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**State/Territory Name: Maryland**

**State Plan Amendment (SPA) #: 13-29**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Summary Form
- 3) 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 #121720134016

**JAN 22 2014**

Charles J. Milligan, Jr.  
Deputy Secretary  
Department of Health & Mental Hygiene  
201 W. Preston Street, Room 525  
Baltimore, MD 21201

Dear Mr. Milligan:

We have reviewed the Maryland State Plan Amendment (SPA) 13-29. The purpose of this SPA is to remove benzodiazepines and barbiturates from the excludable drug list and provides coverage of tobacco cessation drugs in accordance with 1927(d)(7) of the Social Security Act.

The Pharmacy Team at the Division of Pharmacy at the Centers for Medicare and Medicaid Services (CMS) Headquarters approved this SPA on January 22, 2014. The effective date of the SPA is January 1, 2014. Enclosed are the approved State Plan pages and the signed CMS-179 form.

If you have any questions regarding this amendment, please contact Lieutenant Commander Andrea Cunningham at 215-861-4325, or via e-mail at [andrea.cunningham@cms.hhs.gov](mailto:andrea.cunningham@cms.hhs.gov).

Sincerely,

Francis McCullough  
Associate Regional Administrator

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>	1. TRANSMITTAL NUMBER: <b>13-29</b>	2. STATE Maryland
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1 <sup>st</sup> , 2014	

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: Section 2502 of the Affordable Care Act 1927(d)(2) and 1927(d)(7) of the Social Security Act	7. FEDERAL BUDGET IMPACT: a. FFY <del>2013</del> : \$ <del>0</del> 2014: \$ 187,500 b. FFY <del>2014</del> : \$ <del>0</del> 2015: \$ 250,000
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Att 3.1A pages 25-1 and 25-2 Att 4.19B pg 35	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Att 3.1A pages 25-1 and 25-2 Att 4.19B pg 35

10. SUBJECT OF AMENDMENT: To amend the Maryland State Plan's coverage of prescription and over-the-counter tobacco cessation drugs in order to reflect new policy of the Affordable Care Act.

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 OR STATE AGENCY OFFICIAL:	16. RETURN TO: Susan J. Tucker, Executive Director OHS - DHMH 201 W. Preston St., 1 <sup>st</sup> floor Baltimore, MD 21201
13. TYPED NAME: Charles J. Milligan, Jr.	
14. TITLE: Deputy Secretary, Office of Health Care Financing	
15. DATE SUBMITTED: 12/13/13	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 12/13/13	18. DATE APPROVED: JAN 22 2014
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: JANUARY 1, 2014	20. SIGNATURE OF REGIONAL OFFICIAL:
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21. TYPED NAME: FRANCIS T. McCULLOUGH	22. TITLE: ASSOCIATE REGIONAL ADMINISTRATOR, DMH
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23. REMARKS:

1-6-14 P+I Box 1 authorized by the state  
1-13-14 P+I Box 7 authorized by the state

A. Following are covered:

Smoking Cessation Products-The Medicaid agency will provide coverage of prescription and over-the counter (OTC) smoking/tobacco cessation covered outpatient drugs for patients covered under the Maryland Medical Assistance Program.

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TN 13-29

Supersedes

TN 11-16

Approval Date JAN 22 2014 Effective Date JAN 01 2014

State: Maryland

MEDICAID PROGRAM: REQUIREMENTS RELATING TO PAYMENT FOR COVERED  
OUTPATIENT DRUGS FOR THE CATEGORICALLY NEEDY

12. A. Prescribed Drugs  
1927(d)(2) and 1935(d)(2)

1. The Medicaid agency provides coverage for the following excluded or otherwise restricted drugs or classes of drugs, or their medical uses to all Medicaid recipients, including full benefit dual eligible beneficiaries under the Medicare Prescription Drug Benefit -Part D.

The following excluded drugs are covered:

- (a) Agents when used for anorexia, weight loss, weight gain (Only legend products that are not CNS stimulants are covered eg. Xenical)
- (b) Agents when used to promote fertility
- (c) Agents when used for cosmetic purposes or hair growth
- (d) Agents when used for the symptomatic relief cough and colds (Only legend products are covered)
- (e) Prescription vitamins and mineral products, except prenatal vitamins and fluoride
- (f) Nonprescription drugs (enteric coated aspirin and OTC's on the preferred drug list are covered)
- (g) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee (see specific drug categories below)

(The Medicaid agency lists specific category of drugs below)

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No excluded drugs are covered.

TN # 13-29  
Supersedes TN # 12-09

Approval Date **JAN 22 2014**

Effective Date **JAN 01 2014**

Payment for drugs, effective July 1, 2011 shall be as follows:

A. Determination of allowable cost;

1. For covered multiple source legend drugs, including Schedule V cough preparations, listed on the Program's Interchangeable Drug List, allowable cost shall be the lowest of:
  - a) The Interchangeable Drug Cost (IDC) which is the maximum amount the Program will reimburse for selected, approved interchangeable multiple source drugs determined by any of the following:
    - (i) Lowest estimated acquisition cost of the generically equivalent products available in the State;
    - (ii) Price obtained by:
      - aa. Ascertaining the lowest cost from among the approved interchangeable multiple source products from each wholesaler that the Program has current and accurate pricing information, and
      - bb. Selecting as the IDC the highest of costs ascertained in (a) above; or
    - (iii) Price from a commercial generic pricing source.

NOTE: Maximum allowable costs will be reviewed and updated:

    - aa. At least once every year,
    - bb. Whenever there is an emergency recall by the Food and Drug Administration, or
    - cc. Temporarily, if there is an acute shortage of supply from available sources.
  - b) The Estimated Acquisition Cost (EAC) which is the lowest price of a drug product as determined by the following criteria:
    - (i) Wholesale Acquisition cost (WAC) plus eight percent;
    - (ii) Direct price plus eight percent;
    - (iii) Average Wholesale Price (AWP) less twelve percent
  - c) Federal Generic Upper Limit (FGUL) which is the upper limit of payment for a multiple source drug for which a specific maximum allowable cost has been established by the Center for Medicare and Medicaid Services (CMS) of the Department of Health and Human Services;
2. For all other covered legend drugs, including brand name drugs for which the prescription requires the brand name drug to be dispensed, the allowable cost shall be the EAC established by the Department
3. For covered over-the-counter insulin the allowable cost shall be based on the AWP of the item.
4. For covered over the counter enteric coated aspirin and covered over the counter tobacco cessation products the allowable cost shall be the lowest of:
  - a) IDC;
  - b) EAC; or
  - c) FGUL

TN # 13-29

Supersedes TN # 11-16

Approval Date JAN 22 2014

Effective Date JAN 01 2014