



Division of Behavioral Health Services

Division of Compliance

150 North 18th Avenue, Suite 260
Phoenix, Arizona 85007
(602) 364-4670
(602) 364-4762 FAX
Internet: www.azdhs.gov

JANICE K. BREWER, GOVERNOR
WILL HUMBLE, DIRECTOR

TO: RBHA CEOs and TRBHA Directors

FROM: Laura K. Nelson, M.D.
Deputy Director

Margaret McLaughlin
Bureau Chief of Policy

SUBJECT: **POLICY CLARIFICATION: Medicare Opt Out and Third Party Liability Requirements**

DATE: February 9, 2011

This memorandum is intended to clarify the responsibilities of Tribal and Regional Behavioral Health Authorities (T/RBHAs) and T/RBHA providers in meeting the Arizona Department of Health Services/Division of Behavioral Health Services' (ADHS/DBHS) expectations regarding requirements in the following ADHS/DBHS policy:

- [Provider Manual Section 3.5, Third Party Liability and Coordination of Benefits](#)

Medicare regulations allow for physicians and practitioners to “opt out” of Medicare (see the [Medicare Benefit Policy Manual, Chapter 15](#) for additional information). When a physician or practitioner has opted out of Medicare, he/she cannot submit claims to Medicare for covered services*. While ADHS/DBHS has specific requirements to bill applicable third party insurers, such as Medicare, ADHS/DBHS acknowledges the right of physicians and practitioners to opt out of Medicare and supports the inclusion of these physicians/practitioners within the public behavioral health system to meet service needs. The intent of this memorandum is to clarify that T/RBHAs and T/RBHA providers may utilize physicians and practitioners who have opted out of Medicare and continue to meet third party liability and coordination of benefit requirements. However, the following must apply:

- A physician or practitioner who has opted out of Medicare cannot be contracted by the T/RBHA to provide Medicare reimbursable services to Medicare eligible (including dual eligible) behavioral health recipients.
- A behavioral health provider agency that contracts with a physician or practitioner who has opted out of Medicare is responsible for meeting requirements in [Provider Manual Section 3.5, Third Party Liability and Coordination of Benefits](#) and must make arrangements (i.e., contract with a Medicare registered physician or practitioner) should the agency provide services to Medicare eligible behavioral health recipients that are reimbursable through Medicare.

Questions regarding this clarification may be directed to the ADHS/DBHS Policy Office at (602) 364-4670.

*Opting out of Medicare is a voluntary choice on behalf of the physician or practitioner and has no bearing on the legal standing of the physician or practitioner with Medicaid or Medicare.