

CHAPTER 12-000 THIRD-PARTY RESOURCES AND CHILD SUPPORT ENFORCEMENT

12-001 ASSIGNMENT OF THIRD PARTY RESOURCES: See 471 NAC 3-004.

The assignment of third-party resources gives the Department the right to pursue and receive payments from any third party liable to pay for the cost of medical care and services for the client or for any other household member, and which otherwise would be covered by Medicaid. The assignment of the rights to third party medical payments is effective with the date of Medicaid eligibility.

For Medicaid cases with a share of cost, the assignment becomes effective the first day of the month when the case status changes to "Share of Cost Met."

For third party payments received directly see Appendix 477-000-015.

12-001.01 Third-Party Payments Not Assigned: The following third-party payments are not subject to the automatic assignment provision:

1. Medicare benefits; and
2. Payments from income-producing policies that subsidize the client's income while s/he is hospitalized or receiving care, regardless of the type of medical service being provided.

12-002 CLIENT COOPERATION

12-002.01 Client Cooperation Required: As a condition of eligibility, a client must cooperate in obtaining third-party resources unless s/he has good cause for noncooperation. Cooperation includes any or all of the following:

1. Providing complete information regarding the extent of third-party resources that s/he or any other household member has or may have. This includes coverage provided by a person not in the household or by an agency;
2. Providing any additional information or signing claim forms that may be necessary for identification and collection of potential third-party payments;
3. Appearing as a witness in a court or another proceeding, if necessary;
4. Notifying the Department of any action s/he is initiating to recover money from a liable third-party for medical care or services. This includes the identity of the third-party, as well as the entire amount of any settlement, court award, or judgment;
5. Reimbursing the Department or paying to the provider any payments received directly from a third-party for any services payable by Medicaid; and
6. Taking any other reasonable steps to secure payments

Noncooperation by the client is failure or refusal by the client to fulfill these requirements. Pregnant women are not exempt from these requirements.

12-003 OPPORTUNITY TO CLAIM GOOD CAUSE

12-003.01 Notification of Right: The client must be notified of the right to claim good cause for noncooperation at the time of application, renewal, and whenever cooperation becomes an issue.

12-003.02 Good Cause Exemption: See 466 NAC 3-003.

12-003.03 Delay Pending Determination: The Department must not deny, delay, or discontinue Medicaid pending a determination of good cause if the client has complied with the requirements of providing acceptable evidence or other necessary information.

12-003.04 Review of Good Cause: At the time of each eligibility renewal, a good cause claim must be reviewed based on a circumstance that is subject to change. If circumstances remain the same, no action is required. A new determination is necessary if circumstances have changed. If good cause no longer exists, the requirement to cooperate must be enforced.

12-004 SANCTION FOR REFUSAL TO COOPERATE: If the client fails or refuses to cooperate and there is no good cause shown, the appropriate sanction must be applied. If the reason for noncooperation is the client's failure or refusal to provide information about or obtain third-party resources, the client is ineligible. Eligibility of dependent child(ren) is not affected. Ineligibility continues for the client until s/he cooperates or cooperation is no longer an issue.

12-004.01 Pregnant Women and Noncooperation: If a pregnant woman refuses to cooperate in obtaining third-party resources and there is no good cause claim or determination, the appropriate sanction is applied.

12-005 THIRD-PARTY RESOURCES RECEIVED DIRECTLY: If a client receives a third-party resource directly and the medical expense for which the third-party resource is intended is payable by Medicaid, the payment is considered unearned income for Non-MAGI based categories unless reimbursed by the client. If the third-party resource exceeds Medicaid rates, the excess is considered unearned income for Non-MAGI based categories unless paid out on other medical services or supplies. Regardless of the existence of a good cause claim, any third-party resource received directly by the client must be reimbursed. See Appendix 477-000-01

12-006 RECOUPMENT OF THIRD-PARTY RESOURCES:

1. In order to claim reimbursement for benefits paid by Medicaid that should have been paid by a third-party resource, the Department must send a letter informing the client that s/he must reimburse the Department or the provider. The client is allowed ten (10) days from the date of notification to reimburse the medical payment. For an applicant, the Department must not delay determination of eligibility pending the applicant's reimbursement. At the time the application is approved, the client must be notified of the number of days left in which to reimburse the payment;

2. If the client tenders the third-Party Resource within the ten (10) days, no further action is taken; or
3. If the client fails or refuses to refund the third-party resource within the ten (10) days, the entire amount is considered unearned income in the first month possible, taking into account adequate and timely notice. Any balance remaining is considered a resource in the following month.

12-007 WILLFULLY WITHHELD INFORMATION: When evidence reasonably establishes a client willfully withheld information regarding a third-party resource that resulted in an overpayment of Medicaid expenditures, the case must be referred to the Special Investigation Unit (SIU).

Once a case has been referred to SIU, no further action shall be taken with regard to the prosecution of the suspected fraud, except in accordance with instructions or approval by SIU. However, normal case actions must be completed, which include applying the appropriate sanction.

12-008 TERMINATION OF ASSIGNMENT: When a client is removed from the household, the assignment provision is terminated. The client's rights to any further third-party resources are automatically restored effective with the date of ineligibility. However, the assignment remains in effect for the time period during which the client was receiving Medicaid.

12-009 HEALTH INSURANCE

12-009.01 Cooperation in Obtaining Health Insurance: A client shall enroll in an available health plan if the Department has determined that it is cost effective and the client is able to enroll on his/her own behalf. In those circumstances, the Department pays the premiums, deductibles, coinsurance, and other cost-sharing obligations for this insurance. See Appendix 477-000-016.

12-010 COOPERATION WITH CHILD SUPPORT ENFORCEMENT (CSE) UNIT: Child Support Enforcement Services are provided to a child eighteen (18) years old or younger who has a noncustodial parent(s). See Appendix 477-000-005.

CSE services are not provided for

1. An unborn child;
2. A child who is receiving Home and Community-Based Services in the home of both parents; or
3. An emancipated minor.

12-011 DUTIES OF THE CLIENT: The parent/needy caretaker relative, relative payee, guardian, conservator, or the minor parent of the child for whom aid is claimed is required to cooperate with CSE (unless good cause for refusing to do so is shown).

12-012 OPPORTUNITY TO CLAIM GOOD CAUSE

12-012.01 Notification of Right: The client must be notified at the time of application and whenever cooperation becomes an issue of the right to claim good cause as an exception to the cooperation requirement. The client must be given

1. A verbal explanation of good cause, and
2. The opportunity to ask questions.

12-012.02 Good Cause Claimed: If the client claims good cause is present, the Department must

1. Have the client provide the name and address of the noncustodial parent and forward this information to the CSE Unit;
2. Have the client provide child/spousal support information and forward this information to the CSE Unit; and
3. Notify the Title IV-D unit that a good cause claim is pending when the CSE referral is made.

12-012.03 Delay Pending Determination: The Department may not deny, delay, or discontinue Medicaid pending a determination of good cause as an exception to the cooperation requirement if the client has complied with the requirements of providing acceptable evidence or other necessary information.

12-013 SANCTIONS FOR REFUSAL TO COOPERATE: Upon receiving notification from the CSE Unit that an individual refused to cooperate, the individual is no longer eligible for Medicaid. The sanctioned individual remains in the household as financially responsible.

12-013.01 Exceptions for Sanctions for Refusal to Cooperate:

1. If an individual is age 18 or younger, Medicaid cannot be closed until the end of his/her initial six months of continuous eligibility.
2. If a minor parent is in the household of his/her active Medicaid parent(s), the minor's parent is responsible for cooperating in obtaining support for the minor's child. The minor's active Medicaid parent(s) is sanctioned if s/he or the minor does not cooperate.
3. No sanction is imposed for non-cooperation of a pregnant woman.
4. No sanction is imposed if at the time non-cooperation began, a child was not in the household of the active Medicaid parent(s).

12-014 OTHER RELATED ELIGIBILITY REQUIREMENTS

12-014.01 Receipt of Other Assistance: An individual who receives Medicaid may not at the same time receive a payment of another type of categorical assistance administered by the Department. This does not preclude a Medicaid client from being the payee for a grant made on behalf of a child in the individual's care. Assistance from a source other than the Department may be used to supplement but not duplicate assistance for a particular need.