

*Department of Vermont Health Access  
Insurer Procedure for Determining the Existence of Medicaid Liens*

According to Vermont law 33 V.S.A. § 1908, Medicaid is the payer of last resort. Vermont law 33 V.S.A. § 1910 (b) (1) gives the Department of Vermont Health Access a lien against any insurer, to the extent of the amount paid by the agency for past medical expenses on any recovery by a Medicaid recipient from an insurer if the recipient asserts a claim against an insurer as a result of the same injury, illness, or diseases for which DVHA made payment.

An insurer handling a claim involving a resident of the State of Vermont who has asserted a claim for an injury, illness or disease should take reasonable steps to discover the existence of any lien held by DVHA against the insurer. Such reasonable steps include the following:

1. Handle the claim in a manner that reflects good faith claims handling.
2. Ask the claimant or his or her representative at the beginning of the claims-handling process by telephone, letter or electronic mail if he or she was a Medicaid recipient at the time of the incident, accident or injury. If the answer is in the affirmative, the insurer should contact DVHA and refrain from making payment until the amount of the Medicaid lien is determined.
3. If the claimant or his or her representative responds in the negative to the question posed under number 2, when an insurer receives copies of bills for medical services they should be reviewed to determine if there is any evidence that DVHA has made a payment on the claimant's behalf. If those bills reflect that such payment was made by DVHA, the insurer should refrain from making payment until the amount of the Medicaid lien is determined by contacting DVHA. If those bills do not reflect any payments made by DVHA, the insurer may proceed to resolve the claim. The claim file should contain documentation (*electronic, recorded language, typed or handwritten*) to support the insurer's actions.
4. An insurer may contact DVHA at any time to determine if it has a record of paying for medical services or expenses causally related to an alleged injury illness or disease. ***DVHA may be contacted at DVHATPLTeam@state.vt.us , by telephone at 802-879-5646, or by fax at 802-879-5959.*** The insurer should document the claim files as to when and who was contacted at DVHA. ***DVHA will provide a response within two business days.***
5. If the insurer determines that funds have been paid for causally related medical services or expenses, the insurer must seek to ensure that DVHA is reimbursed a) by the claimant or his or her representative, b) by the insurer to DVHA out of any settlement proceeds or c) by naming DVHA on any monies paid to the recipient.

Upon completion of the foregoing steps, the claim may be closed by the insurer. An insurer that follows these provisions will not be subject to claims of insurer bad faith or duplicate payment to DVHA or the claimant.