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**State/Territory Name: Vermont**

**State Plan Amendment (SPA) #: 21-0017**

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  
601 E. 12th St., Room 355  
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

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February 25, 2022

**VIA E-MAIL**

Mike Smith, Secretary  
Vermont Agency of Human Services  
280 State Drive - Center Building  
Waterbury, VT 05671

Re: Vermont State Plan Amendment (SPA) 21-0017

Dear Secretary Smith:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0017. This amendment updates Vermont's coordination of benefits and third-party liability policies per the Bipartisan Budget Act of 2018 and the Medicaid Services Investment and Accountability Act of 2019. This letter is to inform you that Vermont's Medicaid SPA Transmittal Number 21-0017 was approved February 24, 2022 and effective December 31, 2021.

If you have questions concerning this letter, please contact Gilson DaSilva, Division of Program Operations (South Branch) at (617) 565-1227 or via e-mail at [Gilson.dasilva@cms.hhs.gov](mailto:Gilson.dasilva@cms.hhs.gov).

Sincerely,



James G. Scott  
Division of Program Operations

cc: Dylan Frazer, Deputy Director of Medicaid Policy

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

1. TRANSMITTAL NUMBER 2 1 — 0 0 1 7 2. STATE VT

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  
12/31/2021

5. FEDERAL STATUTE/REGULATION CITATION  
42 CFR §433.135

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)  
a. FFY 2022 \$ 0  
b. FFY 2023 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  
Page 69a; Att. 4.22-A; Att. 4.22-B pages 1 and 2

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  
Page 69a; Att. 4.22-A; Att. 4.22-B page 1

9. SUBJECT OF AMENDMENT  
Coordination of Benefits Update: This amendment updates Vermont's coordination of benefits/third party liability policies per the Bipartisan Budget Act of 2018 and the Medicaid Services Investment and Accountability Act of 2019.

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: Approval from Agency of Admin.  
**Kristin Clouser**  
Digitally signed by Kristin Clouser  
Date: 2021.12.29 12:30:04 -05'00'

12. TYPED NAME  
Michael K. Smith

13. TITLE  
SECRETARY, AGENCY OF HUMAN SERVICES


14. DATE SUBMITTED  
12/30/2021

15. RETURN TO  
DYLAN FRAZER  
DEPARTMENT OF VERMONT HEALTH ACCESS  
280 STATE DRIVE  
WATERBURY , VT 05671-1010  
DYLAN.FRAZER@VERMONT.GOV

**FOR CMS USE ONLY**

16. DATE RECEIVED 12/30/2021 17. DATE APPROVED 02/24/2022

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL 12/31/2021 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

Revision: HCFA-PM-94-1 (MB)  
FEBRUARY 1994

State/Territory: Vermont

Citation

42 CFR  
433.139(b)(3)(ii)(A)

(c) Providers are required to bill liable third parties when services covered under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency.

42 CFR 433.139(b)  
(3)(ii) (C)

(d) ATTACHMENT 4.22-B specifies the following:

42 CFR 433.139(f)(2)

(1) The method used in determining a provider's compliance with the third party billing requirements at §433.139(b)(3)(ii)(C).

42 CFR 433.139(f)(3)

(2) The threshold amount or other guideline used in determining whether to seek recovery of reimbursement from a liable third party, or the process by which the agency determines that seeking recovery of reimbursement would not be cost effective.

42 CFR 447.20

(3) The dollar amount or time period the State uses to accumulate billings from a particular liable third party in making the decision to seek recovery of reimbursement.

(e) The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 447.20.

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TN No. 21-0017

Effective Date: 12/31/2021

Supersedes

TN No. 94-9

Approval Date: 02/24/2022

## STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Vermont

## Requirements for Third Party Liability

## 42 CFR 433.138(f)

The Medicaid claims processing system produces monthly reports on accident claims having potential Third Party Recovery.

## 42 CFR 433.138(g) (1)(ii) and (2)(ii)

SWICA Employment Data Exchanges are run quarterly on all Medicaid recipients and exchanges on new Medicaid recipients are run monthly. SWICA Health Insurance information is not available. SSA Data Exchanges are run twice per month.

Automated file maintenance of eligibility case files establishes the existence of Third Party Resources. Health insurance information is obtained upon initial application and redetermination and incorporated into the eligibility case file and the Medicaid claims processing system. Vermont Medicaid receives a monthly file from State Workers Compensation. Data exchanges with the IV-A Agency are instantaneous via Shared Automated System.

## 42 CFR 433.138(g)(3)(i) and (iii)

State Motor Vehicle accident report files are received annually. State motor vehicle accident report data and recovery occurs annually. The threshold amount for recovery of motor vehicle cases is \$200.

## 42 CFR 433.138(g) (4)(i) through (iii)

Vermont Medicaid follows up within 30 days to identify all related potential accident recoveries.

TN No. 21-0017  
Supersedes  
TN No. 87-17

Effective Date: 12/31/2021Approval Date: **02/24/2022**

HCFA ID: 1076P/0019P

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Vermont

Requirements for Third Party Liability  
Payments of Claims

Vermont Medicaid’s third party liability (TPL) functions primarily through cost avoidance. Except where excluded by federal law, claims for medical services are cost avoided and providers must bill third parties prior to billing Medicaid.

(1) Requirements for TPL billing

Standard coordination of benefits cost avoidance is used when processing claims for prenatal services, including labor and delivery and postpartum care claims.

1902(a)(25)(E)(i) – Vermont Medicaid makes payments without regard to third party liability for pediatric preventive services including early and periodic screening, diagnosis, and treatment services unless Vermont Medicaid has made a determination related to cost effectiveness and access to care that warrants cost avoidance for 90 days.

42 CFR §433.139(b)(3)(ii)(c) – Where medical support is being enforced by the state Title IV-D Agency, the provider is required to provide written documentation that the third party has been billed, and the provider has not received payment from the third party. Vermont Medicaid will cost avoid for at least 100 days after the provider has requested payment from the third party.

42 CFR 433.147(c) – Vermont Medicaid will exempt third party recovery, as determined by the State Medicaid agency, based on privacy concerns for services rendered when it is anticipated that cooperation will result in reprisal against, and cause physical or emotional harm to, the individual or other person, or is deemed to be against the best interest of a child.

TN: 21-0017  
Supersedes  
TN: 90-11

Effective Date: 12/31/2021  
Approval Date: 02/24/2022  
HCFA ID: 1076P/0019P

## STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: VermontRequirements for Third Party Liability  
Payments of Claims (continued)

## (2) Threshold Amounts 42CFR §433.139 (f)(2) &amp; (f)(3)

The threshold amount for instituting recovery from a potentially liable third party is \$100.00 in Medicaid payments made on behalf of an individual recipient within three years from date of service. Claims less than the threshold amount are accumulated and submitted with claims of \$100.00 or over in Medicaid payments.

The threshold amount for instituting recovery from a potential third party payer in automobile casualty cases is \$200.00 for Medicaid payments made on behalf of an individual recipient within one year from date of service unless such recovery effort is deemed not cost effective. Where a determination is made that a casualty case exceeding the \$200.00 threshold is not cost-effective to pursue, the file will be annotated to show the basis for the determination.

These threshold amounts are set at amounts determined to be cost-effective after review and study of recovery cases.

The Vermont Medicaid pursues recovery of paid claims from third parties for up to three years from the date of service.

The method of assuring provider compliance with 42 CFR §447.20 is:

1. The Medicaid Provider Agreement requires it.
2. Providers have been given specific notice.
3. Vermont Medicaid receives and resolves beneficiary issues regarding third party liability.

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 TN: 21-0017
Effective Date: 12/31/2021

Supersedes

TN: 90-11Approval Date: 02/24/2022