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State/Territory Name: Colorado

State Plan Amendment (SPA) #: CO-13-054

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
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



MAY 21 2014

Barbara Prehmus
Colorado Department of Health Care
Policy and Financing
1570 Grant Street
Denver, Co 80203-1818

Re: Colorado 13-054

Dear Ms. Prehmus:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 13-054. Effective for services on or after September 1, 2013, this amendment provides for a payment provision for nursing facilities in the event of a disaster related evacuation.



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 (the Act) and the regulations at 42 CFR 447 Subpart C. We are pleased to inform you that Medicaid State plan amendment TN 13-054 is approved effective September 11, 2013. The CMS-179 and the amended plan pages are attached.

If you have any questions, please contact Christine Storey at (303) 844-7044.

Sincerely,



Cindy Mann
Director

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------|------------------------------|
| TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION | | 1. TRANSMITTAL NUMBER: 13 - 054 | 2. STATE: COLORADO |
| | | 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 September 11, 2013 | |
| 5. TYPE OF PLAN MATERIAL (Check one): | | | |
| <input type="checkbox"/> EN A SA DEREDISNOC EB OT TNEMDNEMA <input type="checkbox"/> NALP ETATS WEN IW PLAN <input checked="" type="checkbox"/> AMENDMENT | | | |
| COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (separate Transmittal for each amendment) | | | |
| 6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 447 | | 7. FEDERAL BUDGET IMPACT: a. FFY <u>2013</u> \$ <u>-0-</u> b. FFY <u>2014</u> \$ <u>-0-</u> | |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D, Pages 59, 60, and 61 | | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (if applicable): N/A | |
| 10. SUBJECT OF AMENDMENT: Amends the State Plan to finance nursing facilities during emergencies or critical incidents and provides administrative relief to nursing facilities during emergencies or critical incidents. | | | |
| 11. GOVERNOR'S REVIEW (Check One): | | | |
| <input checked="" type="checkbox"/> TNEMMOC ON DETROPER ECIFFO S'RONREVOG OTHER AS SPECIFIED Governor's Letter date 01 September 2011 DESOLCNE ECIFFO S'RONREVOG FO STNEMMOC LATTIMBUS FO SYAD 54 NIHTIW DEVIECER YLPER ON | | | |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:  | | 16. RETURN TO: | |
| 13. TYPED NAME: Suzanne Brennan | | Colorado Department of Health Care Policy and Financing 1570 Grant Denver, Colorado 80203 | |
| 14. TITLE: Director, Medical Assistance Office | | Attn: Suzanne Brennan | |
| 15. DATE SUBMITTED: | | | |
| FOR REGIONAL OFFICE USE ONLY | | | |
| 17. DATE RECEIVED: | | 18. DATE APPROVED: MAY 21 2014 | |
| PLAN APPROVED - ONE COPY ATTACHED | | | |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL: SEP 11 2013 | | 20. SIGNATURE OF REGIONAL OFFICIAL:  | |
| 21. TYPED NAME: Penny Thompson | | 22. TITLE: Deputy Director, Policy & Financial Mgt. | |
| 23. REMARKS: | | | |

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM

STATE OF COLORADO

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**FACILITY EVACUATION PAYMENTS AND MEDICAID ADMINISTRATIVE
PROCESSES**

Medicare and Medicaid nursing facilities must take measures to adhere to all applicable federal and state processes and/or rules when affected by natural disasters and critical incidents. If situations imposed by the disaster or critical incident impedes the ability of the facility to adhere to applicable federal and/or state rules and processes, the facility will report the rule or process that cannot be followed due to the disaster to Colorado Department of Health Care and Policy and Financing (the state agency). The facility may request modification or waiver of the process and/or rule from the state agency and the request will be modified or waived at the state agency's discretion. This is applied when facilities:

- (a) Due to the disaster or critical incident, must evacuate residents from Medicare and/or Medicaid participating facilities into non-participating facilities and/or other locations, including but not limited to shelters, state licensed private nursing facilities, hospitals, community, or other;
- (b) Due to the disaster or critical incident, cannot follow federal and/or state processes and/or rules, including but not limited to, Pre-Admission Screening and Resident Review (PASRR), Institution for Mental Disease (IMD) restrictions, and/or Minimum Data Set (MDS) rules and processes;
- (c) Due to the disaster or critical incident, cannot comply with licensure and certification requirements;
- (d) Due to the disaster or critical incident, nursing facilities receive home and community based (HCBS waiver) or home health clients in order to preserve their health, safety, and welfare;
- (e) Due to the disaster or critical incident, the evacuated facility is evacuated beyond the 30-day MDS/Prospective Payment System (PPS) "emergency transfer" limit and continues to retain staff (or share staff with the receiving facility), have operational expenses, and requests payment in order to preserve client access to this Medicaid service; and
- (f) Due to the disaster or critical incident, the affected facilities (evacuated or receiving) cannot adhere to any other federal and/or state process and/or rules.

TN No. 13-054

Supersedes TN No. NEW

Approval Date MAY 21 2014

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
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Payments made under this provision will not exceed, in the aggregate, the upper payment limit defined under 42 CFR 447.272. For the purposes of the upper payment limit calculation, a resident day shall only be counted once for any day that an evacuated resident is not in the evacuating facility but is in another location.

Evacuation Payment Methodology

The Department will use the methodology detailed in Colorado SPA 4.19-D, TN 09-013, entitled "Nursing Facility Benefits", which establishes a prospective reimbursement system for nursing facilities. To address how the methodology is applied during a disaster and resulting nursing facility evacuation, the process allows the evacuated resident to "transfer" to a receiving facility, a mutual payment agreement between the facilities to form, and a "pass-through" payment to occur.

Here is the process:

1. When a resident is transferred to a second facility with an anticipated return to the originating facility, the originating facility may bill for the services using the originating facility's provider number. The originating facility will be responsible for payment to the second facility for the services the second facility provides. This occurs when the transfer is for no more than 30 days.
 - a. A mutual agreement between the facilities is formed which addresses how to disburse reimbursement differentials, disparities, patient payment issues, shared staff, etc.
 - b. The evacuated facility will bill under its provider number and "pass through" payment to the receiving facility, and
 - c. The evacuated facility will record the census.
2. The evacuating facility should determine by day 15 whether or not residents will be able to return to the facility within 30 days. (If the residents are able to return to the originating facility, the MDS cycle will continue as though the residents were never transferred.) The intermediary will process these claims using the originating facility's provider number as if the resident had not been transferred.

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3. If the originating facility determines that the resident will not return to their facility within the previously mentioned time frame of 30 days, the originating facility will discharge the resident as appropriate. The receiving facility will then admit the resident and complete an admission MDS (and/or a 5-day MDS) as per the OBRA/ PPS requirements. The MDS cycle will begin as of the admission date.
 - a. Prior to day 30 or on day 30, the receiving facility should discharge or admit the evacuated residents, which terminates the pass through payment process.
 - b. The evacuated facility may not bill for day 30, if the resident is admitted into the receiving facility on day 30.
 - c. If the receiving facility admits residents on day 30, it must initiate a new PAR.
4. Until the return or not date is determined, the OBRA/PPS MDSs are to continue to be done as per their respective schedules.
5. If the transfer period with the pass through payment must occur beyond the thirty days, both facilities must notify the Department that transfer cannot occur and provide supporting evidence explaining why the transfer cannot occur.
6. The Department will make a determination of whether it should grant an extended transfer period.
7. If the Department grants the extended transfer period, the "pass-through" payment system will continue until discharge or a permanent placement is possible.

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