



# MARYLAND Department of Health

Larry Hogan, Governor · Boyd Rutherford, Lt. Governor · Dennis Schrader, Secretary

## MARYLAND MEDICAL ASSISTANCE PROGRAM MCO Transmittal No. 128 June 28, 2018

TO: Managed Care Organizations  
FROM: Susan J. Tucker, Executive Director, Office of Health Services  
RE: Enrollee State Fair Hearing Process Change; Third-Party Liability Change for Prenatal Care

**NOTE: Please ensure that the appropriate staff members in your organization are informed of the content of this transmittal.**

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### Enrollee State Fair Hearing Process Change

Beginning July 1, 2018, the Maryland Department of Health (MDH) will require managed care organizations (MCOs) to defend their enrollee appeal decisions at State fair hearings to align with the federal requirement in 42 CFR 438.408(f)(3).

MCOs will have more involvement in the State fair hearing process because MCO participation as a party is no longer optional. Going forward, representatives designated by each MCO will be copied on State fair hearing requests to the Office of Administrative Hearings (OAH).

MDH will continue its oversight and mediation role through the Division of Complaint Resolution and attempt to resolve disputes between enrollees and MCOs prior to State fair hearings, if possible. MDH also may request or order MCOs to provide medically necessary services or benefits. MCOs retain the right to appeal orders to OAH to provide services or benefits if they disagree with MDH's determination.

### Third Party Liability Change for Prenatal Care

On June 1, 2018, CMS issued a bulletin about new third-party liability requirements under the Bipartisan Budget Act of 2018 (Pub. L. 115-123), which was passed in February 2018. States and MCOs are no longer permitted to "pay and chase" prenatal claims. For prenatal care services on or after February 9, 2018, MCOs must collect information on third-party liability and

cost avoid before making payments. If states or MCOs suspect a third party may be liable for prenatal claims, they must reject (i.e., not adjudicate) the prenatal claim submitted and instruct the provider to bill the third party. If the provider bills the liable third party and a balance remains or the claim is denied for a substantive reason, the provider can submit the claim to states or MCOs for payment up to the maximum Medicaid payment amount established for the service. This policy should be implemented within the MCO's billing system no later than September 1, 2018.

The CMS bulletin outlining these changes may be found at <https://www.medicaid.gov/federal-policy-guidance/downloads/cib060118.pdf>.

For any questions related to this transmittal, please contact Pam Williams at [pam.williams@maryland.gov](mailto:pam.williams@maryland.gov) or 410-767-3532.