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State/Territory Name: North Dakota

State Plan Amendment (SPA) #: ND-10-002

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

June 18, 2010

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 #10-002

Dear Ms. Anderson:

This is your official notification that North Dakota State Plan amendment 10-002, "Tax Credits: amends the SP to disregard state and federal refunds as income and disregard them as assets for nine months after the month of receipt", has been approved effective January 1, 2010.



If you have any questions concerning this amendment, please contact Sophia Hinojosa at (303) 844-7129.

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: 10-002	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 January 1, 2010	
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: 1902(r)(2) of the Act for Supplement 8a & 8b, and 1902(r)(2) and Section 1931 of the Act for Suppl. 12a		7. FEDERAL BUDGET IMPACT: a. FFY <u>2010</u> \$ <u>-0-</u> b. FFY <u>2011</u> \$ <u>-0-</u>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Supplement 12 to Attachment 2.6-A, Page 2 & 3* NEW Supplement 12a to Attachment 2.6-A, Page 8 (withdrawn) Supplement 12a to Attachment 2.6-A, Pages 5 & 6 Supplement 8a to Attachment 2.6-A, Page 6 Supplement 8b to Attachment 2.6-A, Page 8		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): *Page Numbers are changed from Page 8 & 9 of Supplement 12a of Attachment 2.6-A Supplement 12a to Attachment 2.6-A, Pages 5 & 6	
10. SUBJECT OF AMENDMENT: Amends the ND State Plan to disregard state and federal refunds as income and disregard them as assets for nine months after the month of receipt.			
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. TYPED NAME: Maggie D. Anderson			
14. TITLE: Director, Division of Medical Services			
15. DATE SUBMITTED: March 29, 2010 REVISED 6-15-2010			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 3/29/10		18. DATE APPROVED: 6/18/10	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 1/1/10		20. OFFICIAL: 	
21. TYPED NAME: Richard C. Allen		22. TITLE: Associate Regional Administrator	
23. REMARKS:			

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

**VARIATIONS FROM THE BASIC PERSONAL NEEDS ALLOWANCE FOR INDIVIDUALS
WITH A DEVELOPMENTAL DISABILITY WHO RESIDE IN AN ICF/MR**

In addition to the Basic Personal Needs Allowance, individuals with a developmental disability who reside in an ICF/MR would have an additional allowance of: \$35.00.

1. Justification for a higher personal needs allowance, based on Title XIX requirements (42 CFR 483.440 Condition of participation: Active treatment services)

a) Standard: Active treatment.

(1) Each client who resides in an ICF/MR must receive a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services, that is directed toward—

- i. The acquisition of the behaviors necessary for the client to function with as much self determination and independence as possible; and
- ii. The prevention or deceleration of regression or loss of current optimal functional status.

The obligations under Title XIX participation are very specific for ICF/MR providers:

- a) Ensure clients the opportunity to participate in social, religious and community group activities.
- b) Ensure that clients have the right to retain and use appropriate personal possessions and clothing.
- c) The requirement to facilitate independence of clients is woven throughout the Title XIX regulations including finances.

2. Community life justification for a higher personal needs allowance:

- a) The organization (ICF/MR) has responsibility to promote community life, including leadership roles and responsibilities for people with disabilities.
- b) The organization (ICF/MR) has responsibility to support people served in developing social networks and involving people in all aspects of community life.

3. Justification for a higher personal needs allowance based on Psycho-Social-developmental Characteristics:
- a) Clients in ICF/MR are generally younger, including children who are less likely to be eligible for SSDI. Families are often low income.
 - b) Clients move through the age continuum while residing in the ICF/MR.
 - c) Clients are more active than individuals in a nursing facility.
 - d) Independence is a life skill sought. Individual with a Developmental Disabilities learn in "active" real-life settings. It is difficult for these individuals to transfer skills learned in one setting to another.
 - e) Self-reliance is a set of skills to be supported.
 - f) Control over personal choices is encouraged.
 - g) Clients have often experienced a lifetime of poverty and bring few possessions to the environment.
 - h) Accreditation and regulatory requirements encourage/mandate community involvement by the residents of ICF's/MR.

North Dakota's process for establishing the Personal Needs allowance is in compliance with the post-eligibility regulations.

The criteria that will be used for determining if an individual will receive the greater personal needs allowance will be the authorization of the individual to reside in a Intermediate Care Facility for the Mentally Retarded (ICF/MR) . The individual will remain eligible for the higher personal needs allowance for as long as he/she continues to reside in an ICF/MR.

The authorization of the placement and; therefore, the increase in the personal needs allowance will be made by a Developmental Disabilities Program Administrator.

State: North Dakota

9. All reasonable childcare expenses, for which the family is responsible, for any child in the unit are allowed as a deduction from income.
10. Gross income tests are eliminated.
11. Disregard TANF cash grant as income.
12. Extra checks of earned or unearned income received from a regularly recurring income source are disregarded as income. Bonus checks, or checks for any other reason, are not considered extra checks. The last check received in the month is considered the extra check.
13. The first \$50 per month of current child support, received on behalf of children in the Medicaid unit, will be disregarded from each budget unit that is budgeted with a separate income level.
14. Disregard subsidized guardianship payments for children.
15. Disregard payments from the Child and Adult Food Program for meals and snacks to licensed families who provide daycare in their home.
16. Dividend and interest income from liquid assets is disregarded as income.
17. Additional pay received by military personnel as a result of deployment to a combat zone is disregarded as income.
18. All wages paid by the Census Bureau for temporary employment related to census activities is disregarded.
19. Federal and State tax refunds and refundable tax credits are excluded as income.

The income and/or resource methodologies that the less restrictive methodologies replace are as follows:

Assets:

1. A new provision (This effectively eliminates the asset test.)
2. A vehicle with an equity value of only up to \$1500 was previously allowed.
3. A new provision.
4. Replaces provision which allowed real property to be counted after 9 months even if the family continued to make a good faith effort to sell.
5. A new provision.
6. All such property was previously counted as an asset and was subject to the \$1000 asset limit.

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Supersedes
TN No. 08-018

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7. Burial was limited to \$1500 in a bonafide burial agreement.
8. Life estate values were previously counted as an available asset and were subject to the \$1000 asset limit.
9. Replaces provision that based asset eligibility on the last day of the month.
10. A new provision.
11. A new provision.

Income:

1. Disregard of \$90.
2. JPTA earnings were considered under some circumstance and earning of part-time students were considered.
3. AFDC considered income from Job Corps.
4. A new provision.
5. The amount was \$10.
6. Non-recurring lump sum income was prorated.
7. Previously counted as income.
8. Previously limited to four (4) consecutive months of \$30 plus 1/3, then eight (8) months of \$30.
9. Previously limited in dollar amount and only for children included in the grant.
10. Gross income tests were completed monthly.
11. A new provision.
12. A new provision. (This works similar to the suspended provision in AFDC on July 16, 1996.)
13. Previously limited to one \$50 disregard per family unit.
14. A new provision.
15. A new provision.
16. Previously counted interest and dividends paid out as income.
17. Previously counted as income.
18. Previously counted temporary Census related employment as earned income.
19. Previously counted certain Federal and State tax refunds as income.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: NORTH DAKOTA

MORE LIBERAL METHODS OF TREATING INCOME
UNDER SECTION 1902(r)(2) OF THE ACT*

X Section 1902(f) State _____ Non-Section 1902(f) State

19. Federal and State tax refunds and refundable tax credits are excluded as income for the following eligibility groups:

- X Qualified children and pregnant women under 1902(a)(10)(A)(i)(III).
- X Poverty level pregnant women and infants (133% - 185% FPL) under 1902(a)(10)(A)(i)(IV).
- X Poverty level children aged 1 up to age 6 (133% FPL) under 1902(a)(10)(A)(i)(VI).
- X Poverty level children aged 6 up to age 19 (100% FPL) under 1902(a)(10)(A)(i)(VII).
- X Optional categorically needy groups under 1902(a)(10)(A)(ii) as listed below:
 - 1902(a)(10)(A)(ii)(I) and 1905(a)(i)
 - 1902(a)(10)(A)(ii)(XV)
 - 1902(a)(10)(A)(ii)(XIX)

NOTE: The Special Income Level Group under 1902(a)(10)(A)(ii)(V), the Individuals Who Would be Eligible if in an Institution Group under 1902(a)(10)(A)(ii)(VI) and the Hospice Group under 1902(a)(10)(A)(ii)(VII) cannot be included in this disregard.

- X Medically Needy under 1902(a)(10)(C)(i)(III).
- X All aged, blind or disabled groups in 209(b) states under 1902(f).
- X QMBs, SLMBs and QIs under 1905(p).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: NORTH DAKOTA

MORE LIBERAL METHODS OF TREATING RESOURCES
UNDER SECTION 1902(r)(2) OF THE ACT*

X Section 1902(f) State _____ Non-Section 1902(f) State

10. Federal and State tax refunds and refundable tax credits are excluded as resources for nine months beginning after the month of receipt for the following eligibility groups:

- X Qualified children and pregnant women under 1902(a)(10)(A)(i)(III).
- X Poverty level pregnant women and infants (133% - 185% FPL) under 1902(a)(10)(A)(i)(IV).
- X Poverty level children aged 1 up to age 6 (133% FPL) under 1902(a)(10)(A)(i)(VI).
- X Poverty level children aged 6 up to age 19 (100% FPL) under 1902(a)(10)(A)(i)(VII).
- X Optional categorically needy groups under 1902(a)(10)(A)(ii) as listed below:
 - 1902(a)(10)(A)(ii)(I) and 1905(a)(i)
 - 1902(a)(10)(A)(ii)(XV)
 - 1902(a)(10)(A)(ii)(XIX)
- X Medically Needy under 1902(a)(10)(C)(i)(III).
- X All aged, blind or disabled groups in 209(b) states under 1902(f).
- X QMBs, SLMBs and QIs under 1905(p).

TN No.: 10-002
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This page has been WITHDRAWN!

Revision: MARCH 2010

Supplement 12a to ATTACHMENT 2.6-A
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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: NORTH DAKOTA

ELIGIBILITY – UNDER SECTION 1931 OF THE ACT

The agency uses less restrictive income and/or resource methodologies than those in effect as of July 16, 1996 as follows:

 X Federal and State tax refunds and refundable tax credits are excluded as income and are excluded as resources for nine months beginning after the month of receipt for individuals eligible under 1931 authority.

The income and/or resource methodologies that the less restrictive methodologies replace are as follows:

Income – Previously counted Federal and State tax refunds as income.
Resources - Previously counted Federal and State tax refunds as resources.

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