at 208-334-4300 to discuss any third parties from which the carrier will not be allowing payments. Upon rejecting or otherwise refusing to treat a third party payment as a payment from the insured, carriers must inform the insured in writing of the reason for doing so and of the insured's right to file a complaint with the Department.