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State/Territory Name: Texas

State Plan Amendment (SPA) #: 23-0003

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



February 9, 2024

Emily Zalkovsky
State Medicaid Director
Texas Health and Human Services Commission
Mail Code: H100
P.O. Box 13247
Austin, TX 78711-3247

Re: Texas State Plan Amendment (SPA) 23-0003

Dear Director Zalkovsky:

The Centers for Medicare & Medicaid Services (CMS) reviewed the proposed Medicaid State Plan Amendment (SPA) submitted on April 5, 2023, under transmittal number (TN) 23-0003. This amendment proposes to demonstrate compliance with the American Rescue Plan Act (ARP) provisions that require states to cover COVID-19 testing consistent with the Centers for Disease Control and Prevention (CDC) definitions of diagnostic and screening testing for COVID-19 through the submission of the ARP Template Attachment 7.7-B.

Pursuant to section 1135(b)(5) of the Social Security Act (Act), for the period of the public health emergency, CMS is modifying the requirement at 42 C.F.R. §430.20 that the state submit SPAs related to the COVID-19 public health emergency by the final day of the quarter, to obtain a SPA effective date during the quarter, enabling SPAs submitted after the last day of the quarter to have an effective date in a previous quarter, but no earlier than the effective date of the public health emergency.

The State of Texas also requested a waiver to modify the public notice requirements applicable to the SPA submission process. Pursuant to section 1135(b)(5) of the Act, CMS is modifying public notice requirements applicable to the SPA submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for changes to Alternative Benefit Plans (ABPs). Pursuant to section 1135(b)(5) of the Act, CMS is approving the state's request to modify these notice requirements otherwise applicable to SPA submissions.

CMS conducted our review of your submittal according to statutory requirements in Title XIX of the Act and implementing regulations. This letter is to inform you that Texas Medicaid SPA Transmittal Number 23-0003 is approved effective March 11, 2021.

If you have any questions, please contact Tobias Griffin at 214-767-4425 or via email at Tobias.Griffin@cms.hhs.gov.

Sincerely,

**Alissa M.
Deboy -S**

Digitally signed by Alissa
M. Deboy -S
Date: 2024.02.09
07:34:44 -05'00'

Alissa Mooney DeBoy
On Behalf of Anne Marie Costello, Deputy Director
Center for Medicaid and CHIP Services

Enclosures

<p>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES</p>	<p>1. TRANSMITTAL NUMBER <u>2 3 0 0 0 3</u></p>	<p>2. STATE <u>T X</u></p>
<p>TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES</p>	<p>3. PROGRAM IDENTIFICATION: TITLE <u>XIX</u> OF THE SOCIAL SECURITY ACT</p>	
<p>5. FEDERAL STATUTE/REGULATION CITATION §1905(a)(4)(F) of the Social Security Act</p>	<p>4. PROPOSED EFFECTIVE DATE March 11, 2021</p>	
<p>7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT 7.7 B- COVID-19 Testing Template</p>	<p>6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) See Attachment. a. FFY <u>2021</u> \$ <u>69,748,154</u> b. FFY <u>2022</u> \$ <u>120,202,504</u></p>	
<p>9. SUBJECT OF AMENDMENT The proposed amendment documents coverage of COVID-19 tests as a benefit in Texas Medicaid, including at-home tests provided through a pharmacy.</p>	<p>8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) N/A</p>	

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.

<p>11. SIGNATURE OF STATE AGENCY OFFICIAL</p> <div style="background-color: black; width: 100px; height: 40px; margin: 5px 0;"></div> <p>(Signing on behalf of Stephanie Stephens, State Medicaid Director)</p>	<p>15. RETURN TO</p> <p style="text-align: center;">Stephanie Stephens State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711</p>
<p>12. TYPED NAME Emily Zalkovsky</p>	
<p>13. TITLE Deputy State Medicaid Director</p>	
<p>14. DATE SUBMITTED April 5, 2023</p>	

FOR CMS USE ONLY

<p>16. DATE RECEIVED April 5, 2023</p>	<p>17. DATE APPROVED February 9, 2024</p>
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PLAN APPROVED - ONE COPY ATTACHED

<p>18. EFFECTIVE DATE OF APPROVED MATERIAL March 11, 2021</p>	<p>19. SIGNATURE OF APPROVING OFFICIAL Alissa Mooney DeBoy -S <small>Digitally signed by Alissa M. DeBoy -S Date: 2024.02.09 07:35:22 -05'00'</small></p>
<p>20. TYPED NAME OF APPROVING OFFICIAL Alissa Mooney DeBoy</p>	<p>21. TITLE OF APPROVING OFFICIAL On Behalf of Anne Marie Costello, Deputy Director Center for Medicaid and CHIP Services</p>

22. REMARKS

COVID-19 Testing at section 1905(a)(4)(F) of the Social Security Act

During the period starting March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (the Act):

Coverage

X The states assure coverage of COVID-19 testing consistent with the Centers for Disease Control and Prevention (CDC) definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19.

X The state assures that such coverage:

1. Includes all types of FDA authorized COVID-19 tests;
2. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
3. Is provided to the optional COVID-19 group if applicable; and
4. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Please describe any limits on amount, duration or scope of COVID-19 testing consistent with 42 CFR 440.230(b).

- COVID-19 testing includes molecular, antibody, and antigen testing.
- Prior authorization is not required for COVID-19 lab test by Medicaid health plans or by traditional Medicaid.
- COVID testing benefits are not diagnosis restricted.
- A COVID-19 specimen handling or transfer from the patient in a non-office setting to a laboratory is limited to once per day. This limitation may be exceeded with documentation of medical necessity.

The most up to date information on Texas Medicaid COVID Testing may be found at [Medicaid and CHIP Services Information for Providers](#)

- Covered at-home tests are selected based on Emergency Use Authorization (EUA) or approval from the U.S. Food & Drug Administration. The list of covered tests can be found by using the Product Search located at <https://www.txvendordrug.com/formulary/formulary-search>.

- Clients may obtain COVID-19 at-home test kits from a Medicaid-enrolled pharmacy with or without a prescription from a prescribing provider.
- Clients may obtain a maximum quantity of 4 at-home tests or 2 at-home test kits per calendar month. At-home test limits may be exceeded to a maximum of 8 at-home tests or 4 at-home test kits with prior authorization.

Applies to the state’s approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

X The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):

Reimbursement

 The state assures that it has established state plan rates for COVID-19 testing consistent with the CDC definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19.

List references to Medicaid state plan payment methodologies that describe the rates for COVID-19 testing for each applicable Medicaid benefit:

X The state is establishing rates for COVID-19 testing pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

 The state’s rates for COVID-19 testing are consistent with Medicare rates for testing, including any future Medicare updates at the:

- Medicare national average, OR
- Associated geographically adjusted rate.

X The state is establishing a state specific fee schedule for COVID-19 testing pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

The state’s rate is as follows and the state’s fee schedule is published in the following location :

Except as otherwise noted in the plan, state-developed fee schedule rates for COVID-19 testing are the same for both governmental and private providers as documented on Page 1c of Attachment 4.19-B. All rates are published

<http://public.tmhp.com/FeeSchedules/Default.aspx>.

A flat rate for at-home tests with no dispensing fees: fixed Limited Home Health Flat Price units without dispensing fees or will pay lesser of the total calculated price or Usual & Customary or Gross Amount Due. At-home tests provided through pharmacy benefits are published on the Vendor Drug Program website and can be found by using the Product Search at <https://www.txvendordrug.com/formulary/formulary-search>.

The state's fee schedule is the same for all governmental and private providers.

The below listed providers are paid differently from the above rate schedules and payment to these providers for COVID-19 testing is described under the benefit payment methodology applicable to the provider type:

Additional Information (Optional):

The payment methodologies for COVID-19 testing for providers listed above are described below:

PRA Disclosure Statement Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 75). Public burden for all of the collection of information requirements under this control number is estimated to take up to 1 hour per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.