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State/Territory Name: North Dakota

State Plan Amendment (SPA) #: 24-0002

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 AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850



Financial Management Group

April 15, 2024

Sarah Aker
Director
ND Department of Human Services
600 East Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

Re: North Dakota 24-0002

Dear Sarah Aker:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 24-0002. Effective for dates of services on or after January 1, 2024, this amendment implements a nursing facility (NF) incentive program for in-state nursing facilities.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30) and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C. We are pleased to inform you that Medicaid State plan amendment TN 24-0002 is approved effective January 1, 2024. The CMS-179 and the amended plan pages are attached.

If you have any questions, please contact Christine Storey at Christine.storey@cms.hhs.gov.

Sincerely,



Rory Howe
Director

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

1. TRANSMITTAL NUMBER

2 4 — 0 0 0 2

2. STATE

ND

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

January 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR 447, Subpart C, 42 CFR 447.252

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2024 \$ 2,152,800
b. FFY 2025 \$ 4,077,600

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-D, Subsection 1, pages TOC, 67 and 67a

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-D, Subsection 1, pages TOC (TN 21-0022) and 67 (TN 09-007)

9. SUBJECT OF AMENDMENT

Amends the State Plan to implement a nursing facility incentive program for instate nursing facilities.

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:

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME
Sarah Aker

13. TITLE
Medical Services Director

14. DATE SUBMITTED
January 18, 2024

15. RETURN TO

Sarah Aker, Director
Medical Services Division
ND Department of Health and Human Services
600 East Boulevard Avenue Dept 325
Bismarck ND 58505-0250

FOR CMS USE ONLY

16. DATE RECEIVED: January 18, 2024

17. DATE APPROVED
April 15, 2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2024

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL: Rory Howe

21. TITLE OF APPROVING OFFICIAL: Director, Financial Management Group (FMG)

22. REMARKS

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Section 33 – Supplemental Payment Rates for Non-State Government Owned and Operated Nursing Facilities:

North Dakota nursing facilities with a licensed capacity under 31 beds that are owned and operated by a unit of government (county or municipality) may also receive a supplemental payment for costs in excess of the costs that are included in the established rate for nursing facility care.

To qualify for a supplemental payment, a nursing facility must have costs that result in established rates exceeding the limits applied in accordance with the state plan. The state shall determine a supplemental payment rate for the rate weight of one based on the rate calculated for a facility's inflated prospective costs prior to application of any limits for the rate year less the facility's reimbursement rate for the rate weight of one that is otherwise established in accordance with the state plan governing Medicaid nursing facility reimbursement.

The supplemental payment rate established in accordance with this provision will be the difference between the nursing facility's Medicaid per diem cost per day for the rate weight of one, increased by the adjustment factor identified in Section 24 and the Medicaid nursing facility per diem rate for the rate weight of one established in accordance with the state plan. The supplemental payment will be paid in a lump sum on a quarterly basis for each Medicaid day of care provided during the previous quarter. The Medicaid days of care will be multiplied times the supplemental payment rate in effect for the quarter for which the Medicaid days are reported. The supplemental payment rate must also comply with the Medicare upper payment limit at 42 CFR 447.272.

New facilities requesting and receiving a supplemental payment rate in accordance with these provisions shall have an interim supplemental payment rate established. The interim supplemental payment rate will be subject to retroactive adjustment and settlement, following the same methodology used for the standard nursing facility rates as described in Section 28 – Special Rates.

 TN No. 24-0002

Supersedes

Approval Date April 15, 2024Effective Date: 01-01-2024TN No. 09-007

Section 34 – Nursing Facility Incentive Program

North Dakota Medicaid-certified nursing facilities with Medicaid paid days and with at least ten months of operation in the prior federal fiscal year may be eligible for a Nursing Facility Incentive Program supplemental payment. A nursing facility that has announced that they are closing will not be eligible for the supplemental payment.

Nursing facilities performance in quality measures will be assessed annually over the prior federal fiscal year. Each nursing facility will be awarded a total sum of points based on selected quality measures that are all from publicly reported data and then placed in one of four tiers.

The quality measures are available on the North Dakota Department of Health and Human Services website at the following address: <https://www.hhs.nd.gov/nursing-facility-incentive-program>

The base daily incentive rate will be calculated by dividing the total funds of eight million dollars by the total number of eligible nursing facility Medicaid paid days in the prior federal fiscal year. The base incentive payment will be calculated by multiplying the daily incentive rate times by each nursing facility's eligible Medicaid paid days for the prior federal fiscal year.

For incentive payments made prior to June 30, 2024: the total funds will be four million dollars and the time period of the eligible nursing facility Medicaid paid days will be April 1, 2023 to September 30, 2023.

Base incentive payments will be distributed as follows:

- Nursing facilities in tier 1 will receive 100% of their base incentive payment.
- Nursing facilities in tier 2 will receive 85% of their base incentive payment.
- Nursing facilities in tier 3 will receive 60% of their base incentive payment.
- Nursing facilities in tier 4 are not eligible for a base incentive payment.

Any dollars not distributed in the base incentive payment will be distributed in a secondary payment as follows:

- 20% will be paid to nursing facilities in tier 1 based on their eligible Medicaid paid days for the base incentive payment.
- 80% will be paid to nursing facilities in tier 1 and tier 2 based on their eligible Medicaid paid days for the base incentive payment.

Total incentive payments will be the sum of the base incentive payments and the secondary payments. Incentive payments will be made annually by June 30 following the end of the federal fiscal year. Incentive payments will not exceed the total funds.

Complete details including data sources and details on the four tiers are available on the North Dakota Department of Health and Human Services website at the following address: <https://www.hhs.nd.gov/nursing-facility-incentive-program>

This supplemental payment is for state governmental, nonstate governmental and private ownership categories. The supplemental payment established in accordance with this provision may not exceed the difference between the nursing facility Medicaid expenditures and the Medicare upper payment limit, in the aggregate, for nursing facility services, as defined in 42 CFR 447.272.

TN No. 24-0002

Supersedes

TN No. NEW

Approval Date April 15, 2024

Effective Date: 01-01-2024