

Table of Contents

State/Territory Name: ME

State Plan Amendment (SPA) #: 14-0022

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 AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850



Financial Management Group

SEP 16 2016

Mary C. Mayhew, Commissioner
Department of Health and Human Services
State of Maine
221 State Street
11 State House Station
Augusta, ME 04333-0011

RE: Maine 14-0022

Dear Ms. Mayhew:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid state plan submitted under transmittal number (TN) 14-0022. This amendment implements legislative changes to the reimbursement methodology for nursing facility services. Specifically, it changes the methodology used to calculate the depreciation allowance included in the provider payment rates for building, fixed equipment, and movable equipment costs based on the number of years of operation by the owner of the nursing facility.

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 and the implementing Federal regulations at 42 CFR 447. We are pleased to inform you that Medicaid State plan amendment 14-0022 is approved effective November 1, 2014. We are enclosing the CMS-179 and the amended plan pages.

If you have any questions, please call Novena James-Hailey at (617) 565-1291.

Sincerely,

A solid black rectangular box used to redact the signature of the sender.

Kristin Fan
Director

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 14-022	2. STATE Maine
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR Centers for Medicare and Medicaid Services Department of Health and Human Services		4. PROPOSED EFFECTIVE DATE 11/01/2014	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW 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 447.201(b); 42 CFR 447.252(b)		7. FEDERAL BUDGET IMPACT: a. \$(93,901) for FFY 2015 b. \$(93,901) for FFY 2016	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D pages 32-34		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-D pages 32-34	
10. SUBJECT OF AMENDMENT: Nursing Facility Services Reimbursement			

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Director, Office of MaineCare Services
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: Stefanie Nadeau Director, Office of MaineCare Services #11 State House Station 242 State Street Augusta, Maine 04333-0011
13. TYPED NAME: Stefanie Nadeau	
14. TITLE: Director, Office of MaineCare Services	
15. DATE SUBMITTED: December 19, 2014	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED:	18. DATE APPROVED: SEP 16 2016
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: NOV 01 2014	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME: Kristin FAN	22. TITLE: Director, FMG
23. REMARKS:	

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: Maine

Attachment 4.19-D

Page 32

Nursing Facility Services Detailed Description of Reimbursement

- 18.2.4.8 Gains and Losses on disposal of assets. Gains and losses realized from the disposal of depreciable assets are to be included in the determination of allowable costs. The extent to which such gains and losses are includable is calculated on a proration basis recognizing the amount of depreciation charged under the program in relation to the amount of depreciation, if any, charged or assumed in a period prior to the provider's participation in the program, and in the current period. For sales of nursing facilities the Department shall either:
- (1) At the time of the sale, recapture depreciation paid by the Department under the MaineCare program, from the proceeds of the sale using the procedures outlined below;
 - (a) The recapture will be made in cash from the seller. During the first eight (8) years of operation, all depreciation allowed on buildings and fixed equipment by the Department will be recaptured from the seller in cash at the time of the sale. From the ninth (9th) to the fifteenth (15th) year all but three percent (3%) per year will be recaptured and from the sixteenth (16th) to the twenty-fifth (25th) year, all but eight percent (8%) per year will be recaptured, not to exceed one hundred percent (100%). Recaptured accumulated depreciation, in any case, shall not exceed the extent of the gain on the sale. For sales of nursing facilities that occur on or after July 1, 2014, the calculation of the credits for buildings and fixed equipment will be from the date the owner began operating the facility with the original license.
 - (b) For sales of nursing facilities that occur on or after July 1, 2014, moveable equipment will accumulate credits as follows: for the first four years the asset is placed into service, all but 10% per year will be recaptured and from the fifth (5th) and sixth (6th) year, all but 30% per year will be recaptured, not to exceed 100%. The calculation of credits for moveable equipment will be from the date the asset is placed into service by the provider.
 - (c) The buyer must demonstrate how the purchase price is allocated between depreciable and non-depreciable assets. The cost of land, building and equipment must be clearly documented. Unless there is a sales agreement specifically detailing each piece of moveable equipment, the gain on the sale will be determined by the total selling price of all moveable equipment compared to the book value at the time of the sale. No credits are allowed on moveable equipment.
 - (d) In calculating the gain on the sale, the entire purchase price will be compared to net book value unless the buyer demonstrates by an independent appraisal that a specific portion of the purchase price reflects the cost of non-depreciable assets.
 - (e) Depreciation will not be recaptured if depreciable assets are sold to a purchaser who will not use the assets for a health care service for which future Medicare, MaineCare, or State payments will be received. The purchaser must use the

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: Maine

Attachment 4.19-D

Page 33

Nursing Facility Services Detailed Description of Reimbursement

assets acquired within five (5) years of the purchase. The purchaser will be liable for recapture if the purchaser violates the provisions of this rule; OR

- (2) At the election of the buyer and seller, waive the recapture of depreciation at the time of the sale and allow the asset to transfer at the historical cost of the seller, less depreciation allowed under the MaineCare program, to the buyer for reimbursement purposes.

18.2.4.8.1 The recapture will be made in cash from the seller. During the first eight years of operation, all depreciation allowed on buildings and fixed equipment by the Department will be recaptured from the seller in cash at the time of the sale. From the 9th to the 15th year all but 3% per year will be recaptured and from the 16th to the 25th year, all but 8% per year will be recaptured, not to exceed 100%. Accumulated depreciation is recaptured to the extent of the gain on the sale.

18.2.4.8.2 The buyer must demonstrate how the purchase price is allocated between depreciable and non-depreciable assets. The cost of land, building and equipment must be clearly documented. Unless there is a sales agreement specifically detailing each piece of moveable equipment, the gain on the sale will be determined by the total selling price of all moveable equipment compared to the book value at the time of the sale. No credits are allowed on moveable equipment.

18.2.4.8.3 Accumulated depreciation is recaptured to the extent of the gain on the sale. In calculating the gain on the sale the entire purchase price will be compared to net book value unless the buyer demonstrates by an independent appraisal is recaptured to the extent of the gain on the sale. In calculating the gain on the sale the entire purchase price will be compared to net book value unless the buyer demonstrates by an independent appraisal that a specific portion of the purchase price reflects the cost of non-depreciable assets.

Depreciation will not be recaptured if depreciable assets are sold to a purchaser who will not use the assets for a health care service for which future Medicare, MaineCare, or State payments will be received. The purchaser must use the assets acquired within five years of the purchase. The purchaser will be liable for recapture if the purchaser violates the provisions of this rule.

18.2.4.8.4. Limitation on the participation of capital expenditures. Depreciation, interest, and other costs are not allowable with respect to any capital expenditure in plant and property, and equipment related to resident care, which has not been submitted to the designated planning agency as required, or has been determined to be consistent with health facility planning requirements.

18.3 Purchase, Rental, Donation and Lease of Capital Assets

Tn. No.: 14-022

Supersedes

Tn. No.: 14-018

Approval Date: SEP 16 2016

Effective: 11/01/2014

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: Maine

Attachment 4.19-D

Page 34

Nursing Facility Services Detailed Description of Reimbursement

18.3.1 Purchase of facilities from related individuals and/or organization where a facility, through purchase, converts from a proprietary to a nonprofit status and the buyer and seller are entities related by common and/or ownership, the purchaser's basis for depreciation shall not exceed the seller's basis under the program, less accumulated depreciation if the following requirements are met:

(A) Where a facility is purchased from an individual or organization related to the Purchaser by common control and/or ownership; or

(B) Where a facility is purchased after April 1, 1980 by an individual related to the seller as:

(1) a child

(2) a grandchild

(3) a brother or sister

(4) a spouse of a child, grandchild, or brother or sister, or

(5) an entity controlled by a child, grandchild, brother, sister or spouse of child, grandchild or combination brother or sister thereof; or

18.3.1.1. Accumulated depreciation of the seller under the program shall be considered as incurred by the purchaser for purposes of computing gains and applying the depreciation recapture rules Subsection 44.29 to subsequent sales by the buyer. There will be no recapture of depreciation from the seller on a sale between stipulated related parties since no set-up in the basis of depreciable assets is permitted to the buyer.

18.3.1.2. One-time exception to subsection 18.3.1.1 At the election of the seller, subsection 18.3.1 will not apply to a sale made to a buyer defined in subsection 18.3.1.1 if:

(a) the seller is an individual or any entity owned or controlled by individuals or related individuals who were selling assets to a "related party" as defined in subsection 18.3.1 or 18.3.1.1, and

(b) the seller has attained the age of 55 before the date of such sale or exchange; and

(c) during the twenty-year period ending on the day of the sale, the seller has owned and operated the facility for periods aggregating ten years or more; and

(d) the seller has inherited the facility as property of a deceased spouse to satisfy the holding requirements under subsection 18.3.1.2 (c)

(e) if the seller makes a valid election to be exempted from the application of 18.3.1.1 the allowable basis of depreciable assets for reimbursement of interest and depreciation expense to the buyer will be determined in accordance with the historical cost as though the parties were not related. This transaction is subject to depreciation recapture if there is a gain on the sale.

Tn. No.: 14-022

Supersedes

Tn. No.: 14-018

Approval Date: **SEP 16 2016** Effective: 11/01/2014