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State/Territory Name: Arkansas

State Plan Amendment (SPA) #: 13-18 MM6

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
Dallas Regional Office
1301 Young Street, Suite 833
Dallas, Texas 75202



DIVISION OF MEDICAID & CHILDREN'S HEALTH - REGION VI

November 3, 2015

Re: SPA-AR 13-0018 MM6

Dawn Stehle
Director, Division of Medical Services
State of Arkansas, Department of Human Services
112 West 8th Street, Slot S401
Little Rock, AR 72201-4608

Dear Ms. Stehle:

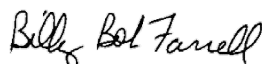
We have reviewed the proposed amendment to your Medicaid State Plan submitted under Transmittal Number 13-0018 MM6. This state plan amendment updates the policies and practices related to citizenship and non-citizen eligibility.

Transmittal Number 13-0018 MM6 is approved with an effective date of January 1, 2014 as requested. We have enclosed the approved plan pages.

The approved 13-0018 MM6 state plan page contains an attestation by the state that it provides Medicaid to citizens and nationals of the United States and to certain non-citizens, including during a reasonable opportunity period, pending verification of their citizenship, national status or satisfactory immigration status, in accordance with the requirements of 1902(ee), 1903(x) and 1137(d) of the Social Security Act. During the review of this SPA, CMS determined that Arkansas' policy with respect to the provision of benefits during the reasonable opportunity period for individuals pending verification of satisfactory immigration status was not compliant with the longstanding requirements at section 1137(d) of the Social Security Act (the Act). Based on this finding, a companion letter is being issued with the approval of this SPA requiring the state to implement eligibility determination policies that are fully compliant with section 1137(d) of the Act and the policies set forth in this approved state plan.

If you have any questions, please contact Lynn Ward at (214) 767-6327 or Lynn.Ward@cms.hhs.gov.

Sincerely,

 for

Bill Brooks
Associate Regional Administrator



Division of Medicaid & Children's Health, Region VI

November 3, 2015

Re: SPA-AR 13-0018

Dawn Stehle
Director, Division of Medical Services
State of Arkansas, Department of Human Services
112 West 8th Street, Slot S401
Little Rock, AR 72201-4608

Dear Ms. Stehle:

This letter is being sent as a companion to the Centers for Medicare & Medicaid Services (CMS) approval of Arkansas State Plan Amendment (SPA) 13-0018-MM6, which was submitted on September 23, 2013. Arkansas submitted this SPA to update the policies and practices related to citizenship and non-citizen eligibility. The approved 13-0018 MM6 state plan page contains an attestation by the state that it provides Medicaid to citizens and nationals of the United States and to certain non-citizens, including during a reasonable opportunity period pending verification of their citizenship, national status or satisfactory immigration status, in accordance with the requirements of 1902(a)(46), 1902(ee), 1903(x) and 1137(d) of the Social Security Act (the Act). As we explain below, we are concerned that Arkansas is not providing benefits during the reasonable opportunity period as required by applicable statute and regulations. If Arkansas does not demonstrate compliance with these requirements within the time frame set forth below, CMS intends to initiate formal compliance proceedings.

During the review of SPA 13-0018-MM6, CMS learned that the Arkansas Department of Human Services (DHS) is not providing Medicaid benefits during the reasonable opportunity period to individuals who have attested to a satisfactory immigration status pending verification of such status, if they have met all other eligibility requirements in the state. Such coverage is required by 1902(a)(46) and §1137(d) of the Act, implementing regulations at 42 CFR §435.406(a) and 435.911(c), and the State Plan.

CMS and the state discussed this issue on October 10, 2013, and again on December 9, 2013. During those discussions, the state acknowledged that it is not furnishing benefits during the reasonable opportunity period to individuals who attest to satisfactory immigration status. A formal Request for Additional Information (RAI) was issued on December 20, 2013 to allow the state time to comply with the requirements. Throughout 2014, CMS and the state engaged in extensive technical assistance discussions regarding compliance with 1137(d) of the Act and the state indicated that compliance with the policy could not be implemented without amending the state's statute and regulations.

CMS sent a subsequent letter to Arkansas on April 1, 2015 reiterating the requirement for the State to comply with the statute and regulations. Arkansas formally responded to the December 20, 2013 Request for Additional Information on October 7, 2015. Based on this response and recent conversations between CMS and the state, CMS understands that the state has not implemented policies compliant with Section 1137(d) of the Act and set forth in the approved state plan amendment, AR 13-0018 MM6, and does not furnish benefits to otherwise eligible individuals pending verification of satisfactory immigration status during the reasonable opportunity period.

Please provide CMS with evidence that the State has implemented these policies, compliant with 1137(d) the Act, within 30 days from the date of this letter. Provide to CMS a detailed written description of the changes in the state's policies and operations, date of implementation, evidence that such a policy change has been communicated to state eligibility staff (i.e. policy transmittal or guidance) and any subsequent steps that may be required (i.e. future regulatory action or systems changes), along with a specific timeline for all subsequent actions. During these 30 days, CMS is available to provide technical assistance as requested.

Failure to implement policies that are in compliance with 1137(d) of the Act within this time period may result in the initiation of a formal compliance action process. If you have any questions, please contact Lynn Ward at (214) 767- 6327 or lynn.ward@cms.hhs.gov.

Sincerely,

 for

Bill Brooks
Associate Regional Administrator

Medicaid State Plan Eligibility: Summary Page (CMS 179)**State/Territory name:** Arkansas**Transmittal Number:***Please enter the Transmittal Number (TN) in the format ST-YY-0000 where ST= the state abbreviation, YY = the last two digits of the submission year, and 0000 = a four digit number with leading zeros. The dashes must also be entered.*

AR-13-0018

Proposed Effective Date

01/01/2014

(mm/dd/yyyy)

Federal Statute/Regulation Citation

Social Security Act 1902(e)(14)

Federal Budget Impact

	Federal Fiscal Year	Amount
First Year	2014	\$0.00
Second Year	2015	\$0.00

Subject of Amendment

Incorporating certain existing categories and a new group of eligibles using the Medicaid Modified Adjusted Gross Income (MAGI) methodology.

Governor's Office Review

- Governor's office reported no comment
 Comments of Governor's office received

Describe:

- No reply received within 45 days of submittal
 Other, as specified

Describe:

Signature of State Agency Official

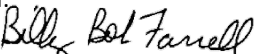
Submitted By: Becky Murphy
Last Revision Date: Nov 2, 2015
Submit Date: Sep 23, 2013

Date Received: 9/23/2013

Date Approved: 11/3/2015

Signature of Approving Official:

Printed Name and Title:


 Bill Brooks for

 Bill Brooks, Associated Regional Administrator
 Division of Medicaid and Children's Health

**SUPERSEDING PAGES OF
STATE PLAN MATERIAL**

TRANSMITTAL NUMBER:

13-0018

STATE:

Arkansas

**PAGE NUMBER OF THE PLAN SECTION OR
ATTACHMENT:**

S89 Non-Financial Eligibility- Citizenship and Non-Citizen Eligibility

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

Attachment 2.6-A, Page 2, Item 3, Subparagraphs (a), (b), and (c),
TN 91-56

Attachment 2.6-A, Page 3, Subparagraphs (d) and (e), TN 91-56

State: ARKANSAS

Citation	Condition or Requirement
	b. For the medically needy, meets the non-financial eligibility conditions of 42 CFR Part 435.
1905 (p) of the Act	c. For financially eligible qualified Medicare beneficiaries covered under section 1902(a)(10)(E)(i) of the Act, meets the non-financial criteria of section 1905(p) of the Act.
1905(s) of the Act	d. For financially eligible qualified disabled and working individuals covered under section 1902(a)(10)(E)(ii) of the Act, meets the non-financial criteria of section 1905(s).

TN No: AR 13-0018

Supersedes TN No.AR 91-56 Approval Date 11-3-2015 Effective Date 1/1/14

State: Arkansas
Date Received: 23 September, 2013
Date Approved: 3 November, 2015
Effective Date: 1 January, 2014
Transmittal Number: 13-0018 MM6

State: ARKANSAS

Citation	Condition or Requirement
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State: Arkansas
Date Received: 23 September, 2013
Date Approved: 3 November, 2015
Effective Date: 1 January, 2014
Transmittal Number: 13-0018 MM6

TN No. AR 13-0018

Supersedes TN No. AR 91-56 Approval Date 11-3-2015 Effective Date 1/1/2014



Medicaid Eligibility

OMB Control Number 0938-1148

OMB Expiration date: 10/31/2014

Non-Financial Eligibility Citizenship and Non-Citizen Eligibility	S89
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1902(a)(46)(B)
8 U.S.C. 1611, 1612, 1613, and 1641
1903(v)(2),(3) and (4)
42 CFR 435.4
42 CFR 435.406
42 CFR 435.956

State: Arkansas
Date Received: 23 September, 2013
Date Approved: 3 November, 2015
Effective Date: 1 January, 2014
Transmittal Number: 13-0018 MM6

Citizenship and Non-Citizen Eligibility

The state provides Medicaid to citizens and nationals of the United States and certain non-citizens consistent with requirements of 42

CFR 435.406, including during a reasonable opportunity period pending verification of their citizenship, national status or satisfactory immigration status.

The state provides Medicaid eligibility to otherwise eligible individuals:

Who are citizens or nationals of the United States; and

Who are qualified non-citizens as defined in section 431 of the Personal Responsibility and Work Opportunity

Reconciliation Act (PRWORA) (8 U.S.C. §1641), or whose eligibility is required by section 402(b) of PRWORA (8 U.S.C. §1612(b)) and is not prohibited by section 403 of PRWORA (8 U.S.C. §1613); and

Who have declared themselves to be citizens or nationals of the United States, or an individual having satisfactory immigration status, during a reasonable opportunity period pending verification of their citizenship, nationality or

satisfactory immigration status consistent with requirements of 1903(x), 1137(d), 1902(ee) of the SSA and 42 CFR 435.406, and 956.

The reasonable opportunity period begins on and extends 90 days from the date the notice of reasonable opportunity is received by the individual.

The agency provides for an extension of the reasonable opportunity period if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency needs more time to complete the verification process.

Yes No

The agency begins to furnish benefits to otherwise eligible individuals during the reasonable opportunity period on a date earlier than the date the notice is received by the individual.

Yes No

The state provides Medicaid coverage to all Qualified Non-Citizens whose eligibility is not prohibited by section 403 of PRWORA (8 U.S.C. §1613).

Yes No

The state elects the option to provide Medicaid coverage to otherwise eligible individuals under 21 and pregnant women, lawfully residing in the United States, as provided in section 1903(v)(4) of the Act.

Yes No

State: Arkansas

Date Received: 23 September, 2013

Date Approved: 3 November, 2015

Effective Date: 1 January, 2014

Transmittal Number: 13-0018 MM6

Medicaid Eligibility

- An individual is considered to be lawfully residing in the United States if he or she is lawfully present and otherwise meets the eligibility requirements in the state plan.
- An individual is considered to be lawfully present in the United States if he or she:
 1. Is a qualified non-citizen as defined in 8 U.S.C. 1641(b) and (c);
 2. Is a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));
 3. Is a non-citizen who has been paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;
 4. Is a non-citizen who belongs to one of the following classes:
 - Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;
 - Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. §1254a, and individuals with pending applications for TPS who have been granted employment authorization;
 - Granted employment authorization under 8 CFR 274a.12(c);
 - Family Unity beneficiaries in accordance with section 301 of Pub. L. 101-649, as amended;
 - Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
 - Granted Deferred Action status;
 - Granted an administrative stay of removal under 8 CFR 241;
 - Beneficiary of approved visa petition who has a pending application for adjustment of status;
 5. Is an individual with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C.1231, or under the Convention Against Torture who -
 - Has been granted employment authorization; or
 - Is under the age of 14 and has had an application pending for at least 180 days;
 6. Has been granted withholding of removal under the Convention Against Torture;
 7. Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);
 8. Is lawfully present in American Samoa under the immigration laws of American Samoa; or
 9. Is a victim of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. 7105(b));
 10. Exception: An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (9) of this definition.
- Other

TN: AR 13-0018

Date Approved: 11-3-2015

Date Effective: 1/1/2014

Supersedes TN: None New Page



Medicaid Eligibility

- The state assures that it provides limited Medicaid services for treatment of an emergency medical condition, not related to an organ transplant procedure, as defined in 1903(v)(3) of the SSA and implemented at 42 CFR 440.255, to the following individuals who meet all Medicaid eligibility requirements, except documentation of citizenship or satisfactory immigration status and/or present an SSN:
- Qualified non-citizens subject to the 5 year waiting period described in 8 U.S.C. 1613;
 - Non-qualified non-citizens, unless covered as a lawfully residing child or pregnant woman by the state under the option in accordance with 1903(v)(4) and implemented at 435.406(b).

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

State: Arkansas
Date Received: 23 September, 2013
Date Approved: 3 November, 2015
Effective Date: 1 January, 2014
Transmittal Number: 13-0018 MM6

TN: AR 13-0018

Date Approved: 11-3-2015

Date Effective: 1/1/2014

Supersedes TN: None New Page