

LEGAL OBLIGATION TO PAY

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I. APPLICABILITY

This policy is mandatory for reimbursement of services provided by all providers.

II. ISSUE

Under what circumstances can TRICARE make no payment for services or supplies because the beneficiary has no legal obligation to pay for them?

III. POLICY

TRICARE Management Activity (TMA) cannot pay for services or supplies for which the beneficiary or sponsor has no legal obligation to pay or for which no charge would be made if the beneficiary or sponsor was not eligible under TRICARE. An obligation to pay is defined as a legal debt which is enforceable through a court action. The beneficiary's obligation to pay for services can be abrogated by a number of circumstances which must be judged on the merits of each situation.

IV. EXCEPTIONS

A. Amounts may be paid for which there is no legal obligation to pay in situations involving claims paid under the TRICARE **Diagnosis Related Group (DRG)**-based payment system, the inpatient mental health per diem payment system, **or the reasonable cost method for Critical Access Hospitals (CAHs)** where the allowable amount exceeds the provider's billed charge.

B. Hospitals Which Do Not Charge.

1. According to Section 1079(m) of Chapter 55, Title 10, United States Code (**USC**), certain hospitals can be excepted from the requirement that a beneficiary cost-share be collected for every claim. In order to qualify for this exception the hospital must certify in writing to the responsible contractor that it will:

a. Not impose a legal obligation of any kind on any of its patients; and

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b. Accept and treat TRICARE beneficiaries to the same extent as any other patient or category of patients; and

c. Provide evidence that it has sources of revenue to cover unbilled costs.

2. The contractor is to ensure that payments to such hospitals do not exceed the average amount paid for comparable services in the area and that the hospital's practice of not billing patients does not result in increased costs to TRICARE.

3. Claims for professional services may qualify for this exception only when they are billed through a facility meeting the above criteria. Professional claims billed under a different Employment Identification Number (EIN) or Social Security Number (SSN) will not be exempt from imposing a legal obligation on patients for payment of their cost share or deductible.

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