



**JEFFERSON  
BEHAVIORAL  
HEALTH**

Managed Mental Health Care Organization for Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties  
900 SE 8<sup>th</sup> Street, Suite 100 Grants Pass, Oregon 97526 •Phone: 541-955-9565 •Fax: 541-955-8290

## **PART I: POLICY**

### **Third Party Resources And Personal Injury Liens**

<b>Policy No.:</b>	<b>Supersedes:</b>	
	<b>None</b>	
<b>Effective Date:</b>		
<b>June 26, 2006</b>		
<b>Approved by:</b>		<b>Date:</b>

#### **I. POLICY DESCRIPTION**

The purpose of this policy is to ensure a consistent method for JBH and its Providers to identify and report Third Party Resources for Covered Services provided while an OHP Member is enrolled with Jefferson Behavioral Health (JBH). JBH and its Providers shall take all reasonable actions to pursue recovery of Third Party Resources for Covered Services. JBH is the payer of last resort when there is other insurance or Medicare in effect.

#### **II. APPLICABILITY**

For the purposes of this policy, the term Jefferson Behavioral Health (JBH) includes the Jefferson Behavioral Health staff and its authorized representatives. JBH shall follow this policy as it applies to the OHP mental health services governed by the Mental Health Organization Agreement between the State of Oregon and JBH. Participating Providers shall follow this policy to the extent that it applies to the mental health services that they provide to JBH Members. The responsibilities outlined in this policy shall also include, but not be limited to, the Local Mental Health Authorities (LMHA) in the JBH service area, and any agency delegated with the responsibility for managing non-inpatient mental health services for JBH members in the LMHA's county.



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## **PART II: PROCEDURES**

### **Third Party Resources And Personal Injury Liens**

<b>Policy No.:</b>	<b>Supersedes:</b>  <b>None</b>
<b>Effective Date:</b>  <b>June 26, 2006</b>	
<b>Approved by:</b>	<b>Date:</b>

#### **I. PROCEDURE**

- A. JBH and its Providers shall take all reasonable actions to pursue recovery of Third Party Resources for Covered Services. "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. "Third Party Resources" mean any payments, benefits, or other resources available from a Third Party, including but not limited to:
1. Private health insurance or group health plan;
  2. Employment-related health insurance;
  3. Medical support from absent parents;
  4. Workers' compensation;
  5. Medicare;
  6. Automobile liability insurance; and
  7. Other federal programs such as Veteran's Administration, Armed Forces Retirees and Dependent Act (CHAMPVA), Armed Forces Active Duty and Dependents Military Medical Benefits Act (CHAMPUS), and Medicare Parts A and B, unless excluded by statute as for example:
    - a. Services provided to OHP Members pursuant to 42 CFR 36.61 Indian Health Service (IHS) is the payor of last resort and is not considered a Third Party Resource; or
    - b. Services provided to OHP Members at a tribal facility operated under a "638" agreement pursuant to the

Memorandum of Agreement between IHS and CMS is a payor of last resort and is not considered a Third Party Resource.

8. Claims, judgments, settlements or compromises in relation to personal injuries where the Covered Services paid by JBH constitute assistance, as these terms are defined in ORS 416.510.
9. Another state's Title XIX, Title XXI, or state-funded Medical Assistance Program.
10. Personal estates.

B. JBH shall have written policies describing its procedures for Third Party Resource recovery consistent with Third Party Resource recovery requirements in 42 U.S.C. 1396a(a)(25) and 42 C.F.R. 433 Subpart D. At a minimum, the policies and procedures shall include the following information.

1. Identifying Third Party Resource.

- a. The Local Mental Health Authorities shall notify the Health Insurance Group, P.O. Box 14023, Salem, Oregon 97309, within thirty (30) days from the time that JBH learns that an OHP Member might have other health insurance.
- b. JBH 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 JBH to assist in identifying Third Party Resources.

2. Determining the liability of Third Party Resource.

- a. JBH 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 JBH 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; JBH 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 JBH 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. JBH 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. JBH may not delay payment after a provider notifies JBH 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, JBH shall process the claim as a valid claim however, JBH 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 JBH 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. JBH'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. JBH 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, JBH may make the payments and (consistent with subsection (a) of this section 5) place a lien against a judgment, settlement or compromise. Once JBH 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. JBH shall maintain records of actions related to Third Party Resource recovery, and make those records available for review.
  - a. JBH 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. JBH shall maintain records of Third Party Resource recovery actions that do not result in recovery, including JBH's written policy establishing the threshold for determining that it is not cost effective to pursue recovery action.
  - c. JBH 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. JBH may not refuse to provide Covered Services, and shall require that its Providers 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. JBH is the payer of last resort when there is other insurance or Medicare in effect. At OMHAS discretion, or at the request of JBH, 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 JBH after the effective date of the Disenrollment. JBH and its providers 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. JBH 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 JBH or its Providers.
  1. Where Medicare and JBH 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 JBH or its Providers, may be paid.

2. If the Third Party Resource has reimbursed JBH or its Providers, or if an OHP Member, after receiving payment from the Third Party Resource, has reimbursed JBH or its Providers, JBH or its Providers must reimburse Medicare up to the full amount that JBH 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 JBH's responsibility on presentation of appropriate request and supporting documentation from the Medicare carrier. JBH 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, JBH and its Providers 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 the Third Party Resource recovery actions a purpose that is directly connected with the administration of the Medicaid program.