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State/Territory Name: North Dakota

State Plan Amendment (SPA) #: ND-13-012

This file contains the following documents in the order listed:

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

CMS, Denver, Region VIII

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



REGION VIII - DENVER

December 23, 2013

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

RE: North Dakota 13-012

Dear Ms. Schwab:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 13-007 and also reviewed the corresponding outpatient hospital UPL demonstration. This amendment provides a 4% inflationary rate increase for North Dakota Medicaid providers.

Please be informed this State Plan Amendment has been approved today with an effective date of July 1, 2013. We are enclosing the CMS-179 and the amended plan page(s).

In addition, we are enclosing a request for a companion SPA to ND 13-012 that will address some clarifications of language within Section 4.19-B.

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.

Sincerely,

Richard C. Allen

Associate Regional Administrator Divisions of Medicaid & Children's Health Operations DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Medicare & Medicaid Services Denver Regional Office 1600 Broadway, Suite #700 Denver, CO 80202-4967



REGION VIII - DENVER

December 23, 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 13-012 which amends the State Plan to provide an inflationary increase for services rendered by Medicaid providers. 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. The State includes language regarding crossover claims on Attachment 4.19-B page 1. This language appears to belong in the plan under Supplement 1 to Attachment 4.19-B, pages 1-3 and these pages should be updated to include this language. If the state disagrees, please provide more information as to why this language is included on this page.
- 2. Please review the placement of services in these reimbursement pages. For example, why the state has chosen to include certain services together within one item (E.g., optometrists, dentist and dentures) and has chosen to separate other services that would appear to be grouped together (E.g., other practitioner services and chiropractors)? Some of these revisions have been made in conjunction with SPA 13-012, but there are other examples where the state could consolidate services for clarity within the plan.
- 3. Attachment 4.19-B page 1 item #1 references Group 1 hospitals. Please provide a definition of these facilities or direct us to where this definition is outlined in the plan.
- 4. Attachment 4.19-B page 2 item #12 outlines payment methodology for Home Health Agency services. It includes all required services as required by 42 CFR 441.15 except supplies. The plan does outline that supplies are covered in the corresponding coverage pages. Please update the item language to include the payment methodology for supplies. Also, please provide more information on how home health supplies are being provided. Is there a purchasing agreement in place to provide these supplies? Is this provided through a vendor? If so, is this provided through 1915(a) authority or a 1915(b) waiver?

- 5. Attachment 4.19-B page 2 item #14 provides very limited language regarding hospice services. We request that the State revise and expand this item to include more information, i.e. please describe such things as:
 - reimbursement of hospice services in nursing facilities
 - any caps on services
 - reimbursement of hospice physician services
 - reimbursement of curative treatment for Medicaid beneficiaries under the age of 21 receiving hospice benefits pursuant to section 2302 of the Patient Protection and Affordable Care Act of 2010.

We also recommend revising the existing language from Attachment 4.19-B page 2 item #14 to state the following: "For hospice services Medicaid will pay in accordance with the methodology published annually by CMS and published on Medicaid.gov."

- 6. Attachment 4.19-B page 3 item #23 outlines personal care services. We request that you add language to the plan to outline that a different rate is paid to individual providers than is paid to agency providers. Outside of the State Plan, please provide more information on the rate that is being reimbursed for residential providers. Please provide more information on which types of facilities provide this service, how their costs are computed, and how the per diem rate is established.
- 7. Attachment 4.19-B page 3a item #26 outlines diagnostic, screening, preventative, and rehabilitative services. These appear as well on page 3b-1. Is there a way for the state to consolidate this plan language for additional clarity? Also, please provide more information on how these services are being reimbursed, including: what types of entities provides this service, are they both governmental and private provides; what kinds of rates are these providers receiving; are facility costs being paid; how are these rates being paid? If the state has cost reporting data already available, please provide these cost reports.

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.

Sincerely,

Richard C. Allen

Associate Regional Administrator Divisions of Medicaid & Children's Health Operations

TRANSMITTAL AND NOTICE OF APPROVAL OF	I. TRANSMITTAL NUMBER:	2. STATE
STATE PLAN MATERIAL	13 - 012	North Dakota
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FOR: HEALTH CARE FINANCING ADMINISTRATION	3. PROGRAM IDENTIFICATION:	ON YOUNG A COTE
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TO: REGIONAL ADMINISTRATOR	(MEDICAID) 4. PROPOSED EFFECTIVE DATE	· · · · · · · · · · · · · · · · · · ·
HEALTH CARE FINANCING ADMINISTRATION		
DEPARTMENT OF HEALTH AND HUMAN SERVICES	July 1, 2013	
5. TYPE OF PLAN MATERIAL (Check One):		
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	CONSIDERED AS NEW PLAN	AMENDMENT
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AME		amendment)
6. FEDERAL STATUTE/REGULATION CITATION:	7. FEDERAL BUDGET IMPACT:	•
	a. FFY 2013 \$ 624,888 b. FFY 2014 \$ 2,414,876	
42 CFR 447.204	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERS	
	OR ATTACHMENT (If Applicable)	:
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and 7	Su, Si and /	
10. SUBJECT OF AMENDMENT:		
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Amends the State Plan to provide an inflationary inc	rease for services rendered b	y Medicaid
providers.		
11. GOVERNOR'S REVIEW (Check One): GOVERNOR'S OFFICE REPORTED NO COMMENT	☑ OTHER, AS SPE	CIFIED.
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	Maggie D. Ander	
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		
	3	
12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:	
13. TYPED NAME:	Maggie D. Anderson, Executive Director	
Maggie D. Anderson	ND Department of Human S	
14. TITLE:	600 East Boulevard Avenue Dept 325	
Executive Director, ND Dept. of Human Services	Bismarck ND 58505-0250	
15. DATE SUBMITTED:		
September 24, 2013		
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Attachment 4.19-B Page 1

STATE: North Dakota

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

The following is a description of the policies that apply to rates and fees established for services other than inpatient hospital care, nursing facility care, and intermediate care for the mentally retarded.

Out-of-state providers are paid the same rates and fees applicable to providers in North Dakota. Medicare crossover claims will be paid based on the lesser of the Medicare coinsurance and deductible or the maximum amount payable for the service per the rates and fees established less the Medicare payment.

All rates are published on the agency's website at: http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-fee-schedules.html. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

- 1) Outpatient services are paid using a fixed percentage of charges established by the state agency, except for laboratory procedures paid according to item 3 below, dietitian services paid at the lower of the actual charge or maximum allowable charge established by the state agency, and ambulatory behavioral healthcare (partial hospitalization) paid a per diem rate established by the state agency. The fixed percentage of charges for in-state hospitals designated as Critical Access Hospitals will be established using the hospital's most recent audited Medicare cost report. Cost settlement to reasonable cost for outpatient services at instate hospitals designated as Critical Access Hospitals for Title XIX services will be based on the Medicare cost report and will occur after the hospital's Medicare cost report has been audited and finalized by the Medicare fiscal intermediary. The fixed percentage of charges for all other instate hospitals will be established using the hospital's most recent Medicare cost report available as of June 1 of each year. The fixed percentage of charges for out-of-state hospitals shall be the average of the fixed percentage paid to all hospitals categorized as Group 1 Hospitals. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 2) Clinic services payment is based on the cost of delivery of the services on a prospective basis as determined by the single state agency from cost data submitted periodically by the clinic. In those years when no cost information is requested by the single state agency, each clinic may receive an inflation increase as approved through the State Plan process. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Payments to participating providers will be made in accordance with 42 CFR 447.206. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
 - a) Payment to dental clinics, including mobile dental clinics, is based on the cost of delivery of the service as determined by the single state agency from cost data submitted annually by the clinic. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Individual provider rates will be effective October 1, 2013. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for days of service October 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly. Providers will be notified of the rates, via letter and/or email correspondence. Except as otherwise noted in the Plan, State developed fee schedule rates are the same for both governmental and private providers.
- 3) For laboratory services, Medicaid will pay the lower of billed charges, Medicare maximum allowable charge, or fee schedule established by the state agency. Medicaid payment for lab services may not exceed the Medicare rate on a per test basis.

TN No.: <u>13-012</u>				
Supersedes	Approval Date:	12-23-2013	_ Effective Date:	<u>7-1-2013</u>
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Attachment 4.19-B Page 1a

STATE: North Dakota

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

- 4) For x-ray services, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 5) For prosthetic devices, medical equipment, supplies and appliances, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 6) For physicians, podiatrists, chiropractors, and psychologists, the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, for services reimbursed from the Professional Services Fee Schedule, as authorized and appropriated by the 2013 Legislative Assembly.
 - For services rendered by licensed or registered pharmacists, the lower of billed charges or the fee schedule established by the state agency.
- 7) For optometrists, dentists and dentures, Medicaid will pay the lower of billed charges or Medicaid fee established by the state agency. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 8) For private duty nursing, Medicaid will pay the lower of billed charges or the established fee as determined by the state agency. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 9) For physical, occupational and speech therapy, payment will be the lower of billed charges or the fee established by the state agency. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- For services rendered by enrolled providers via telemedicine; payment for the telemedicine connectivity code will be the lower of billed charges or the fee established by the state agency. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 11) For eyeglasses, Medicaid will pay the lower of billed charges or the fee schedule established by the state agency.

Attachment 4.19-B Page 2

STATE: North Dakota

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

- Transportation by common carrier will be reimbursed at the going rate or fare 12) established for the general public. Ambulance services will be paid at the lower of actual billed charges or the maximum allowable charge established by the state. Private vehicles when utilized by a third party to provide transportation to a Medicaid recipient will be paid at the lower of billed charges or the mileage rate up to an upper limit established by the state agency, not to exceed the mileage established by the state legislature. The payment for all meals necessary for recipients and attendants cannot exceed the amount allowed for state employees while they are traveling in the state of North Dakota. The payment for necessary lodging for recipients and attendants traveling within North Dakota cannot exceed the amount allowed for state employees. The payment for necessary lodging for recipients and attendants traveling outside of North Dakota will be limited by a maximum established by the single state agency. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 13) For family planning services, Medicaid will pay the lower of billed charges or according to the fee schedule established by the state agency. Family planning services will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 14) Home Health Agency services including nursing care, home health aide services, physical therapy, occupational therapy, speech pathology or audiology services, reimbursement will be at the lowest of the billed charge or maximum allowable charge established by the State. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
- 15) For hospice services Medicaid will pay the amounts established by HCFA at Sections 4306, 4307, and 4308 Part 4 of the State Medicaid Manual.
- 16) Nurse-Midwife services will be paid at the 85% level of the payment made for covered pre-natal, delivery and postpartum services provided by physicians, i.e., the lower of actual charge or 85% of the allowable amount established by the state agency for payment of physician services. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.

TN No. <u>13-012</u> Supersedes TN No. 12-022

Approval Date 12-23-2013

Effective Date <u>07-01-2013</u>

Attachment 4.19-B Page 3

STATE: North Dakota

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

- 17. Vacated
- 18. Vacated
- 19. Nurse Practitioners are paid at the lower of billed charges or 75% of the professional services fee schedule. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, for services reimbursed from the Professional Services Fee Schedule, as authorized and appropriated by the 2013 Legislative Assembly.
- 20. Other Practitioner Services Are paid at the lower of billed charges or 75% of the professional services fee schedule. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, for services reimbursed from the Professional Services Fee Schedule, as authorized and appropriated by the 2013 Legislative Assembly.
- 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.
 - North Dakota Medicaid providers will receive a one-time rate adjustment and a three percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.
 - 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

TN No. <u>13-012</u> Supersedes TN No. <u>12-022</u>

Approval Date: 12-23-2013

Effective Date: <u>07-01-2013</u>

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. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.

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. 6 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.

North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.

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TN No. <u>13-012</u>			
Supersedes	Approval Date:	12-23-2013	Effective Date: 07-01-2013
TN No. <u>12-022</u>			

Attachment 4.19-B Page 3b

STATE: North Dakota

Emergency hospital services provided by hospitals not otherwise participating in the 27. Medicaid program are paid at the fixed percentage of charges for out-of-state hospitals as established in paragraph 1.

For Targeted Case Management Services, payment will be based on the lower of the 28. providers actual billed charge or the fee schedule established in 15 minute units of service by the state. North Dakota Medicaid providers will receive a four percent inflationary increase in reimbursement effective for dates of service July 1, 2013, as authorized and appropriated by the 2013 Legislative Assembly.

TN No. 13-012 Supersedes TN No. 12-022

Approval Date: _12-23-2013

Effective Date: <u>07-01-2013</u>

Attachment 4.19-B Page 3b-1

STATE: North Dakota

- For diagnostic, screening, preventive and rehabilitative services... (continued) 26.
 - a. Effective for services provided on or after January 1, 2010:

The current fee schedule(s) for rehabilitative services are published on the North Dakota Department of Human Services web site. The fee schedules were set on July 1, 2013, and are effective for services provided on and after that date.

For rehabilitative services, each qualified Medicaid service practitioner will be reimbursed a rate from the Medicaid fee schedule for defined units of service. For the private providers, the fee schedule was historically established by a comparison of codes to other, relative codes, and to what other regional (private, Medicare and Medicaid) payers allowed. For the governmental providers, the fee schedule is established based on the cost of delivering the services, which is used to set a fee for each service provided.

For private providers enrolling the following provider-types, reimbursement is the lower of billed charges or a maximum of 75% of the professional fee schedule for the following provider types: Licensed Social Worker (LSW), Licensed Independent Clinical Social Worker (LICSW), Licensed Certified Social Worker (LCSW), Licensed Addiction Counselor (LAC), Licensed Associate Professional Counselor (LAPC), Licensed Professional Counselor (LPC), and Licensed Professional Clinical Counselor (LPCC).

For Crisis Stabilization, Transitional Living, and Day Treatment reimbursement will be at a daily rate; not to exceed cost.

The State Medicaid agency will have a contract with each entity receiving payment under provisions of services (Crisis Stabilization, Transitional Living, and Day Treatment) as defined in Attachment 3.1-A and Attachment 3.1-B that will require that the entity furnish to the State Medicaid agency on an annual basis the following:

- a. Data, by practitioner, on the utilization by Medicaid beneficiaries of the services included in the unit rate and;
- b. Cost information by practitioner type and by type of service actually delivered within the service unit.

Future rate updates will be based on information obtained from the providers.

TN No. Supersedes TN No. 12-022

Approval Date: 12-23-2013

Attachment 4.19-B Page 3d

STATE: North Dakota

31. For Targeted Case Management Services for Individuals needing Long Term Care services, payment will be based on the lower of the provider's actual billed charge or the fee schedule established in monthly increments. Except as otherwise noted in the plan, the state developed fee schedule rates are the same for both governmental and private providers of case management for individuals needing Long Term Care. The fee schedule and any annual/periodic adjustments to the fee schedule are published on http://.nd.gov/dhs/services/medicalserv/medicaid/provider-fee-schedules.html.

The agency's fee schedule rate was set as of July 1, 2013 and is effective for services provided on or after that date. All rates are published on the agency's website.

TN No.: 13-012

Supersedes

TN No.: 08-011

Approval Date: 12-23-2013

Effective Date: 7/1/2013

Attachment 4.19-B Page 3f

STATE: North Dakota

33. For Targeted Case Management Services for Pregnant women and Infants, payment will be based on the lower of the provider's actual billed charge or the fee schedule established in 15 minute increments. Except as otherwise noted in the plan, the state developed fee schedule rates are the same for both governmental and private providers of case management for pregnant women and infants. The fee schedule and any annual/periodic adjustments to the fee schedule are published on http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-fee-schedules.html. The agency's fee schedule rate was set as of July 1, 2013 and is effective for services provided on or after that date. All rates are published on the agency's website.

TN No.: 13-012

Supersedes

TN No.: 08-006

Approval Date: <u>12-23-2013</u>

Effective Date: <u>7-01-2013</u>

STATE: North Dakota Attachment 4.19-B Page 7

32. Vacated

33. Vacated