

Table of Contents

State Name: Virginia

State Plan Amendment (SPA) #: 23-0014

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

December 21, 2023

Cheryl J. Roberts, Director
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, VA 23219

Re: Virginia State Plan Amendment 23-0014

Dear Director Roberts:

The Centers for Medicare & Medicaid Services (CMS) has reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 23-0014. This amendment provides reimbursement for services provided by licensed pharmacists, and pharmacy interns and pharmacy technicians supervised by pharmacists, who are acting within their scope of practice or in a collaborative agreement with a provider licensed in Virginia or are specified in Board of Pharmacy protocols for licensure that have been reviewed and accepted by the Department of Medical Assistance Services and are services covered by Medicaid.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations Title 42 of the Code of Federal Regulations (CFR) §440. This letter is to inform you that Virginia Medicaid SPA 23-0014 was approved on December 20, 2023, with an effective date of November 1, 2023.

Please note that accompanying this approval of SPA 23-0014, there is an enclosed companion letter regarding the need for Virginia to make modifications to Attachment 3.1-A&B Supplement 1, Page 10 regarding practitioners covered under the other licensed practitioners benefit consistent with 42 CFR 440.60.

If you have any questions, please contact Margaret Kosherzenko at 215-861-4288 or via email at Margaret.Kosherzenko@cms.hhs.gov.

Sincerely,

A solid black rectangular box redacting the signature of James G. Scott.

James G. Scott, Director
Division of Program Operations

Enclosure

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

December 21, 2023

Cheryl J. Roberts, Director
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, VA 23219

Re: Virginia State Plan Amendment 23-0014

Dear Director Roberts:

This letter is sent as a companion to Centers for Medicare & Medicaid Services approval of Virginia (VA) state plan amendment Transmittal Number (TN) 23-0014, which updates the other licensed practitioner (OLP) benefit to cover services under a licensed pharmacist's scope of practice and through collaborative agreements with OLPs. During our review of VA 23-0014, we identified the same page review concerns on Attachment 3.1-A&B Supplement 1, Page 10 that need to be addressed.

Section 1902(a)(4) of the Social Security Act (the Act) requires that the state use methods of administration found by the Secretary to be "necessary for the proper and efficient administration of the plan." Implementing regulations at 42 CFR § 430.10 provides that, "the State plan is a comprehensive written statement submitted by the agency describing the nature and scope of its Medicaid program and giving assurance that it will be administered in conformity with the specific requirements of title XIX, the regulations in this Chapter IV, and other applicable official issuances of the Department. The State plan contains all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation (FFP) in the State program."

CMS concluded that Attachment 3.1-A&B Supplement 1, Page 10 does not contain sufficient information to determine that the state plan is a comprehensive written statement that conforms with the requirements of Title XIX of the Act.

Optometrists

- The state references coverage of ophthalmologist services. Are ophthalmologists licensed as a Doctor of Medicine or Osteopathy under Virginia law? If so, then please delete ophthalmologists from the plan page as they are coverable under the physician services benefit at 42 CFR 440.50 rather than the OLP benefit. A corresponding description on the physician services pages is not necessary.

- Do optometrists and opticians need to be licensed to furnish diagnostic examination and optometric services in Virginia? Per 42 CFR 440.60, a state may cover medical or remedial care furnished by licensed practitioners, other than physician services, within the scope of their practice as defined by state law. A state may cover unlicensed practitioners under the OLP benefit only if the unlicensed practitioner is supervised by a covered licensed practitioner and the services are within the licensed practitioner's scope of practice. Please clarify on the plan page:
 - Which practitioners are licensed and that services are within their scope of practice under state law.
 - If any of these practitioners are not licensed, then please indicate on the plan page which covered licensed practitioner(s) supervises or assumes professional responsibility for the unlicensed practitioner (for example, a licensed pharmacist supervises or takes professional responsibility for pharmacy interns, etc.).

Licensed Mental Health Professionals

The state indicates in subsection D. that, *"In accordance with 42 CFR 440.60, licensed or registered practitioners (including an LMHP, LMHP- R, LHMP-RP, or LMHP-S, as defined in Attachment 3.1 A&B, Supplement 1, page 31 and 31.1) may provide medical care or any other type of remedial care or services, other than physician services, within the scope of practice as defined under state law."* It is not clear which licensed practitioners the state is indicating are covered (i.e., is it only the listed licensed mental health professionals (LMHPs) or are there other licensed practitioners?) and the state must list which licensed practitioners are covered under the OLP benefit. Please clarify the licensed practitioners covered under this subsection. If any of these practitioners are not licensed, then please indicate on the plan page which covered licensed practitioner(s) supervises or assumes professional responsibility for the unlicensed practitioner.

We look forward to your response to our letter within 90 days. During the 90-day period, we are happy to provide any technical assistance that you need.

If you have any questions, please contact Margaret Kosherzenko at 215-861-4288 or via email at Margaret.Kosherzenko@cms.hhs.gov.

Sincerely,



James G. Scott, Director
Division of Program Operations

cc: Emily McClellan

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER
2 3 — 0 0 1 4

2. STATE
V A

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT
 XIX XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
11/1/2023

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 440

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2024 \$ 0
b. FFY 2025 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Attachment 3.1 A&B, Supplement 1, revised page 10
Attachment 4.19-B, revised page 6.2.1.3


8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
Same as box #7.

9. SUBJECT OF AMENDMENT
Pharmacists as Providers

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:
Secretary of Health and Human Resources

11. SIGNATURE OF STATE AGENCY OFFICIAL


15. RETURN TO
Department of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219
Attn: Policy, Regulations, and Manuals Supervisor

12. TYPED NAME
Cheryl J. Roberts, JD

13. TITLE
Agency Director

14. DATE SUBMITTED
09/14/23


FOR CMS USE ONLY

16. DATE RECEIVED
10/16/2023

17. DATE APPROVED
12/20/2023

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
11/01/2023

19. SIGNATURE OF APPROVING OFFICIAL


20. TYPED NAME OF APPROVING OFFICIAL
James G. Scott

21. TITLE OF APPROVING OFFICIAL
Director, Division of Program Operations

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**AMOUNT, DURATION, AND SCOPE OF MEDICAL
AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY
and MEDICALLY NEEDY**

6. Medical care by other licensed practitioners within the scope of their practice as defined by State Law.

A. Podiatrists' Services.

1. Covered Podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by State law.
2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.
3. The Program may place appropriate limits on a service based on medical necessity and/or for utilization control.

B. Optometrists' Services.

1. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all requirements. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' Services

1. Not provided.

D. In accordance with 42 CFR 440.60, licensed or registered practitioners (including an LMHP, LMHP-R, LHMP-RP, or LMHP-S, as defined in Attachment 3.1 A&B, Supplement 1, page 31 and 31.1) may provide medical care or any other type of remedial care or services, other than physician services, within the scope of practice as defined under state law.

E. Pharmacist, Pharmacy Intern and Pharmacy Technician Services

Services provided by licensed pharmacists, and pharmacy interns and pharmacy technicians supervised by pharmacists, are covered when those services are provided by pharmacists, and pharmacy interns and pharmacy technicians supervised by pharmacists, who are acting within their scope of practice or in a collaborative agreement with a provider licensed in Virginia or are specified in Board of Pharmacy protocols for licensure that have been reviewed and accepted by DMAS and are services covered by Medicaid. Collaborative agreements can be with any licensed podiatrist or licensed advanced practice registered nurse or physician assistant. The scope of services that are covered under a collaborative agreement are limited to those under the licensed provider's scope of practice.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE-
OTHER TYPES OF CARE**

§ 6 d Other Practitioners Services

Vaccines administered by pharmacies (pharmacists, pharmacy interns, or pharmacy technicians) shall be reimbursed at the cost of the vaccine plus an administration fee not to exceed \$16. Vaccines obtained at no cost to the pharmacy shall be reimbursed for the administration fee only. No dispensing fee will be reimbursed.

Services administered by pharmacists, and pharmacy interns and pharmacy technicians supervised by pharmacists, as defined on page 10 of Supplement 1 to Attachment 3.1-A&B are paid based on codes which are listed in the Agency's fee schedule rate. All rates are published on the agency's website at <https://www.dmas.virginia.gov/for-providers/procedure-fee-files-cpt-codes/>. Except as otherwise noted in the plan, State developed fee schedule rates are the same for both governmental and private providers.