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

FROM: Dean L. Cameron, Director

SUBJECT: Third Party Payments of Premiums or Cost Sharing for Health Benefit Plans and Medicare Supplement Plans (Reissuance of Bulletin 16-04)

Neither Idaho Insurance Code nor federal law generally prohibits health insurance carriers from accepting third party payments of premiums or cost sharing (such as deductibles, coinsurance, and copayments), nor do they generally require carriers to accept such payments from every third party. In limited circumstances, however, carriers are required to accept third party payments.

This bulletin clarifies when carriers must accept third party payments toward a policyholder's or certificate holder's ("insured's") insurance premium or cost sharing; as well as when out-of-pocket expenses paid by a third party must be credited toward the insured's deductible and out-of-pocket maximum accumulators.

Idaho Code § 41-348(2) limits third party payments made by "service providers" as defined, prohibiting 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 at 45 CFR § 156.1250, requires 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 extends this requirement to all carriers offering health benefit plans, as defined at Idaho Code §§ 41-4703(13) and 41-5203(13), because a plan that refuses such payments would be unfairly prejudicial to an insured and subject to disapproval under Idaho Code § 41-1813(2).

In addition, carriers are required to accept payments on behalf of an insured from the following third parties:

1. individuals such as family and friends,
2. religious institutions and other not-for-profit organizations when:
    a. the assistance is provided on the basis of the insured's financial need;
    b. the third party is not a healthcare provider; and
    c. the third party is not financially interested.

"Financially interested" third parties include organizations that receive the majority of their funding from entities with a pecuniary interest in the payment of health insurance claims, or organizations that are subject to direct or indirect control of entities with a pecuniary interest in the payment of health insurance claims.

When a third party from whom the carrier is required to accept payment under this bulletin makes a cost sharing payment, the carrier must credit that payment toward the insured's deductible and out-of-pocket maximum accumulators as if the insured had made the payment directly.

Any payment made directly by the insured must be accepted by the carrier and the insured cannot be required to certify or verify the source of the funds.

Medicare supplement insurance policies are not included in the statutory definition of health benefit plans, but 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).

A health benefit plan that limits third party payments must have the limitation as part of the insured's contract, and the language must be no more restrictive than the minimum standard described in this bulletin. Upon rejecting or otherwise refusing to treat a third party payment as a payment from the insured, the carrier 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.

This bulletin establishes the minimum circumstances under which a carrier must accept and credit third party payments. It does not authorize or require a carrier to accept or reject any payment outside those circumstances, and it does not relieve a carrier of any obligation under other applicable state or federal law, including the guaranteed availability requirements of 45 CFR § 147.104 and the nondiscrimination requirements of 42 USC § 18116.

This Bulletin is not new law but is an agency interpretation of existing law, except as authorized by law or as incorporated into a contract. Requests for additional information or other inquiries regarding this Bulletin can be directed to the Market Oversight section at 208-334-4250.