



# Medicaid Third Party Liability Act (H.R. 938)

## Status:

Subcommittee on Health Chairman, Representative Michael Burgess, M.D. (R-TX-26) introduced the Medicaid Third Party Liability (TPL) Act on February 7, 2017. Representative Bill Flores (R-TX-17) and Representative Brett Guthrie (R-KY-2) are co-sponsors. The legislation is pending before the House Energy and Commerce Committee.

## Legislative Details:

- Expands upon the definition of liable third parties to include TriCare
- Ensures that Managed Care Organizations (MCOs) have the same access to data, and is afforded the same claims processing and payment standards by liable third parties as enjoyed by the states
- Imposes a 60-day prompt payment standard for liable third parties
- Prohibits liable third parties from denying claims due to a lack of prior authorization
- Requires liable third parties to pay a claim regardless of where the Medicaid services was consumed or the third party is domiciled
- Eliminates the exclusion of cost avoidance for children that receive Early and Periodic Screening, Diagnostic Treatment (EPSDT) and for services provided to children on child support
- For TPL recoveries associated with populations eligible for enhanced Federal Medical Assistance Percentages (FMAP), states may retain their standard FMAP share before refunding the federal share
- Requires the U.S. Department of Health and Human Services (HHS) to promote TPL training and education, publish best practices, and monitor efforts and challenges faced by states
- Seeks to create uniform TPL reporting via the CMS 64 form
- Extends payer of last resort principles to the Children's Health Insurance Program (CHIP)
- Imposes noncompliance penalties

## Benefits:

This legislation improves upon Medicaid's ability to be the payer of last resort, helps states and the federal government save and recover more dollars, and provides greater transparency into states' TPL efforts. This measure permits states to allow children to maintain CHIP coverage if other health insurance is available, but requires the other health insurance to pay primary to the extent of its liability.

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