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State/Territory Name: North Dakota

State Plan Amendment (SPA) #: ND-14-006

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

March 10, 2015

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 #14-006

Dear Ms. Anderson:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 14-006. This amendment clarifies language regarding North Dakota's personal care services. It also makes clarifying changes to language and format to 4.19-B pages as requested in a companion letter to ND-13-012.

Please be informed that this State Plan Amendment was approved today with an effective date of January 1, 2014. We are enclosing the CMS-179 and the amended plan page(s).

In addition, we are enclosing a companion letter to ND-14-006 requesting further information regarding the per diem rate for personal care services.

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
1961 Stout Street, Room 08-148
Denver, CO 80294



REGION VIII - DENVER

March 11, 2015

Maggie Anderson, Executive Director
North Dakota Department of Human Services
600 E. Boulevard Ave, Dept. 325
Bismarck, ND 58505-0250

Dear Ms. Anderson:

This letter is being sent as a companion to our approval of ND SPA 14-006 which amends the State Plan to provide a rate increase for services rendered by personal care services providers as well as clarifying language regarding personal care services. 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 regarding the manner in which personal care rates are established.

Attachment 4.19-B page 3 item #23 outlines payment for personal care services. We have the following questions on the rates described in this section.

1. 23.a. - What is the current 15-minute rate for these personal care services?
2. 23.b. Under what circumstances would an individual require 24-hour, seven days a week personal care services?
3. 23.b. This section provides for a per diem rate for non-residential providers as well as one for residential providers. With respect to the non-residential providers, it appears from the methodology that the per diem rate for an individual or agency is patient-specific since it is based on the number of hours in the individual's care plan. Is this correct? If so, how often is the care plan reviewed?
4. 23.b. Residential providers – North Dakota previously provided CMS with an example of costs used to develop the residential per diem rates. Unlike nursing facilities and hospitals, these residences are not recognized by Federal regulations as facilities for purposes of matching facility overhead and general operational cost. Only costs related to the provision of the medical service (in this case personal care services) can be used in establishing a per diem that can be matched by CMS. Using the example provided by the state:

- Please identify the types of practitioners whose salaries and benefits are included in the cost pool. This pool should consist of individuals involved in directly providing personal care services.
- Please describe the difference between administrative costs and overhead. The example allocated \$72,203 in administrative costs and \$13,187 in overhead to the per diem rate.
- You indicate that administrative costs are allocated based on personal care costs to total costs. That percentage is 55.7%. However, you appear to have allocated 61.4%. Is there an additional adjustment?


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,

/s/

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

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 14-006	2. STATE North Dakota
		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, 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 CRF Part 440.167		7. FEDERAL BUDGET IMPACT: a. FFY <u>2014</u> \$174,366 b. FFY <u>2015</u> \$226,488	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B pages 1, 2 and 3 Supplement 1 to Attachment 4.19-B, page 4		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B pages 1, 2 and 3	
10. SUBJECT OF AMENDMENT: To amend the State Plan for Personal Care Services including changes as a result of the Companion Letter to TN 13-012.			
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>Delegated to Single State Medicaid agency</u> <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Maggie D. Anderson, Executive Director ND Department of Human Services 600 East Boulevard Avenue Dept 325 Bismarck ND 58505-0250	
13. TYPED NAME: Maggie D. Anderson			
14. TITLE: Executive Director, ND Dept. of Human Services			
15. DATE SUBMITTED: March 17, 2014			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: March 17, 2014		18. DATE APPROVED: March 10, 2015	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2014		20. SIGNATURE OF REGIONAL OFFICIAL: /s/	
21. TYPED NAME: Richard C. Allen		22. TITLE: ARA, DMCHO	
23. REMARKS:			

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.

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 and revenue code 278 paid at the cost of the supply plus twenty percent for billed charges over \$3,000. Providers shall follow Medicare coding guidelines for appropriate billing of revenue code 278. 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 in-state 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 in-state 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. A Group 1 Hospital is a hospital with average discharges in excess of 100 per year for the years ended June 30, 1992, 1993 and 1994. Out-of-state hospitals shall be paid for revenue code 278 at the cost of the supply plus twenty percent for billed charges over \$3,000. Providers shall follow Medicare coding guidelines for appropriate billing of revenue code 278. 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.

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

- 12) Transportation by common carrier will be reimbursed at the going rate or fare 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 include the following services: nursing care, home health aide services, physical therapy, occupational therapy, speech pathology or audiology services and supplies. Reimbursement will be on a per visit basis and 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.

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. Rates will be established for individual and agency providers.

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. Providers who travel at least 21 miles round-trip to provide personal care services to individuals in rural areas, will receive a rate adjustment effective for dates of service January 1, 2014.
 - 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.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: North Dakota

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

Payment of Medicare Crossover Claims

Medicare crossover claims will be paid 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.

TN No. 14-006

Supersedes

TN No. NEW

Approval Date 3/10/15

Effective Date 1/1/2014