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State/Territory Name: North Dakota

State Plan Amendment (SPA) #: ND-09-020

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
1600 Broadway, Suite 700
Denver, CO 80202-4967



Region VIII

December 17, 2009

Maggie Anderson, Medicaid Director
Medical Services Division
North Dakota Department of Human Services
600 East Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

RE: North Dakota #09-020

Dear Ms. Anderson:

This is your official notification that North Dakota State Plan amendment 09-020, "Personal Care Services Limitation", has been approved effective July 1, 2009.



If you have any questions concerning this amendment, please contact Bernadette Quevedo-Mendoza at (303) 844-7121.

Sincerely,

/s/

Richard C. Allen
Associate Regional Administrator
Division for Medicaid and Children's Health Operations

CC: Mary Lou Thompson

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 09-020	2. STATE North Dakota
FOR: HEALTH CARE FINANCING ADMINISTRATION		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 July 1, 2009	
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: 42CFR440.167		7. FEDERAL BUDGET IMPACT: a. FFY <u>2009</u> \$ <u>227,037</u> b. FFY <u>2010</u> \$ <u>908,148</u>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment to Page 10 of Attachment 3.1-A Attachment to Page 9 of Attachment 3.1-B Attachment 4.19-B, Pages 3, 3a, and 3b		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment to Page 10 of Attachment 3.1-A Attachment to Page 9 of Attachment 3.1-B Attachment 4.19-B, Pages 3, 3a, and 3b	
10. SUBJECT OF AMENDMENT: Amends the State Plan to change the Personal Care Services Limitation on amount duration and scope, and methods and standards of establishing payment rates for other types of care.			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <u>Maggie D. Anderson, Director,</u> <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL <u>Medical Services Division</u>			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Maggie D. Anderson, Director Division of Medical Services ND Department of Human Services 600 East Boulevard Avenue Dept 325 Bismarck ND 58505-0250	
13. TYPE Maggie D. Anderson		FOR REGIONAL OFFICE USE ONLY	
14. TITLE: Director, Division of Medical Services			
15. DATE SUBMITTED: September 28, 2009			
17. DATE RECEIVED: 9/28/09		18. DATE APPROVED: 12/17/09	
PLAN APPROVED - ONE COPY ATTACHED.			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 7/1/09		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Richard C. Allen		22. TITLE: Associate Regional Administrator	
23. REMARKS:			

Limitation on Amount Duration and Scope

26. Personal Care Services

DEFINITION OF SERVICES

Personal care services assist a Medicaid eligible recipient with activities of daily living (ADLs) including eating bathing, dressing, mobility, toileting, transferring and maintaining continence, and instrumental activities of daily living (IADLs) including meal preparation, taking medication, housework and laundry as needed and as permitted in order to maintain independence and self-reliance to the greatest degree possible. Personal care services allow the individual to live as independently as possible while delaying or preventing the need for institutionalization. Assistance may be in the form of hands on assistance or cuing so that the individual can perform a task without direct assistance.

Personal care services must be the primary need of the individual and are not intended to bring about improvement of an acute medical condition.

Personal care services are provided in an individual's residence, except for a hospital, nursing facility, ICF/MR, or institution for mental disease. However, services may also be delivered in other settings, such as a place of employment, if providing personal care services assists the individual in remaining as independent as possible and avoiding institutionalization.

ELIGIBILITY FOR SERVICES

The necessity for personal care services is determined through a comprehensive assessment completed by county social service board case managers or by regional human service centers developmental disabilities or mental health case managers.

An individual must meet one of the following criteria to establish the necessity for personal care services:

1. Be impaired in at least one ADL
2. Need assistance with any three of the following IADLs; meal preparation, taking medication, housework and laundry.

TN: 09-020
Supersedes
TN: 08-008

Approval Date: 12/17/09

Effective Date: 7-01-2009

26. Personal Care Services (continued)

The comprehensive assessment identifies the individual's needs and the personal care services that must be provided to address the individual's needs.

A comprehensive assessment must be completed by county social services case manager, or by a regional human service center developmental disabilities, or mental health case manager, initially before any personal care services can be authorized, and annually thereafter. The case manager also completes a comprehensive review of the individual's needs every six months or when there is a significant change in the individual's needs. Personal care services must be provided in accordance with a care plan developed from the assessment of the individual's needs. The care plan authorized by the State Medicaid Agency approves the maximum number of hours of personal care services that an individual may receive during a month.

The State does not allow a physician to authorize, but can refer an individual to the State.

PROVIDER QUALIFICATIONS

Agencies must verify that they have procedures in place to accurately document the provision of furnished services and that they have trained the individuals furnishing services in their responsibility to report the furnished services properly and accurately.

Personal care service must be provided by an individual who is at least 18 years of age and who has provided evidence that he or she meets the standards established by the department for providing personal care services. Competency of meeting the standards can be verified by a health care professional and must be reestablished every two years or can be by virtue of licensure or certification as a registered nurse, licensed practical nurse, physical therapist, occupational therapist, or certified nursing assistant.

The providers are not required to have a degree or a specific educational level. They are required to meet the standards of tasks commonly performed in the provision of personal care and the ability to perform tasks as verified by the health care professional or by virtue of licensure in North Dakota Administrative Code.

26. Personal Care Services (continued)

Agency providers must ensure that each employee meets the required standards before the employee provides personal cares. Agencies must verify continued competencies based on an acceptable annual evaluation of the employee.

Residential care providers must be licensed by the North Dakota Department of Health as a basic care facility.

Any qualified provider may enroll as a personal care provider.

LIMITATIONS

1. Personal care services may not include skilled services performed by persons with professional training.
2. An individual receiving personal care services may not be an inpatient or resident of a hospital, a nursing facility, an intermediate care facility for the mentally retarded, or an institution for mental disease.
3. Personal care services may not include home delivered meals, or services or tasks not directly related to the needs of the individual.
4. Services provided by a spouse, parent of a minor child, or legal guardian are not covered.
5. Care needs of the individual that are outside the scope of personal care services are not covered.

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METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES - OTHER TYPES OF CARE

16. Vacated
17. Vacated
18. Vacated
19. Nurse Practitioners are paid at the lower of billed charges or 75% of our physician fee schedule. The agency's rates are set as of July 1, 2008 and are effective for services on or after that date. The fee schedule rates shall be inflated by no more than 7% annually. All rates are published at <http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-fee-schedules.html>. Except as otherwise noted in the plan, stated developed fee schedule rates are the same for both governmental and private providers.
20. Other Practitioner Services - Are paid at the lower of billed charges or 75% of the physician fee schedule. The agency's rates are set as of July 1, 2008 and are effective for services on or after that date. The fee schedule rates shall be inflated by no more than 7% annually. All rates are published at <http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-fee-schedules.html>. Except as otherwise noted in the plan, stated developed fee schedule rates are the same for both governmental and private providers.
21. Vacated
22. Vacated
23. Personal Care Services
 - a. Authorized personal care services provided to an individual who receives personal care services from a provider on less than a 24-hour-a-day-seven-day-a-week basis shall be paid based on a maximum 15-minute unit rate established by the department.

The Department has established a maximum rate as of July 1, 2009 for all services, provided on or after this date. The Department's rates are set as of July 1, 2009 and are effective for services on or after that date. All maximum rates are published at <http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-fee-schedules.html>. Except as otherwise noted in the plan, stated developed maximum rates are the same for both governmental and private providers. The maximum established rates shall be inflated by no more than 7% annually.
 - b. Authorized personal care service provided to an individual by a provider who provides personal care services on a 24-hour-a-day-seven-day-a-week basis shall be paid using a prospective per diem rate for each day personal care services are provided.
 - 1) The maximum per diem rate for an individual or agency provider shall be established using the provider's allowable hourly rate established under paragraph a. multiplied times the number of hours per month authorized in the individual's care plan times twelve and divided by 365. The provider may bill only for days in which

at least 15 minutes of personal care service are provided to the individual. The maximum per diem rate for an individual or agency may not exceed the maximum per diem rate for a residential provider as established in subparagraph 2.

- 2) The per diem rate for a residential provider is established based on the residential provider's reported allowable costs for direct and indirect personal care services divided by the number of days personal care services were provided during the report period. The per diem rate is applicable to all eligible individuals authorized to receive personal care services from the residential provider and does not vary based on the amount of services authorized for each individual. The per diem rate is payable only for days in which at least 15 minutes of personal care services is provided to the individual in the residential facility. For an individual who does not receive at least 15 minutes of personal cares per day, the rate payable to a residential provider for personal care services shall not exceed the maximum allowable hourly rate for an agency as established in paragraph a.

The per diem rate shall be established annually for each residential provider based on a cost report that identifies actual costs incurred for the provision of personal care services during the provider's fiscal year. The established per diem rate may not exceed the maximum per diem rate. The maximum per diem rate has been established by the Department for all services on or after July 1, 2009. The agency's rates are set as of July 1, 2009 and are effective for services on or after that date. All rates are published on the Department's web site at: <http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-fee-schedules.html>. Except where otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers. The maximum per diem rate shall be inflated by no more than 7% annually.

Allowable costs included in the personal care per diem rate are:

1. Salaries, fringe benefits and training expenses for direct supervisors and staff who provide assistance with:
 - a. Activities of daily living including eating, bathing, dressing, mobility, toileting, transferring and maintaining continence; and
 - b. Instrumental activities of daily living that include personal hygiene, light housework, laundry, meal preparation, transportation, grocery shopping, using the telephone, medication management and money management.
2. Administration and overhead expenses that include salaries and fringe benefits of an administrator, assistant administrator or top management personnel, liability insurance, central and home office costs excluding property costs, telephone, personnel recruitment costs, computer software costs, business office expenses, and working capital interest.

- 24. Vacated
- 25. Organ Transplants - Payments for physician services are based on Attachment 4.19-B No. 5 as described in this attachment. Payment for hospital services are based on Attachment 4.19-A.
- 26. For diagnostic, screening, preventive and rehabilitative services, Medicaid will pay the lower of actual billed charges or the maximum allowable fee established by the state agency.

See page 3b-1 for description of rehabilitative services reimbursement methodology effective January 1, 2010.

- 27. Emergency hospital services provided by hospitals not otherwise participating in the Medicaid program are paid at the fixed percentage of charges for out-of-state hospitals as established in paragraph 1.
- 28. For Targeted Case Management Services for Pregnant Women and Infants, traumatic brain injury individuals, children in alternative care, children receiving child protective services, and pre and post adoption children, and individuals in need of long term care services, payment will be based on the lower of the providers actual billed charge or the fee schedule established in 15 minute units of service by the state.
- 29. Indian Health Service facilities or 638 Tribal facilities will be paid the encounter rate established by the Health Care Financing Administration which is published periodically in the Federal Register for established services provided in a facility that would ordinarily be covered services through the North Dakota Medicaid Program. The following services are covered by the all-inclusive rate:

Outpatient	Mental Health (Psychiatrist/Psychologist)
Pharmacy	EPSDT
Vision	Telemedicine-Clinic/Physician
Dental	Telemedicine-Mental Health Services