

## EXHIBIT O

### THIRD PARTY RESOURCES AND PERSONAL INJURY LIENS

- A. Contractor shall take all reasonable actions to pursue recovery of Third Party Resources for Covered Services provided during the period covered by this Agreement. "Third Party" means any individual, entity, or program that is, or may be, liable to pay all or part of the cost of any Covered Service furnished to an OHP Member and as defined in Exhibit K of this Agreement.
- B. Contractor will develop and implement written policies describing its procedures for Third Party Resource recovery consistent with Third Party Resource recovery requirements in 42 USC 1396a(a)(25) and 42 CFR 433 Subpart D. At a minimum, the policies and procedures shall include the following information.
1. Identifying Third Party Resource.
    - a. Contractor shall notify the Health Insurance Group, P.O. Box 14023, Salem, Oregon 97309, within thirty (30) days from the time that Contractor learns that an OHP Member might have other health insurance.
    - b. Contractor shall immediately report that OHP Member has a potential third party claim for personal injuries, or has made a claim or begun an action to enforce such claim, as those terms are defined in ORS 416.510, to the OHP Member's caseworker and the Department's Personal Injury Liens Unit, P.O. Box 14512, Salem, OR 97309-0416.
    - c. To the extent authorized by law, the DHS Medical Payment Recovery Unit and the Personal Injury Lien Unit will share client and claim information they receive with Contractor to assist in identifying Third Party Resources.
  2. Determining the liability of Third Party Resource.
    - a. Contractor shall request OHP Members to cooperate in securing payment from Third Party Resources, except when the client asserts good cause as defined in OAR 461-120-0350.
    - b. If Contractor is unable to gain cooperation from the OHP Member or their authorized representative or a Third Party Resource in pursuing the Third Party Resource, or if the OHP Member asserts good cause; Contractor shall notify the Medical Payment Recovery Unit, P.O. Box 14023, Salem Oregon 97309, of their refusal to cooperate, and provide such records and documentation as may be requested from the Medical Payment Recovery Unit.

### 3. Cost-avoidance.

- a. Cost-avoidance is defined as a method for avoiding payment of Medicaid claims when Medicare or other insurance resources are available to the OHP Member. Using this method, whenever Contractor is billed first, claims are denied and returned to the provider who is instructed to bill and collect from liable Third Party Resources. Cost-avoidance also includes payment avoided when the provider bills the Third Party Resource first.
- b. Contractor may not refuse payment for Covered Services based solely on a diagnosis code if there is no documentation of a potential Third Party Resource other than the diagnosis.
- c. Contractor may not delay payment after a provider notifies Contractor that the provider cannot obtain recovery from a Third Party Resource after making reasonable efforts, or cannot obtain information or cooperation needed from OHP Member or a Third Party Resource to obtain recovery from a Third Party Resource. Upon such notification, Contractor shall process the claim as a valid claim however, Contractor may pursue alternative remedies under paragraph 2 of this Section or may seek to recover payment as provided in paragraph 4 of this section.

### 4. Pay and Chase

- a. Pay and Chase is defined as a method used where Contractor pays the claim and then attempts to recover from liable Third Party Resources.

### 5. Procedures for identifying and requesting payment from a Third Party Resource that applies to a personal injury.

- a. Contractor's recourse for obtaining timely assignment of the rights to recovery or the assignment of lien rights shall be the process provided in ORS 416.510 to 416.610 and OAR 461-195-0301 to 461-195-0350. Contractor shall not request an assignment of right to recovery or assignment of a lien right from an OHP Member or their representative.
- b. When another party may be liable for a personal injury, Contractor may make the payments and (consistent with subsection (a) of this section 5) place a lien against a judgment, settlement or compromise. Once Contractor has made the payment for Covered Services and a lien has been sought, no additional billing or claim for enhanced reimbursement (e.g., balance billing) to the third party or to the OHP Member or their financially responsible representative is permitted.

### 6. Contractor shall maintain records of Contractor's actions and Subcontractors' actions related to Third Party Resource recovery, and make those records available for review and review consistent with the provisions of this Agreement.

- a. Contractor shall report all Third Party Resource payments to OMHAS using Report C2, Current OHP members with Third Party Resources (Quarterly Report), on a quarterly basis within 60 calendar days after the end of each calendar quarter.
  - b. Contractor shall maintain records of Third Party Resource recovery actions that do not result in recovery, including Contractor's written policy establishing the threshold for determining that it is not cost effective to pursue recovery action.
  - c. Contractor shall provide documentation about personal injury recovery actions and documentation about personal injury liens to the DHS Personal Injury Liens Unit consistent with OAR 461-195-0301 to 461-195-0350.
- C. Contractor may not refuse to provide Covered Services, and shall require that its Subcontractors may not refuse to provide Covered Services, to an OHP Member because of a Third Party Resource's potential liability for payment for the Covered Service.
- D. Contractor is the payer of last resort when there is other insurance or Medicare in effect. At OMHAS discretion or at the request of the Contractor, OMHAS may retroactively disenroll an OHP Member to the time the OHP Member acquired Third Party Resource insurance, pursuant to OAR 410-141-0080(2)(b)(D) or 410-141-0080(3)(a)(A). When an OHP Member is retroactively disenrolled, OMHAS shall recoup all Capitation Payments to Contractor after the effective date of the Disenrollment. Contractor and its Subcontractors may not seek to collect from the OHP Member (or any financially responsible representative of the OHP Member) or any Third Party Resource, any amounts paid for any Covered Services provided on or after the date of Disenrollment.
- E. Contractor shall comply with 42 USC 1395y(b), which gives Medicare the right to recover its benefits from employers and workers' compensation carriers, liability insurers, automobile or no fault insurers, and employer group health plans before any other entity including Contractor or its Subcontractor.
1. Where Medicare and Contractor have paid for services, and the amount available from the Third Party Resource is not sufficient to satisfy the claims of both programs to reimbursement, the Third Party Resource must reimburse Medicare the full amount of its claim before any other entity, including Contractor or its Subcontractor, may be paid.
  2. If the Third Party Resource has reimbursed Contractor or its Subcontractor, or if an OHP Member, after receiving payment from the Third Party Resource, has reimbursed Contractor or its Subcontractor, the Contractor or its Subcontractor must reimburse Medicare up to the full amount the Contractor/Subcontractor received, if Medicare is unable to recover its payment from the remainder of the Third Party Resource payment.

3. Any such Medicare reimbursements described in this section are the Contractor's responsibility on presentation of appropriate request and supporting documentation from the Medicare carrier. Contractor shall document such Medicare reimbursements in its report to OMHAS, described in paragraph B (6) a. of this section.
- F. When engaging in Third Party Resource recovery actions, Contractor and Subcontractors shall comply with federal and state confidentiality requirements pursuant to Part II, Section XXII, including without limitation, the federal (42 CFR Part 2) and state (ORS 426.460 and ORS 179.505) confidentiality laws and regulations governing the identity and client records of OHP Members. OMHAS considers the disclosure of OMHAS Member claims information in connection with Contractor's Third Party Resource recovery actions a purpose that is directly connected with the administration of the Medicaid program.