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Association of Administrators of the Interstate Compact on Adoption and Medical Assistance

Practice Bulletin

AAICAMA receives many questions from states and families about circumstances that affect a child's assistance agreement and/or eligibility for and receipt of Medicaid. The goal of this publication is provide ICAMA Professionals with a library of responses to these questions and cites to the law or policy on which the responses rely.

Medicaid and Private Health Insurance

Enrollment in Group and Private Health Plans

Question:

Can states require parents or guardians[1] to place children eligible for adoption assistance or the title IV-E Guardianship Assistance Program on the family's private, group health insurance?

Answer:

NO, states cannot require that parents place a child eligible for Medicaid on private, group (or otherwise)[2] health insurance as a condition of Medicaid receipt. Medicaid law addresses only adults' responsibility to enroll in a group health plan and makes clear that such enrollment is not required of children and that if a '...parent of a child fails to enroll the child in a group health plan...such failure shall not affect the child's eligibility for benefits under this title'[3] (i.e. title XIX, Medicaid). Medicaid eligible adults may be required to use available, private health insurance, but a child's eligibility for Medicaid is unaffected by a parent's actions in regard to private insurance. If an adoptive parent decides that their child is best served solely by Medicaid and chooses not to enroll the child in the family's group health plan, the child remains Medicaid eligible and the state may not terminate or refuse to initiate the child's Medicaid.[4]

If an adoptive parent or guardian decides that their child is best served solely by Medicaid and chooses not to enroll the child in the family's group health plan or other, private coverage, the child remains Medicaid eligible and the state may not terminate or refuse to initiate the child's Medicaid.

Practice point:

If a parent voluntarily chooses to place their Medicaid-eligible child on private, group or other health insurance, states should fully explain to the family the implications of this choice. The private insurance would be what is known as the 'primary insurance' and Medicaid would be the 'secondary insurance'. Having more than one health insurer requires a 'coordination of benefits' (COB) between the multiple insurances.

Having more than one health insurer requires 'coordination of benefits' (COB) between the two insurances.

- One insurer is designated as the 'primary' and is billed first.
- The second insurer is 'secondary' and by law this is always Medicaid (when Medicaid is one of the insurers). Medicaid is accessed after the primary insurer has paid.

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Under federal law, Medicaid is always secondary to any other insurance[5]. Depending on what the primary insurer offers, the type of service needed, and the frequency and duration of the needed service, it is possible that Medicaid would not provide any benefits in some service situations.

For example, if the primary insurance offers a less comprehensive benefit than Medicaid, under coordination of benefits rules, the family may be required to accept the benefit at the level offered by the primary insurer. Since the primary insurer must be accessed fist, Medicaid coverage may not be triggered and Medicaid would decline to provide any additional benefit, essentially preventing access to Medicaid. Given the realities of the coordination of benefits, it is possible for a child to be better served solely by Medicaid.

This decision is left to families to make in light of the needs of their child.

1 'Guardians' refers to title IV-E guardians of youth eligible under the federal, Guardian Assistance Program (GAP). Like all title IV-E categories, title IV-E guardianship carries mandatory Medicaid eligibility.

2 The CMS website has a full page of information on the Coordination of Benefits. See the CMS website for full details and FAQS. Link: http://www.medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/tpl-cob-page.html

3 Cite: 42 U.S.C. 1396e (b)(2). (See: Enrollment of Individuals Under Group Health Plans.)
Link: https://www.law.cornell.edu/uscode/text/42/1396e.

4 Cite: 42 U.S. Code § 1396e (c)(2) (See: Enrollment of Individuals Under Group Health Plans; Premiums Considered Payments for Medical Assistance; Eligibility)
5 Link: https://www.law.cornell.edu/uscode/text/42/1396e

AAICAMA worked closely with the Centers for Medicare and Medicaid Services (CMSCO) Central Office in 2010 to clarify federal law to reach this answer.

AAICAMA encourages you share this publication with all interested persons. We invite suggestions, comments and advice.

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