

## **Law Enforcement Medical Liability Account Oregon Administrative Rules**

### **461-012-0100 Definitions**

For the purposes of 461-12-100 through 461-12-150, the following definitions shall apply:

- 1) "LEMLA" means the Law Enforcement Medical Liability Account.
- 2) "LEMLA patient" means a person who has suffered injuries related to law enforcement activity.
- 3) "Injuries related to law enforcement activity" means injuries sustained prior to booking, citation in lieu of arrest or release instead of booking that occur during and as a result of efforts by a law enforcement officer to restrain or detain, or to take or retain custody of, the individual. Whether injuries related to law enforcement activity have occurred will be determined by the law enforcement agency.
- 4) "Release date" means the date the LEMLA patient was released from actual physical custody, as determined by the law enforcement agency.
- 5) "Cost of such services" means "usual charge" as defined in General Rules by the Office of Medical Assistance Programs.
- 6) "Hospital" means a hospital as defined in General Rules by the Office of Medical Assistance Programs.
- 7) "Overpayment" means payment made by LEMLA to a claimant in excess of the amount due the covered services and items billed.
- 8) "Claimant" means a Medicaid provider.
- 9) "Medicaid provider" means a provider who has been issued a provider number by the Department of Human Services Office of Medical Assistance Programs, and is not currently subject to sanction(s) by the Office of Medical Assistance Programs.
- 10) "Prior payment amount" means the total of all payments received by the claimant from all other sources, including the LEMLA patient, prior to submitting a LEMLA claim.
- 11) "LEMLA claim amount" means the total cost of such services provided to a LEMLA patient which are directly connected to injuries related to law enforcement activity. It shall not include any charges for services provided

to a LEMLA patient for a pre-existing disease or condition, or services that are unrelated to the “injuries related to law enforcement activities”.

**Statutory Authority:** Chapter 778, Oregon Laws 1991, and Chapter 196, Oregon Laws 1993

### **461-012-0150 Operation of the Law Enforcement Medical Liability Account**

- 1) The purpose of the LEMLA is to provide a fund to reimburse a claimant for emergency medical services provided to a LEMLA patient. LEMLA will commence paying for medical services for injuries that occur on or after July 1, 1992.
- 2) LEMLA shall operate under the authority, duties, and limitations established in Chapter 778 of Oregon Laws 1991, as amended by Chapter 196 of the Oregon Laws 1993.
- 3) The time limit for submitting claims to LEMLA is 1 year after the date of injury. If a claimant has been paid by a LEMLA patient’s insurer or health care contractor and the LEMLA patient’s insurer or health care contractor subsequently demands return of the payment, a claimant shall have 180 days from the date of the demand letter to bill LEMLA, or 1 year from the date of injury, whichever is later.
- 4) LEMLA shall process all claims received in accordance with the following procedures:
  - a) The claim shall be date stamped on the date received by LEMLA.
  - b) LEMLA shall review each claim submitted to verify that the claim contains all of the following required information:
    - A) The LEMLA claim form, with the following information:
      - (i) Certification by an authorized representative of the law enforcement agency involved with an injury that the injury is related to law enforcement activity.
      - (ii) The release date, if any, as determined by the law enforcement agency. If the LEMLA patient has not yet been released, so state on the LEMLA claim form.
      - (iii) LEMLA patient’s name.
      - (iv) Prior payment amount.
      - (v) Date of injury.

- (vi) Claimant's Medicaid provider number.
  - (vii) Claimant's name.
  - (viii) LEMLA claim amount.
  - (ix) Cause/nature of injury.
- B) Attached to the LEMLA form the following information:
- (i) Documentation which demonstrates the claimant has billed the LEMLA patient or the LEMLA patient's insurer or health care contractor for the charges or expenses owed to the claimant and that the claimant has made a reasonable effort to collect from the LEMLA patient or the LEMLA patient's insurer or health care contractor.
  - (ii) A copy of the hospital/provider billing document which shows the usual charge and date of service.
- c) LEMLA will reject claims that do not contain all of the information required in subsection (4)(b) of this rule.
- d) LEMLA shall review the date of injury. LEMLA will reject any claim where the injuries related to law enforcement activity do not occur on or after July 1, 1992.
- e) LEMLA shall review the documentation of reasonable collection effort. If less than 45 days have lapsed since billing the LEMLA patient or the LEMLA patient's insurer or health care contractor, the claim may be rejected.
- f) LEMLA shall review the date of injury. If the date stamped on the claim under subsection (4)(a) of this rule is more than 1 year after the date of injury, the claim shall be rejected. The 1 year time limit may not apply if the provisions of subsection (3) apply with regards to an insurer or health care contractor demanding repayment of a previously paid claim.
- 5) Using the LEMLA claim amount, LEMLA shall pay claimants, subject to any adjustment made under subsection (6) of this rule, according to the following:
- a) For hospitals, by the current "Hospital Fee Schedule – Adjusted Cost/Charge Ratios for Oregon Hospitals", established by the Director of the Department of Insurance and Finance.
  - b) For all Medicaid providers, except hospitals, LEMLA shall pay 75 percent of the LEMLA claim amount.
- 6) After determining the amount under subsection (5) of this rule, LEMLA shall add the amount received in subsection (7) of this rule. If the total is

more than the usual charge, LEMLA will reduce the amount of its payment by the amount in excess of the usual charge.

- 7) The claimant shall be responsible for making reasonable effort to collect from the LEMLA patient or patient's insurer or health care contractor. Claimants shall report any and all collections made when a claimant submits a claim to LEMLA for payment.
- 8) If LEMLA has paid a claimant and the claimant subsequently receives payment from any other source, the claimant shall repay LEMLA the amount received, minus the difference between the usual amount billed and the amount LEMLA paid. This means claimants are entitled to reimburse themselves for the amount LEMLA did not pay, with the excess due LEMLA as an overpayment. The overpayment is due and payable to LEMLA within 30 days after the claimant has received the funds from the other source. Payment shall be by check.
- 9) LEMLA will continue to pay for medical services for injuries related to law enforcement activities while the LEMLA patient is incarcerated. Upon release of the LEMLA patient from actual physical custody, LEMLA will no longer pay for further medical expenses incurred. If the LEMLA patient is cited in lieu of arrest or released instead of booked, LEMLA will no longer pay for further medical expenses upon discharge or release from the hospital or with other medical facility.
- 10) LEMLA shall pay all accepted claims to the extent that LEMLA has sufficient funds available, subject to the maximum limit for payment of expenses authorized by the Legislature. LEMLA shall monitor the expenses and if LEMLA determines that the authorized limit may be exceeded, or that insufficient funds are available, LEMLA will take the following actions:
  - a) LEMLA will continue to accept claims and date stamp them in the order the claims are received. LEMLA will then suspend further processing of the claims.
  - b) LEMLA will notify each claimant that the claim has been suspended, and the reason for the action.
  - c) LEMLA will maintain a file of suspended claims and await further legislative direction regarding the disposition of the claims.

**Statutory Authority:** Chapter 778, Oregon Laws 1991, and Chapter 196 Oregon Laws 1993.