



INFORMATIONAL MEMO

TITLE:	PROVIDERS IMPROPER BILLING HCBS PARTICIPANTS
SUPERSEDES NUMBER:	N/A
EFFECTIVE DATE:	JANUARY 3, 2023
DIVISION AND OFFICE:	BENEFITS & SERVICES MANAGEMENT DIVISION, OFFICE OF COMMUNITY LIVING
PROGRAM AREA:	HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVERS
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APPROVED BY: CANDACE BAILEY	

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Purpose and Audience:

The purpose of this Informational Memo is to inform all Home and Community-Based Services (HCBS) providers that billing HCBS waiver members for various fees, utilities, or supplemental charges violates federal and state law. Any fee or supplemental charge imposed on an HCBS waiver member should be refunded within 30 days from the issuance of this memo and the provider shall notify the Colorado Department of Health Care Policy & Financing (Department) of the billing error and provide proof of the corrective action taken.

Information:

Background

Under Colorado Revised Statute § 25.5-4-301(1)(a)(I), no member "shall be liable for the cost or the cost remaining after payment by Medicaid, Medicare, or a private insurer of medical benefits authorized by Title XIX of the social security act[]." Further, under paragraph G, in the Provider Participation Agreement it states, "Provider shall not bill supplemental charges to the client, except for amounts designated as copayments by

the Department.” Federal regulation requires that Medicaid providers accept Medicaid reimbursements as “payment in full.” 42 C.F.R. § 447.15. In other words, balanced billing, outside of Department-approved copays, is prohibited under federal law.

Case Manager Responsibility

Case managers who are made aware of a service provider charging an HCBS member a supplemental fee or charge should notify the Department immediately via email at HCPF_HCBS_questions@state.co.us. Proof of the supplemental charge(s) should be included in the email, e.g., an invoice or provider policy outlining the fee(s) to be collected. If there is ever a question of whether a fee or a charge is allowed, case managers should contact the Department to verify.

HCBS Participant/Family Member/Guardian Responsibility

HCBS Waiver members and/or guardians who are asked to pay a fee or other supplemental charge by an HCBS service provider should contact their case manager or the Department immediately via email at HCPF_HCBS_questions@state.co.us. This email should include any evidence that the service provider is requesting a supplemental charge, e.g., an invoice, member handbook, or provider policy outlining the required fee(s).

Provider Responsibility

The Department has been made aware of numerous situations where providers have been improperly billing Medicaid members. While room and board are allowable charges, improper billing can include, but is not limited to, various fees, such as enrollment or reservation fees, utilities, such as television or internet or air conditioning, or other supplemental charges.

Billing Medicaid members violates both federal and state law as well as the Provider Participant Agreement, and the Department asks that any service provider who has improperly billed HCBS waiver members ceases all efforts to collect directly from HCBS waiver participants for benefits authorized under Title XIX of the Social Security Act.

Provider Action

To avoid legal liability for any billing error, service providers who have improperly billed for supplemental charges must notify any HCBS members who were improperly billed that those fees were billed in error and the provider must provide a refund to the members in the amount collected. All refunds should be provided to affected HCBS members within 30 days from the issuance of this memo.

Upon issuing refunds, service providers must then notify the Department of the billing error and provide proof of the corrective action taken to all affected members. This notification and proof of corrective action should be submitted to the Department via email at hcpf_illegalbillingaction@state.co.us or by mail to:

Colorado Department of Health Care Policy & Financing
Attn: Sarah Geduldig, Provider Integrity Section
1570 Grant St.
Denver, CO 80203

Questions from service providers related to general billing (claims denials, claims status) should be directed to Medicaid Provider Services at 1-844-235-2387.

Provider's Failure to Comply

A service provider's failure to comply will be considered illegal billing in violation of Section 25.5-4-301, C.R.S., and may result in further action by the Department in accordance with 10 CCR 2505-10, Section 8.076, including but not limited to, prepayment reviews, termination for cause from the Medicaid Program, or a fraud referral.

Attachment(s):

None

Department Contact:

[HCPF HCBS questions@state.co.us](mailto:HCPF_HCBS_questions@state.co.us)