

## **Table of Contents**

**State/Territory Name: Alabama**

**State Plan Amendment (SPA) #: 11-021**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES  
7500 Security Boulevard, Mail Stop 22642  
Baltimore, Maryland 21244-1850



**Centers for Medicaid and CHIP Services (CMCS)**

Stephanie Azar  
Acting Commissioner  
Alabama Medicaid Agency  
501 Dexter Avenue  
P.O. Box 5624  
Montgomery, Alabama 36103-5624

JUL - 3 2012

RE: State Plan Amendment (SPA) AL 11-021

Dear Ms. Azar:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 11-021. Effective January 1, 2012 this amendment proposes to revise the payment methodology for nursing facility services. Specifically, the amendment proposes to provide an enhance payment of \$120 per day to qualified nursing facilities for ventilator dependent or qualified tracheostomy services.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR Part 447. We have found that the proposed reimbursement methodology complies with applicable requirements and therefore have approved them with an effective date of January 1, 2012. We are enclosing the CMS-179 and the amended approved plan pages.

If you have any questions, please call Stanley Fields at (502) 223-5332.

Sincerely,

/s/

Cindy Mann  
Director, CMCS

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:  
AL-11-021

2. STATE  
Alabama

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE  
January 1, 2012

5. TYPE OF PLAN MATERIAL (*Check One*):

- NEW STATE PLAN                       AMENDMENT TO BE CONSIDERED AS NEW PLAN                       AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION:  
42 CFR 430 Subpart B

7. FEDERAL BUDGET IMPACT:  
a. FFY 12            (\$2,000,000)  
b. FFY 13            (\$2,500,000)

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (*If Applicable*):

Attachment 4.19-D, pages 8 and 10a

Attachment 4.19-D, pages 8 and 10a

10. SUBJECT OF AMENDMENT:

This amendment will allow the Medicaid Agency to pay nursing facilities a supplemental fee-for-service payment for care provided to Medicaid recipients who are ventilator-dependent or qualified tracheostomy residents of a nursing facility. Coverage includes, but is not limited to, individuals currently on the Technology Assisted Waiver for Adults and the Private Duty Nursing program who meet the criteria to receive care in the nursing facility based upon their need for ventilator-dependent/tracheostomy treatment. This change is expected to result in a decrease in the federal and state budgets because the cost of serving the ventilator-dependent/tracheostomy individuals in the nursing facility is less than the cost of providing skilled services in the community. Additionally, changes are being made to page 8 to be consistent with State reimbursement regulations.

11. GOVERNOR'S REVIEW (*Check One*):

- GOVERNOR'S OFFICE REPORTED NO COMMENT                       OTHER, AS SPECIFIED:  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED                      Governor's designee on file  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL                      via letter with CMS

12. SIGNATURE OF STATE AGENCY OFFICIAL:

//s//

16. RETURN TO:

R. Bob Mullins, Jr., MD  
Commissioner  
Alabama Medicaid Agency  
501 Dexter Avenue  
Post Office Box 5624  
Montgomery, Alabama 36103-5624

13. TYPED NAME:

R. Bob Mullins, Jr., MD

14. TITLE: Commissioner

15. DATE SUBMITTED: 10-07-11

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: 11/04/11  
10/07/11

18. DATE APPROVED: 07-03-12

**PLAN APPROVED – ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL: 01/01/12

20. SIGNATURE OF REGIONAL OFFICIAL:  
//s//

21. TYPED NAME:  
Cindy Mann

22. TITLE: Director

23. REMARKS:

Approved with the following changes to block 8 and 9.  
Block # 8 changed to read Attachment 4.19-D, pages 8, 8.1, 9, 10, 10a  
Block #9 changed to read Attachment 4.19-D, pages 8, 8.1, 9, 10, 10a

**Effective Date 01/16/2012**

8. For reimbursement, all nursing facility providers will be grouped into three (3) functional categories: NF, NF/IMD, and NF/IDD. All similar allowable costs will be categorized into one of four (4) groups: operating costs, direct patient care cost, indirect patient care cost, and property cost. NF/IMD and NF/IDD facilities will be exempt from all ceilings.

(a) **Operating Costs** - The ceiling for operating costs will be at the median cost per patient day plus 5% for each of the two bed size groupings. Actual allowable reported cost per patient day up to the ceiling will be used to establish the rates.

The allowable management and administrative cost for each facility will be divided by reported patient days. All nursing facilities will be grouped by the number of beds in the facility and the operating costs for each facility will be separated into two bed size groupings, 75 beds or less and 76 beds and over. Each grouping will be arrayed by the cost per patient day. The median plus 5 percent will be determined for each grouping that will be the ceiling. This ceiling, or actual cost, whichever is less will be used for each provider's rate computation.

Ceilings are determined annually based upon allowable cost submitted in the Alabama Medicaid Nursing Home cost reports ending June 30<sup>th</sup> of each year.

(b) **Direct Patient Care Cost** - The ceiling for the direct patient care costs is the median cost per patient day plus 10%. Actual allowable reported cost per patient day plus 11% not to exceed the established ceiling plus 11% will be used to establish the rates.

Direct care costs, consisting of nursing services, raw foods, medical director, nursing consultant, pharmacy consultant and dental consultant for each facility will be divided by reported patient days. These costs per patient day will be arrayed and the ceiling for the direct patient care cost center will be the median cost per patient day plus 10 percent. The provider's actual allowable reported cost per patient day plus 11 percent not to exceed the established ceiling plus 11 percent whichever is less will be used for each provider's rate computation.

Ceilings are determined annually based upon allowable cost submitted in the Alabama Medicaid Nursing Home cost reports ending June 30<sup>th</sup> of each year.

(c) **Indirect Patient Care Cost** - The ceiling for indirect patient care cost is the median cost per patient day plus 10%. Actual allowable reported cost per patient day plus 50% of the difference between reported cost and the ceiling up to the ceiling amount will be used to established rates.

Costs for plant operations, dietary (minus raw foods), laundry (less costs associated with patient personal laundry), activities, social services, housekeeping, beauty and barber (if provided free of charge), dietary consultant, social services consultant, and other allowable costs,

will be divided by reported patients days. These costs per patient day will be arrayed and a median cost per patient day will be determined. The ceiling for indirect patient care costs is the median cost per patient day plus 10 percent. The providers actual allowable reported cost per patient day plus 50 percent of the difference between actual allowable cost and the established ceiling up to the ceiling amount, will be used for each provider's rate computation.

Ceilings are determined annually based upon allowable cost submitted in the Alabama Medicaid Nursing Home cost reports ending June 30<sup>th</sup> of each year.

(d) Property Cost - Property costs will be reimbursed under a fair rental system as set out in the Nursing Facility Reimbursement Chapter (Chapter 22) of the Alabama Medicaid Agency Administrative Code. Facilities categorized as NF/IMD will be reimbursed a usage allowance of 2% for building values and 6 2/3% for equipment instead of the fair rental.

Current Asset Values for Nursing Homes are based upon historical data rebased annually using Marshall Swift Evaluation. Allowable interest expense, property taxes and property insurance are determined from the annual Alabama Medicaid Nursing Home cost report ending June 30<sup>th</sup> of each year or the latest available cost report.

(e) Reimbursement will be the sum of these cost groupings as adjusted under the provisions of Chapter 22 of the Alabama Medicaid Agency Administrative Code.

Allowable cost is determined based upon the annual Alabama Medicaid Nursing Home cost report ending June 30<sup>th</sup> of each year of the latest available cost report.

**Effective Date: 10/01/90**

9. The on-site audits conducted in accordance with generally accepted auditing standards will result in an audit report which will contain the auditor's opinion as to whether, in all material respects, the uniform cost report includes only expense items allowable under the Alabama State Plan, as detailed under Section III of this attachment, and that the expense items included are accurately determined, attributed, and are reasonable. These audit reports shall be kept by the Alabama Medicaid Agency for at least three (3) years following the date of submission of such reports, and will be maintained pursuant to the record keeping and reporting requirements of 42 CFR §431.16.

B. Alabama has determined that the payment rates resulting from the Alabama Medicaid Agency methods and standards are at least equal to the level at which the State calculates a facility can be economically and efficiently operated.

C. Payment rates to SNF's and ICF's are determined prospectively with an annual recalculation of applicable rates. Alabama does not, however, adjust the per diem reimbursement rates to a nursing home provider based on service deficiencies or quality of service.

V. Payment Assurances and Payment Limitations

A. The State will pay each provider of nursing care services, who furnishes services in accordance with the provisions of the State Plan, the amount determined for services furnished under said Plan.

B. State payments made pursuant to the State Plan for nursing facilities shall not exceed the general payment limits established by the United States Congress and implemented through Agency regulations, when such limits are established by the Secretary of Health and Human Services. These payments shall under no circumstances exceed the facility's customary charges to the general public for services.

C. It is a primary intent that payments made in accordance with the methods, provisions, and standards of the Alabama Medicaid Agency Nursing Facility Reimbursement chapter of the Agency's Administrative Code will serve to ensure the participation of a sufficient number of providers of services in the program so that medical care and services included in the State Plan are available to eligible persons at least to the extent that they are available to the general public.



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D. The Alabama Medicaid Agency will pay nursing facilities a supplemental fee-for-service payment for care provided to ventilator-dependent residents who are eligible for Medicaid benefits.

The nursing facility and the ventilator-dependent/tracheostomy resident must meet specific requirements established by the Medicaid Agency.

The nursing facility must meet and comply with the following in order to be considered to receive the supplemental fee for ventilator-dependent/tracheostomy residents:

- Comply with all of the State and federal requirements governing nursing facilities, including physical and life safety requirements
    - Ensure that an RN or LPN has primary responsibility for the unit
    - Ensure that in-house respiratory services are provided by a licensed Respiratory Therapist 24 hours per day
    - Provide a program of initial training and ongoing in-service training for direct care staff
    - Ensure that physician visits are conducted in accordance with federal regulations for nursing facilities
    - Not accept a ventilator-dependent and/or qualified tracheostomy resident if any of the following situations exist:
      - Termination of the NF's Medicaid certification is imminent; or
      - The NF is a Special Focus Facility, under review by CMS, or the State Survey Agency, or the Alabama Medicaid Agency.
- must meet specific requirements established by the Medicaid Agency.

The nursing facility will be reimbursed the daily per diem rate determined for the nursing facility plus an additional daily payment for the ventilator-dependent/tracheostomy resident.

The supplemental fee-for-service payment will be \$120.00 and indexed annually in accordance with the cost of living increases based upon the economic indicators as published by Data Resources, Inc. (DRI) for the Department of Health and Human Services.

E. Providers who participate in the program shall accept as payment in full, those amounts paid to them in accordance with the State Plan.

VI. Compliance with Provisions, Methods and Standards

In order to assure compliance with its regulations, the Alabama Medicaid Agency has established certain penalties which may be assessed at its discretion, the details of which are fully set out in the Agency Administrative Code.

VII. Miscellaneous

A. The Alabama Medicaid Agency will utilize appropriate methods of notifying the public concerning proposed, substantial changes in methods and/or standards, and prior to the implementation of any substantial change in methods and/or standards, the public will have an opportunity to review and comment on the proposed changes.

B. Detailed information regarding the reimbursement methodology and related matters appears in Chapter 22 of the Alabama Medicaid Agency Administrative Code.

C. The regulations of the Alabama Medicaid Agency are implemented under the provisions of the Administrative Procedures Act. Through this process, the agency must publish its intent to make any changes in the reimbursement methodology. Copies of the methodology and data used to establish per diem rates may be obtained by the public upon written request and payment of a reproducing fee.

**Effective Date: 5/01/02**

D. In order to provide services to Alabama Medicaid recipients when there is no Alabama nursing facility with a suitable bed available that meets the medical needs of the recipient, the Agency may contract with out-of-state facilities at the other states' Medicaid reimbursement rate. The Agency will only make a placement of an Alabama Medicaid recipient into an out-of-state facility if (1) no Alabama nursing facility bed is available that meets the medical needs of the recipient, (2) in-state alternatives for providing services have been exhausted, and (3) prior approval for placement into an out-of-state facility is sought through the Agency. If the Agency determines based upon the prior approval process to make a placement of the Alabama Medicaid recipient into an out-of-state nursing facility as described in 42 CFR 435.403(e) the recipient will remain an Alabama resident. Once an Alabama nursing facility bed meeting the medical needs of the recipient is available, the recipient must return to Alabama to remain eligible for Alabama Medicaid.

Alabama will contract with out-of-state nursing facilities on an as needed basis. Alabama will use the out-of-state facility's survey conducted by its survey and certification agency. No year-end Alabama Medicaid nursing facility cost report will be required from the contracting out-of-state facility nor will there be any requirement for Alabama conducted periodic audits.