

June 6, 1986

SUBJECT: INSURANCE

CIRCULAR LETTER NO. 8 (1986)

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To: All Insurers Licensed to Write Accident and Health Insurance in New York State

Subject: Claims Filed by New York State Department of Social Services under the Third Party Recovery Program

Several years ago, the New York State Legislature amended the Insurance Law and the Social Services Law to require the Insurance Department and the Department of Social Services to enter into a cooperative agreement setting forth procedures to be used in identifying the existence of private health insurance coverage on Medicaid recipients. In addition, procedures were to be established for submitting claims of Medicaid recipients for benefits payable under private health insurance. The purpose of the legislation was to reduce Medicaid costs by assisting the Department of Social Services in identifying those medical assistance recipients to whom third party benefits are payable.

The New York State Social Services Law requires that a recipient of medical assistance execute an assignment to the social services district or the Department of Social Services (Medicaid payor), of private insurance benefits to which he/she is entitled. Under this legislation and Section 3212(e)(3)-(4) of the Insurance Law, the Medicaid payer shall also have the right of subrogation to any benefits a Medicaid recipient may have under private health insurance coverage.

Pursuant to Sections 320 and 4311 of the New York Insurance Law, the Superintendent of Insurance and the Commissioner of the Department of Social Services entered into a cooperative agreement which established procedures for obtaining essential information regarding Medicaid beneficiaries for whom benefits might be available under private health insurance contracts. The New York State Department of Social Services has created a Third Party Resources Program to establish the existence of insurance coverage for a Medicaid payee and submit a claim for benefits to the appropriate insurer in exercise of the Medicaid payor's subrogation rights.

The First Amendment to Insurance Department Regulation 88 establishes standard claim forms for the services of physicians, dentists and hospitals which must be accepted by all insurers writing accident and health insurance in New York State when submitted by health care providers or directly by an insured for covered services. In exercising its subrogation rights, the Medicaid payor is also permitted to submit standard claim forms which must be accepted by all insurers as though submitted by the insured or the provider. Any additional information deemed necessary by the insurer for payment of a claim as provided in Section 16.3 of the First Amendment to Regulation 88, should be obtained from the Medicaid payor submitting the claim.

In recognition of the concern of the Legislature that available insurance benefits rather than Medicaid benefits be used to pay covered expenses, insurers are encouraged to cooperate, to the fullest extent possible, in this third party recovery effort.

Very truly yours,

[SIGNATURE]

JAMES P. CORCORAN

Superintendent of Insurance