

## **Table of Contents**

**State/Territory Name: Maryland**

**State Plan Amendment (SPA) #: 13-07**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Additional Companion letter
- 3) Summary Form
- 4) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
150 S. Independence Mall West  
Suite 216, The Public Ledger Building  
Philadelphia, Pennsylvania 19106-3499



**Region III/Division of Medicaid and Children's Health Operations**

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SWIFT #102320134006

**DEC 17 2013**

Charles J. Milligan Jr.  
Deputy Secretary  
Health Care Financing  
MD Department of Health and Mental Hygiene  
201 West Preston Street, Room 525  
Baltimore, MD 21201

Dear Mr. Milligan:

The Centers for Medicare and Medicaid Services (CMS) has completed its review of Maryland's State Plan Amendment (SPA) Transmittal Number 13-07. This SPA is approved effective April 1, 2013, as requested by the State.

This SPA updates State Plan pages on nutrition services for pregnant women. However, during the review process, CMS has determined that the State's physicians' services, Attachment 3.1A pages, beginning on Page 17, need to be updated. Concurrent with this approval letter, CMS will issue a companion letter and provide guidance on time frames for correction.

Enclosed, please find the signed CMS 179 form and the approved SPA pages.

If you have questions about this SPA, please contact Lieutenant Commander Andrea Cunningham of my staff at 215-861-4325.

Sincerely,

Francis McCullough  
Associate Regional Administrator

Enclosure

## COMPANION LETTER

### Maryland SPA 13-07 Nutrition Services for Pregnant Women

#### EXHIBIT 1

##### Attachment 3.1-A Page 17 and 17-A Physician Services:

1. Page 17, item 5.B.3

The State provides a list of physician services which are not covered. In item 5.B.3, the State indicates it does not cover physician services denied by Medicare. Under Federal regulations at 42 CFR §440.230(d), only the State Medicaid agency can determine medical necessity, not Medicare. This item should be deleted or revise the second sentence in item 3 to delete language related to children and pregnant women so a review of medical necessity is completed for all beneficiaries. This issue was raised in previous SPAs (11-14B and 13-02) and the State has agreed to remove this language.

2. Page 17-A, item 5.B.9

The State indicates it does not cover audiometric tests for adults for the sole purpose of prescribing hearing aids. Please clarify the use of the term “sole purpose” as it relates to coverage of an otherwise medically necessary physician service. Specifically, if a patient indicates the presence of a hearing problem, audiometric testing may be appropriate to determine the appropriate medical or surgical intervention, irrespective of whether or not a State covers hearing aids (which are a separate service). If a beneficiary were to visit an Otolaryngologist (ENT) complaining of hearing loss (possibly based on a referral from the primary care physician) the ENT would exam the patient and if needed they would conduct an audiometric test to determine the extent of hearing loss (or to rule out other issues) and may prescribe a hearing aid or not after the test is done.

If an individual were to need a hearing aid presumably they would require a prescription in order to obtain a hearing aid even when the cost of the hearing aid is at their own expense. CMS is trying to determine under what circumstances would an otherwise medically necessary audiometric test not be covered when a prescription is needed?

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**DEC 17 2013**

Charles J. Milligan Jr.  
Deputy Secretary  
Health Care Financing  
Maryland Department of Health and Mental Hygiene  
201 West Preston Street, Room 525  
Baltimore, MD 21201

Dear Mr. Milligan:

This letter is being sent as a companion to our approval of Maryland's State Plan Amendment (SPA) 13-07 which updates State Plan pages on nutrition services for pregnant women. While we are proceeding with approval of MD SPA 13-07, this letter follows up on other matters that were not in compliance with current Federal regulation, so that we can work with you to resolve the issues.

Section 1902(a) of the Social Security Act (the Act) requires that States have a State Plan for medical assistance that meets certain Federal requirements that set out a framework for the State program. Implementing regulations at 42 CFR §430.10 requires that the State Plan be a comprehensive written statement describing the nature and scope of the State's Medicaid Program and that it contain all information necessary for the Centers for Medicare & Medicaid Services (CMS) to determine whether the State Plan can be approved to serve as the basis for Federal financial participation (FFP) in the State program. During our review of the SPA, CMS performed an analysis of the coverage and reimbursement pages related to this SPA, and found that additional clarification is necessary.

In reviewing the State Plan pages, CMS found companion page issues related to Physician Services which are outlined per Exhibit 1. Please revise the State Plan pages to include the required detailed information. Please respond to this letter within 90 days from your receipt of this letter with a corrective action plan describing how you will resolve the issues identified in Exhibit 1. During the 90-day period, we are happy to provide any technical assistance that you need. State Plans that are not in compliance with requirements at 42 CFR §430.10 and 42 CFR §440.167 are grounds for initiating a formal compliance process.

Page 2 - Charles J. Milligan Jr.

If you have any questions regarding this letter, please contact Lieutenant Commander Andrea Cunningham at 215-861-4325. We look forward to working with you on these issues.

Sincerely,

Francis McCullough  
Associate Regional Administrator

Enclosures: Exhibit 1

cc: De Earhart, CMS

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>	1. TRANSMITTAL NUMBER: 13-07	2. STATE Maryland
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	4. PROPOSED EFFECTIVE DATE April 1, 2013	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		

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:

None

7. FEDERAL BUDGET IMPACT:

a. FFY 2013: \$ 0  
b. FFY 2014: \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Att. 3.1A, pp. 9A-B, <sup>ASC</sup>  
~~Att. 3.1A, pp. 19-1-1A,~~ <sup>ASC</sup>  
Att. 4.19B, pages 1-3,  
Att. 4.19B, page 18

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

Att. 3.1A Page 9B (11-14B) delete  
Att. 3.1A Page 9A-9B (11-14B)  
~~Att. 3.1A Page 19-1 and 1A (10-04)~~ <sup>ASC</sup>  
Att. 4.19B Page 1-3 (08-10)  
Att. 4.19B Page 18 (11-12)

10. SUBJECT OF AMENDMENT:

To update pages on nutrition services for pregnant women.

11. 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:  
Susan J. Tucker, Executive Director  
Office of Health Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME: Charles J. Milligan, Jr.

14. TITLE: Deputy Secretary.  
Office of Health Care Financing

15. DATE SUBMITTED:

6/6/13

16. RETURN TO:

Susan J. Tucker, Executive Director  
OHS - DHMH  
201 W. Preston St., 1<sup>st</sup> floor  
Baltimore, MD 21201

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

6/7/2013

18. DATE APPROVED:

DEC 17 2013

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

April 1, 2013

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME:

FRANCIS T. MCCULLOUGH

22. TITLE:

ASSOCIATE REGIONAL ADMINISTRATOR, DMCHO

23. REMARKS:

Per request of State Medicaid officials, Pen and ink changes made to boxes 8 & 9, to reflect correct SPA pages, and box 15 to reflect correct date submitted to CMS.

ENHANCED SERVICES FOR PREGNANT AND POSTPARTUM RECIPIENTS

Definition of Services:

Healthy Start Program means a program designed to identify and address medical, nutritional, and psychosocial predictors of poor birth outcomes and poor child health by providing enhanced prenatal and postpartum services for pregnant and postpartum female recipients and enhanced follow-up services to identify high- risk infant and child recipients.

- I. Risk Assessment - Plan of Care means a package of services provided to a pregnant participant by or under the supervision of a physician or nurse-midwife in conjunction with the clinical services provided by the physician or nurse-midwife. One unit of service is to be reimbursed for each pregnancy. The services include:
  - a. A Risk Assessment is a comprehensive appraisal of the participant's medical history and current health, nutritional, psychological, and social status, as specified in the Healthy Start Risk Assessment Instrument.
  - b. A Plan of Care is a description of the services and resources required to meet the participant's needs identified through the risk assessment.
2. Enriched Maternity Service means direct counseling, educational, case coordination, and referral services provided to all pregnant or postpartum recipients by or under the supervision of a physician or certified nurse-midwife in conjunction with the clinical services provided by the physician or nurse-midwife during each prenatal or postpartum visit.

The following components comprise Enriched Maternity Service:

- a. Prenatal and postpartum counseling and health education for all pregnant and postpartum participants.
- b. Nutrition education for all pregnant and postpartum participants including the benefits of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).
- c. Case coordination and referral for all pregnant participants.

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TN # 13-07 Approval Date DEC 17 2013 Effective Date APR 01 2013

Supersedes TN # 11-14-B

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Maryland

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DELETE THIS PAGE

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TN # 13-07 Approval Date DEC 17 2013 Effective Date APR 01 2013  
Supersedes TN # 11-14-B



STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Maryland

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**Physician and Certified Nurse Midwives/ Payment for Prenatal Risk Assessment  
and Prenatal Education**

- a. The Program will reimburse for one Prenatal Risk Assessment at the beginning of a pregnancy. It must be furnished by a physician or certified nurse midwife and shall be reimbursed the lesser of the Medicaid rate of \$40 or the amount billed. Only one prenatal risk assessment will be reimbursed per pregnancy.
- b. The Program will reimburse for up to one unit of prenatal education at each prenatal visit. It must be furnished by a physician or certified nurse midwife or their extenders and shall be reimbursed the lesser of the Medicaid rate of \$10 or the amount billed.
- c. The Agency's rates related to 1.a and 1.b (above) were set as of July 1, 1989 and are effective for services on or after that date. Except as otherwise noted in the Plan, state-developed fee schedule rates are the same for both governmental and private providers.
- d. The Agency only pays for these services when the pregnant woman is not enrolled in a HealthChoice Managed Care Organization.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Maryland

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RESERVE FOR FUTURE USE

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Maryland

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RESERVE FOR FUTURE USE

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Maryland

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**Nutritionist Rates**

- 12.a The Agency's rates for professional services rendered by a nutritionist were set as of 7/1/10 and are effective for services on or after that date. All nutritionists must be licensed in the jurisdiction in which they provide services. Services and provider qualifications are limited to those outlined in 3.1-A of the Maryland State Plan. The nutritionist will be paid the lower of the nutritionist's customary fee schedule to the general public or the published fee schedule.
- 12.b All nutritionists, both government and non-government, are reimbursed pursuant to the same fee schedule. Nutritionists are paid by CPT codes which are based on a percentage of Medicare reimbursement. The average Maryland Medicaid payment rate for professional services is approximately 75 percent of Medicare 2011 fees beginning as of 7/1/11. All rates are published on the Agency's website at: [https://mmcp.dhmh.maryland.gov/docs/2013FeeSchedule\\_Apr1.pdf](https://mmcp.dhmh.maryland.gov/docs/2013FeeSchedule_Apr1.pdf).
- 12.c The Agency reimburses schools for nutritional assessments and interventions, and nutritional reassessments and interventions when required under an Individualized Education Program (IEP) or Individual Family Service Plan (IFSP), and when provided by nutritionists that are licensed in the jurisdiction in which they provide services. For all dates beginning January 1, 2010, the State will reimburse for this service at the same rate that it reimburses all other non-governmental community-based licensed nutritionists as described in 12.b.
- 12.d Payment limitations:
- The Department will not pay for services which do not involve direct, face-to-face patient contact.
  - The provider may not bill the Program or the recipient for:
    - Completion of forms and reports;
    - Broken or missed appointments;
    - Professional services rendered by mail or telephone;
    - Services which are provided at no charge to the general public with the exception of nutritional services that are included as part of a child's IEP or IFSP; and
    - Providing a copy of a recipient's medical record when requested by another licensed provider on behalf of a recipient.