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**State/Territory Name: North Dakota**

**State Plan Amendment (SPA) #: ND-13-007**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Additional Companion letter
- 3) CMS 179
- 4) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
1600 Broadway, Suite 700  
Denver, CO 80202-4967



## **Region VIII**

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December 3, 2013

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

RE: North Dakota #13-007

Dear Ms. Schwab:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 13-007. This SPA will allow a rural health clinic to request a one-time adjustment to encounter rates.

Please be informed that this State Plan Amendment is approved effective July 1, 2013. We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Ann Clemens at (303) 844-2125.

Sincerely,

/s/

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

CC: Maggie Anderson, ND  
Kathy Rodin, ND

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Denver Regional Office  
1600 Broadway, Suite #700  
Denver, CO 80202-4967



**REGION VIII - DENVER**

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December 3, 2013

Julie F. Schwab, Medicaid Director  
North Dakota Department of Human Services  
600 E. Boulevard Ave, Dept. 325  
Bismarck, ND 58505-0250

Dear Ms. Schwab:

This letter is being sent as a companion to our approval of ND SPA 13-007 which allows rural health clinics to request a one-time adjustment to encounter rates. Our review of this amendment included an overall assessment of the submitted Attachment 4.19-B pages of the North Dakota State Plan. Based on this review, CMS determined that North Dakota needs to address the following additional elements in order to bring the State Plan into compliance with federal law.

1. Attachment 4.19-B Page 4a-

- The current SPA language references an APM equal to the Medicare maximum for fiscal year 2000. We are still not sure which rate or rate schedule this is referring to. We would request that clarifying information be added into the SPA language in order to explain the methodology. Also, if this methodology includes a fee for service rate, then including language that the APM methodology would include a reconciliation up to the PPS.


Please respond to this letter within 90 days of receipt with a corrective action plan describing how you will resolve the issues identified above. Failure to respond timely will result in our initiation of the formal compliance process. During the 90 day period, we are happy to provide any technical assistance that you need.

If you have any questions about this letter, please contact Ann Clemens of my staff at either 303-844-2125 or by email at [ann.clemens@state.co.us](mailto:ann.clemens@state.co.us).

Sincerely,

/s/

Richard C. Allen  
Associate Regional Administrator  
Divisions of Medicaid & Children's Health Operations

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: <b>13 - 007</b>	2. STATE <b>North Dakota</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>July 1, 2013</b>	
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:  <b>42 CFR Part 447</b>		7. FEDERAL BUDGET IMPACT: a. FFY <u>2013</u> \$ <u>\$ 130,233.00</u> b. FFY <u>2014</u> \$ <u>\$ 373,702.00</u>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-B, Pages 4, 4a, 4b</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>Attachment 4.19-B, Page 4</b>	
10. SUBJECT OF AMENDMENT: <b>Amends the State Plan for Rural Health Clinics</b>			
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:  <b>Maggie D. Anderson, Director Division of Medical Services ND Department of Human Services 600 East Boulevard Avenue Dept 325 Bismarck ND 58505-0250</b>	
13. TYPED NAME: <b>Maggie D. Anderson</b>			
14. TITLE: <b>Director, Division of Medical Services</b>			
15. DATE SUBMITTED: <b>July 22, 2013</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: <b>July 22, 2013</b>		18. DATE APPROVED: <b>12/03/13</b>	
<b>PLAN APPROVED -- ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>07/01/13</b>		20. SIGNATURE OF REGIONAL OFFICIAL: <b>/s/</b>	
21. TYPED NAME: <b>Richard C. Allen</b>		22. TITLE: <b>ARA, DMCHO</b>	
23. REMARKS:			

30. The payment methodology for Rural Health Clinics (RHC) shall conform to section 702 of the Benefits Improvement and Protection Act (BIPA) of 2000. A RHC that agrees in writing to the use of an alternative payment methodology shall be reimbursed using an alternative payment methodology (APM) identified in subsection B of this section. A RHC which does not agree to the state's alternative payment methodology shall be reimbursed on a prospective payment system (PPS) identified in subsection A of this section. On an annual basis the state will compare the APM rate established to the PPS rate to ensure that the APM rate is at least equal to the PPS rate.

RHC Services are defined as those services that are reimbursable in 42 CFR 405.2411

A. Prospective Payment System (PPS) Rate

1. Establishment of PPS Rate

A RHC shall be reimbursed on a prospective payment system for services furnished on or after January 1, 2001 using a payment rate based on the RHC's reasonable costs for the RHC's fiscal years 1999 and 2000. Reasonable costs are costs which are related to furnishing services and do not exceed billed charges, except for costs related to laboratory services which may not exceed the Medicare fee schedule. Reasonable costs for each year are divided by the number of visits for the year and the PPS rate will be the average of the rates for the two years. The PPS rate shall be effective January 1, 2001. The PPS rate will be adjusted on January 1 of each year by the Medicare Economic Index (MEI) for primary care services and will be adjusted for any increase or decrease in the scope of services furnished by the center during the center's previous fiscal year.

2. Rate Setting for New RHCs

In any case in which an entity first qualifies as a RHC after January 1, 2000, the PPS rate for the first year in which services are provided, beginning on or after January 1, 2001 shall be the average rate of the 10 centers located in closest proximity to the RHC. For subsequent calendar years the PPS rate as established shall be adjusted by the MEI.

3. Upon the RHC's application, the PPS rate shall be adjusted to reflect any increase or decrease in the scope of services furnished by the RHC.

B. Alternative Payment Methodology (APM) Rate

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TN No. 13-007  
Supersedes  
TN No. 02-016

Approval Date 12/3/13 Effective Date 7/1/2013

The APM rate is a fixed rate and is not subject to adjustment or reconciliation except as provided for below. The APM rate shall equal or exceed the PPS rate that was established for the center.

The RHC's APM rate shall be established according to a two-step process, as follows:

1. Establishment of APM Rate:

(a) The APM rate shall be equal to an amount (calculated on a per visit basis) that is:

- i. For provider-based RHCs, an APM rate shall be established based on 100% of the RHC's billed charges, exclusive of lab charges, for the RHC's fiscal year 2000 plus the fee schedule amount for laboratory services divided by the number of visits.
- ii. For freestanding RHCs the Medicare maximum rate for fiscal year 2000 shall be used.

(b) The calculation of the APM rate and any subsequent adjustments to that rate shall be on the basis of the reasonable costs of the RHC as provided for under 42 C.F.R. part 413 without the application of provider screens and caps or limitations on costs or cost categories.

(c) The APM rate shall be increased by four percent effective July 1, 2013.

2. One-Time Adjustment:

Each RHC that is an enrolled provider on June 30, 2012 shall have one opportunity to rebase its APM rate. The APM rate shall be adjusted to the Medicare cost per visit, excluding provider screens and caps, from its fiscal year 2012 Medicare cost report. The cost per visit shall exclude laboratory costs and shall be increased by one percentage point for each three month period from the cost report end date to July 1, 2013.

3. Upon the RHC's application, the APM rate shall be adjusted to reflect any increase or decrease in the scope of services furnished by the RHC.

4. Rate Setting for New RHCs

For the purpose of this Section, a "new RHC" is a RHC that meets all applicable licensing or enrollment requirements on or after July 1, 2012.

- (a) Establishment of Interim Rate: The state shall pay a new RHC under the methodology effective for services provided on or after the effective date the provider is an enrolled provider. The RHC shall choose between two options for an interim APM rate that shall be effective until a new APM rate is established:
- i. The average APM rate of the 10 centers located in closest proximity to the RHC; or
  - ii. A rate based on an actual or pro forma cost report.
- (b) Establishment of APM Rate: The RHC's APM rate will be established based on the Medicare cost per visit, excluding provider screens and cap, from its fiscal year Medicare cost report that has 12 months of RHC costs. The APM rate shall exclude laboratory costs and shall be effective on July 1 following the Medicare cost report used to establish the rate.
- (c) Reconciliation: Payments made to a RHC under the interim rate described in subsection B.5(a) shall be subject to cost settlement, and the RHC shall be entitled to receive the reasonable cost of providing covered services during the period the interim APM rate is effective.
5. If services furnished by a RHC to a Medicaid eligible recipient are paid by a managed care entity at a rate less than the established rate, a supplemental payment equal to the difference between the rate paid by the managed care entity and the established rate times the number of visits shall be made quarterly.