




CORPORATE POLICY & PROCEDURE

	Policy Name: Third Party Liability Recovery Guidebook
Department: Finance	Policy Number: F18
Version: 7	Creation Date: 9/29/2014
Revised Date: 12/14/16, 5/16/19, 7/16/19, 1/14/21	Review Date: 12/15/16, 1/16/20
Line of Business: <input type="checkbox"/> All <input checked="" type="checkbox"/> Umpqua Health Alliance <input type="checkbox"/> Umpqua Health Management <input type="checkbox"/> Umpqua Health - Newton Creek <input type="checkbox"/> Umpqua Health Network	
Signature: 	
Approved By: Keith Lowther, Chief Financial Officer Date: 03/17/2021	

POLICY STATEMENT

Umpqua Health Alliance (UHA) is committed to a third party liability (TPL) process that is robust and comprehensive and meets all State and Federal requirements and contractual requirements as stated in the Coordinated Care Organization (CCO) Contract, Exhibit B, Part 8, Section 16 and 17.

PURPOSE

The purpose of this policy is to detail the processes that UHA utilizes in TPL investigations and Personal Injury Liens (PIL).

RESPONSIBILITY

Finance, Third Party Recovery (TPR)

DEFINITIONS

Coordinated Care Organization (CCO) - A corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Authority under Oregon Revised Statutes (ORS) 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

Coordination of Benefits (COB) - A provision in a contract that applies when a person is covered under more than one medical program. It requires that payment of benefits be coordinated by all programs to eliminate over-insurance or duplication of benefits.

Department of Human Services (Department or DHS) - The agency established in ORS Chapter 409, including such divisions, programs and offices as may be established therein.

Encounter Data - Encounter claims data that is required to be submitted to OHA under Oregon Administrative Rules (OAR) 410-141-3430.

Liability Insurance - Insurance that provides payment based on legal liability for injuries or illness. It includes, but is not limited to, automobile liability insurance, uninsured and



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underinsured motorist insurance, homeowner’s liability insurance, malpractice insurance, product liability insurance, Worker's Compensation, and general casualty insurance. It also includes payments under State wrongful death statutes that provide payment for medical damages.

Medicaid - A joint federal and state funded program for medical assistance established by Title XIX of the Social Security Act as amended and administered in Oregon by the Authority.

Medicare - A federally administered program offering health insurance benefits for persons aged 65 or older and certain other aged or disabled persons.

Member - An OHP client enrolled with a pre-paid health plan (PHP) or CCO.

Oregon Health Authority (OHA or Authority) - The agency established in ORS Chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS chapter 414. For purposes of these rules, the agencies under the Authority of OHA are the Public Health Division, Health Systems Division, External Relations, Health Policy and Analytics, Fiscal and Operations, Health System Division, Office of Equity and Inclusion, and the Oregon State Hospital.

Subcontractor - Any individual, entity, facility, or organization, other than a participating provider, that has entered into a subcontract with UHA or with any subcontractor for any portion of the work under the contract.

Subrogation - The right of the State to stand in place of the client in the collection of third party resources (TPR).

Third Party Liability (TPL), Third Party Resource (TPR), or Third Party Payer - A medical or financial resource that, under law, is available and applicable to pay for medical services and items for an Authority client.

Workers' Compensation (i.e. Workers’ Comp) - A form of accident insurance paid by employers. No payroll deductions are taken out of employees' salaries for this insurance. If you are injured on the job or acquire a work-related illness, Workers’ Comp will pay your medical expenses, and if you cannot work, it will also cover wage-loss compensation until you are able to return to work.



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PROCEDURES

Identification of Liable Party

1. The TPR Department seeks to identify any individual, entity, or program that is, or may be, liable to pay all or part of the medical cost of any medical assistance furnished to a member. TPL includes, but is not limited to:
 - a. Private (individual) health insurance;
 - b. Employment (group) health insurance;
 - c. Automobile insurance;
 - d. Worker’s Compensation insurance;
 - e. Medicare A & B;
 - f. Homeowner’s insurance; and/or
 - g. Claims, judgements, settlements or assignments of restitution.
2. UHA has the right as a Medicaid contractor to assert interest in any PIL of its members, if UHA has obtained lien assignment approval from PIL/OHA Without this approval the CCO does not have the authority to pursue any PIL claims

Identification Resources

1. There are multiple resources and infrastructures available to assist in the identification of members with TPL.
2. Those include, but are not limited to:
 - a. Providers and facilities;
 - b. Members;
 - c. Attorneys;
 - d. Insurance companies;
 - e. Claims Department;
 - f. Medical review personnel;
 - g. Unsolicited refunds;
 - h. Data Match applications;
 - i. OHA; and/or
 - j. Law enforcement.
3. UHA is committed to timely and thorough investigations of all TPL and PIL matters involving its members. Confirmation of TPL and PIL coverage is accomplished by directly contacting the legally responsible resource(s).
4. UHA will use their resources and infrastructure as fully permitted by law in order to complete investigations. The goal is to substantiate:
 - a. Insurance company (Third Party) name, address and phone number.
 - b. Subscriber (policy holder).
 - c. Relationship to the policy holder.



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- d. Social Security number of policy holder.
- e. Identification and claims number.
- f. Group number.
- g. Effective date of coverage.
- h. Pre-existing condition clause.
- i. Determination of benefits (e.g. medical, vision, prescription carrier and prescription co-pays).
- j. Date of loss and nature of injuries for potential TPL claims; and
- k. Attorney representation.

Recovery Efforts

1. Timely system updates are critical to the UHA cost-avoidance endeavors as well as productive recovery efforts.
 - a. Update claims management software to reflect the primary TPL coverage particulars.
 - b. Update pharmacy management system to reflect select TPL coverage.
 - c. Review pertinent claims history and generate refund requests when indicated.
 - d. Adjudicate pended claims in accordance with standard coordination of benefits rules.
 - e. Recoveries for refund requests submitted are processed through checks received from providers and punch credits from vouchers. As well as punch credits from corrected claims received.
 - f. UHA takes all reasonable actions to pursue recovery of TPL for covered services provided during the contract period and up to 18 months from the claim paid date. Covered services not recovered by UHA, beyond 24 months will be recovered by OHA and reported in the Rate Development process.
2. UHA recognizes the need for accurate TPL reporting for internal and external purposes.

Requesting Lien Assignment

1. UHA must obtain a written lien assignment from OHA prior to any attempt to seeking reimbursement.
 - a. UHA must provide Office of Payment Accuracy and Recovery (OPAR) with Administrative Notice that a lien has been filed within 10 days.
 - b. When UHA/Subrogation subcontractor is aware of a Third Party that may be legally liable for medical expenses for Member, UHA shall request a lien assignment by completing the online request located at <https://apps.oregon.gov/OPAR/PIL/>. At a minimum they provide the following information, if known, when requesting a lien assignment:
 1. Contractors name.



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2. Members name and address.
3. Date of injury to the member.
4. Insurance or attorney information for either the member or liable third party, if known. If unknown, under “Insurance Company Name and Attorney Firm Name” on the online form, CCO shall insert “unknown; and
5. Under “comments” on the online form, a CCO or its subrogation firm shall insert “Request Lien Assignment”.

Filing a Lien

2. UHA or Subrogation Firm shall file a lien with the recording officer of the county:
 - a. Where an individual tortfeasor resides;
 - b. Where a corporate tortfeasor (includes LLCs, partnerships, trusts) has its principal place of business. If there is no principal place of business in Oregon, then with the county or parish recording official of the nearest principal place of business; or
 - c. Where a public body, agency, or commission is a tortfeasor, the notice of lien shall be filed with the recording officer of the county in which the public body, agency or commission has its main offices, including any of state county or parish recording officer.
3. UHA or Subrogation Firm shall notify the tortfeasor and the following, if known, about the lien:
 - a. Tortfeasor’s attorney;
 - b. Tortfeasor’s insurance adjuster(s);
 - c. UHA Member;
 - d. UHA Member’s attorney, if authorized by member;
 - e. UHA Member’s Insurance adjuster(s);
 - f. Any other person authorized by UHA member, and
 - g. Any party necessary to receive payment of the lien, subject to the confidentiality requirements of UHA contract.
4. UHA shall give PIL Administrative Notice when a lien is perfected by filing with the County Clerk. The notice shall be within 10 days of perfecting the lien.
5. UHA shall submit the Administrative Notice through the online form of notice at www.reportinjury.org.
 - a. Under “comments” on the form, UHA or its subrogation firm shall insert “Notice of Lien Filed”.
6. UHA shall perfect liens by filing for any case with a lien of \$1,000 or more. If the amount of a lien is under \$1,000, UHA does not have to perfect the lien by filing, but UHA shall still demand payment. A lien assignment is still required from PIL. In the



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event a lien that was under \$1,000 increases above \$1,000 or more, then UHA shall perfect its lien.

- UHA shall use a release of lien template.

Release of Lien:

UHA shall release liens if the lien is satisfied in full or by compromise. The release shall be filed in same county as the lien filing.

- The lien release will be with the recording official in the county of the lien filing;
- UHA shall notify all parties that received a lien filing notice;
- UHA shall notify PIL of the lien release by submitting the appropriate online form at www.reportinjury.org; and
- UHA shall use a release of lien template.

Requesting a lien compromise request from PIL:

UHA shall obtain prior written approval from PIL before compromising any assigned lien.

- UHA shall submit a request by emailing PIL at personal.injury@dhsosha@state.or.us.
 - In the subject line indicate “CCO Lien Compromise Request”; and
 - Provide PIL with attorney’s, insurance companies, or member’s compromise request, include any documentation supporting the compromise request.
 - If there is a Medicare lien or medical providers who have not billed either Medicaid or UHA, UHA shall request the attorney/insurance adjuster to provide them with the final settlement amount of those liens prior to requesting a compromise.
- PIL shall review the compromise request and within 3 business days provide UHA with a compromise amount, if any. This may include a compromise of PIL’s and UHA lien.
 - An urgent request shall indicate “URGENT” at the beginning of the subject line; and
 - If UHA is in the middle of mediation, then add “Mediation Pending” to the beginning of the subject line.
- PIL’s review shall determine if PIL has a lien or claim.
 - PIL’s lien or claim shall take priority over UHA’s lien;
 - If PIL has a lien, PIL will provide the compromise recommendation to satisfy PIL’s lien in full or within reason depending on the settlement amount;
 - If PIL does not have a lien or claim, then PIL shall provide UHA with compromise amount of UHA lien, if at all; and
 - When PIL reviews a compromise request, it will consider the facts of the case, the parties involved, relevant legal issues, and the mission of the Oregon Health Authority in reaching a decision.



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- Should PIL’s compromise be rejected, then UHA shall submit any counter compromise to PIL for further review. PIL will provide further review of the compromise request, including next steps to compromise UHA’s lien.

PIL offset recovery process

If PIL has a lien not paid in full and UHA has received payment on a lien for the same incident, then OHA has a right to offset from UHA’s recovered payments for the lesser of the unpaid amount of the PIL lien or the amount UHA received in satisfaction of such lien.

- PIL shall review any cases that are settled or compromised to determine if PIL was paid in full and notify UHA. PIL shall review UHA’s monthly report for cases where PIL was not notified by UHA prior to settling or compromising a lien.
 - PIL shall determine cases where UHA did not notify PIL of a compromise or UHA received payment on a lien where PIL’s lien was not fully paid;
 - If there are cases identified where PIL was not paid in full and UHA recovered monies from a settlement, then PIL will issue an offset letter indicating the member(s) who PIL believes should have an offset payment issued to PIL;
 - UHA shall ensure that PIL is updated with the correct accounts payable contact information for offset submissions;
 - UHA will review the members identified by PIL for offset payments;
 - If UHA disagrees with the identified offsets, then UHA will reply to PIL by email at personal.injury@dhsosha.state.or.us explaining UHA’s disagreement.
 - The CCO will attach the original offset letter sent to them by PIL.
- PIL shall review UHA’s email disagreeing with the offset payments and determine if PIL is owed the money.
- If an oversight by PIL, then PIL will email UHA stating that the member is not subject to the offset payment.
- If PIL determines that they are owed the offset payments, then the lien coordinator assigned to the case or the unit manager will contact UHA to determine a mutual resolution.
 - The disagreement will be discussed between UHA and PIL.
- UHA shall remit all offset payments to:

Personal Injury Liens Unit
PO Box 14512
Salem, OR 97309

Contractor has no authority to sell or otherwise transfer its rights in the assigned lien, except to OHA or its designee.

Documentation, Reports, and Submissions



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1. Submissions to OHA.

- a. UHA shall annually provide OHA with its Third Party Liability Recovery (TPLR) P&P Guidebook for review and approval. No later than January 31st or, upon renewal of the contract.
 - i. UHA will receive notification via Administrative Notice by OHA within 30 days of submission if the policy has been approved or denied.
- b. UHA/Subrogation subcontractor within five (5) business days after the end of each calendar month. Contractor shall provide the PIL Unit with a report of a list of all compromised, active PIL cases and a list of all PIL cases closed or terminated in a format identified by the PIL Unit. Monthly report shall include the following information:
 - i. Contractors name;
 - ii. All active liens/PIL cases;
 - iii. All liens that were compromised, closed or terminated in the subject month; and
 - iv. For all cases, all of the following information:
 1. The Member's name and Medicaid ID number.
 2. The date of the Member's injury.
 3. The amount of Contractor's lien.
 4. For all compromised, closed or terminated liens:
 - a. The date of any settlement or judgement, if known;
 - b. The gross amount of any settlement or judgement, if known;
 - c. The amount received from any liable third-party; and
 - d. Any other information that PIL may request.
- c. UHA will report all TPL and subrogation/lien recoveries to OHA. UHA shall provide OPAR with administrative notice of the resolution of any liens within thirty (30) days after such resolution has been made.
 - i. The administrative notice must include the following information:
 1. The amount of lien asserted;
 2. The amount received for the release of the lien; and
 3. The settlement amount received by the member (if known).
- d. UHA shall provide OHA with its Lien Release and Lien Filing Templates, via Administrative Notice to OHA's Contract Administrator annually no later than January 31st for review and approval.
- e. OHA will review and approve the Lien Release template via Administrative Notice to UHA's Contract Administrator within 30 days of receipt. In the event OHA disapproves of the Lien Release Template or Lien Filing



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Template or both for failure to comply with this Contract or Applicable Law or (or both), Contractor shall, in order to remedy the deficiencies in such Templates, follow the process set forth in Sec. 5, Ex. D of this Contract.

- f. UHA shall obtain the prior written approval of the PIL Unit before compromising any assigned lien. The PIL Unit will coordinate with UHA or the plaintiff's attorney or both in compromising the PIL Unit's lien or UHA's lien or both. In the even both UHA and OHA have a lien against the same third-party, the lien filed by the PIL Unit is payable before UHA's lien.
 - g. In the event a Member or a third-party initiates litigation to reduce or eliminate Contractor's assigned lien, or in the event Contractor determines litigation is required to defend or pursue Contractor's assigned lien, Contractor shall reassign the assigned lien to OHA as follows:
 - 1. If a Member or a third-party initiates the litigation, Contractor shall promptly, but in no case later than ten (10) days after learning of such initiation, notify OHA via Administrative Notice.
 - 2. Contractor shall cooperate with the PIL Unit by providing all documentation and information requested by the PIL Unit, making witnesses available, and providing any other assistance that may be required to resolve any lien.
 - 3. Contractor's designated officer(s) shall execute the assignment of lien form provided by the PIL Unit and located on the CCO Contract Forms Website.
 - 4. Contractor shall permit the PIL Unit to communicate and work directly with any Subcontractor in order to efficiently undertake and manage any TPL activity.
 - 5. Contractor and its Subcontractor(s) shall enter into any data-sharing agreements as may be requested by the PIL Unit or OHA or both.
 - h. UHA shall provide OHA, via Administrative Notice, its TPLR P&P Guidebook annually no later than January 31st for review and approval. OHA will notify UHA within thirty (30) days from submission of the approval status of its TPLR P&P Guidebook or if additional time is needed for review. In the event OHA does not approve UHA's TPLR P&P Guidebook, Contractor shall follow the process set forth in Sec. 5 of Ex. D to this Contract.
2. Notify DHS Health Insurance Group (HIG) within 30 days from the time it is discovered that a member has individual or group health insurance coverage online through <https://apps.oregon.gov/dhs/opar#>. Retaining the submission for our records.
 3. Notify DHS Office of Payment Accuracy and Recovery PIL Unit within 30 days from the time it is discovered that a member has a TPL claim (e.g. Workers' Compensation or



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motor vehicle accident) online through <https://apps.oregon.gov/OPAR/PIL/>. Retaining the submission for our records.

4. UHA is responsible for documenting the following:
 - a. Maintaining an Excel spreadsheet to document the following:
 - i. Denoting all members identified with TPL or PIL.
 - ii. Recording all TPL or PIL recoveries received.
 - b. Recording investigations that do not result in recovery on the TPR Recovery spreadsheet and in the claims management system.
 - c. Provide monthly reports of all TPL and PIL recoveries and supporting documentation to the Finance Department by the fifth (5th) of each month.
 - i. The Finance Department will use the aforementioned documents to complete the Quarterly L Report they submit to OHA.
 - d. Developing, implementing, and/or maintaining written policies describing procedures for TPL recovery.
 - e. The Lien Release Template will be used when UHA’s members may be entitled to seek recovery from a third party for injury or death. The template clearly states that UHA has the authority to resolve liens assigned to them but that UHA does not have the authority to act on behalf of the State beyond the assigned lien. subrogation contractor will issue this template on UHA’s behalf to the member’s attorney.

PIL and TPL Recovery Requirements

1. UHA and its subcontractors or agents will comply with all federal and state confidentiality requirements when engaging in TPL or PIL recovery actions. Providers will follow the Coordination of Benefits (COB) requirements as stated in the Compensation and Billing section of Provider contract. Providers are required to notify the HIG department of primary payers.
2. UHA and its subcontracts ensures covered services are not refused on the basis of a potential TPL payment for such services.
3. UHA acknowledges the importance of establishing PIL and TPL recovery requirements in accordance with the following State and Federal requirements:
 - a. UHA TPR will take all reasonable measures to ascertain the legal liability of third parties (42 USC § 1396(a)(25)(a)).
 - b. Assignment of rights to benefits and cooperation in obtaining medical support or payments (42 CFR § 433 Subpart D).
 - c. Addressing the processes set forth once a personal injury lien has begun. Accordingly, UHA contracts with an outside attorney firm who fully complies with the above noted regulations and statures in representing its interests (OAR 461-195-0301 to 461-195-0350).



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- d. Disenrollment from CCO and continuity of care (OAR 410-141-3080).
 - e. Process requirements for liens on a recipient’s claim for damages for personal injuries (ORS 416.510 to 416.610).
 - f. Process for filing and releasing liens with the appropriate county clerk in accordance with ORS 416.540 and ORS 416.550.
 - g. For consistency with TPLR requirements as set forth in 42 USC 1396k. Assignment, enforcement and collection of rights of payments for medical care.
 - h. Medicaid not be considered in coverage eligibility determination. When a primary payer over Medicaid is available to utilize such coverage and the insurer may not deny a claim submitted by Medicaid agency or a prepaid managed care health services organization. ORS 743B.470. The State is considered to have acquired the rights of the individual to payment by any other party for those health care items or services ORS 743B.470(3).
 - i. Prohibitions and requirements relating to health insurance 659.830. The State is considered to have acquired the rights of the individual to payment by any other party for those health care items or services 659.830(3).
4. UHA maintains the right to determine when it is not effective to pursue recovery action. Such decisions will be made on a case-by-case basis by the UHA TPR Department. Generally, the only time recovery efforts are declined is on subrogated matters where the projected reclamation amount is less than \$20.00.
 5. UHA is committed to complying with 42 USC § 1395y(b) and 42 CFR Part 411, Subparts C-E which gives Medicare the right to recover its benefits from employer, Worker’s Compensation carriers, liability insurers, automobile or no fault insurers, and employer group health plans before any other entity. UHA acknowledges in the event Medicare presents a TPL based recovery demand; UHA will fully comply with all applicable laws.
 6. The requirement to adjust encounter claims to reflect the amount received or recovered from the primary payer is followed in accordance with policy CA2 – Encounter Data Submission and Validation.

Department	Standard Operating Procedure Title	SOP Number	Effective Date	Version Number
Finance	Third Party Liability Recovery Process	SOP-F18-1	9/23/19	1
Finance	Coordination of Benefits /Personal Injury Liens	SOP-F18-2	10/8/19	1