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**State/Territory Name:** North Dakota

**State Plan Amendment (SPA) #:** ND-17-0011

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



**Region VIII**

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May 22, 2017

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

RE: North Dakota #17-0011

Dear Ms. Anderson:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 17-0011. This amendment would allow the state to clarify FQHC payment methodology per the companion letter issued with the approval package for ND-16-0011.

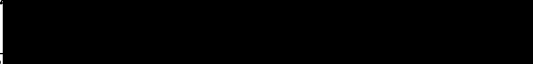

Please be informed that this State Plan Amendment was approved today with an effective date of January 1, 2017. We are enclosing the CMS-179 and the amended plan page(s).

If you have any questions concerning this amendment, please contact Kirstin Michel at (303) 844-7036.

Sincerely



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

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>17-0011</b>	2. STATE <b>North Dakota</b>
<b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>January 1, 2017</b>	
5. TYPE OF PLAN MATERIAL ( <i>Check One</i> ):  <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> <b>AMENDMENT</b> COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT ( <i>Separate Transmittal for each amendment</i> )			
6. FEDERAL STATUTE/REGULATION CITATION: <b>42 CFR Part 447</b>		7. FEDERAL BUDGET IMPACT: a. FFY <u>2017</u> \$0 b. FFY <u>2018</u> \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Attachment 4.19-B Page 5, 5a and 5b		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  Attachment 4.19-B Page 5, 5a and 5b	
10. SUBJECT OF AMENDMENT: Amends the North Dakota State Plan to clarify FQHC payment methodology per companion letter to ND TN 16-0011.			
11. GOVERNOR'S REVIEW ( <i>Check One</i> ): <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 Medical Services Division 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, Medical Services Division</b>			
15. DATE SUBMITTED: <b>March 31, 2017</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: March 31, 2017		18. DATE APPROVED: May 22, 2017	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2017		20. APPROVING OFFICIAL: 	
21. TYPED NAME: Richard C. Allen		22. TITLE: ARA, DMCHO	
23. REMARKS:			

31. The payment methodology for Federally Qualified Health Clinics (FQHCs) shall conform to section 702 of the Benefits Improvement and Protection Act (BIPA) of 2000. A center 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 center 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. At any time the APM rate is less than the PPS rate, a supplemental payment equal to the difference between the APM rate and the PPS rate times the number of visits shall be made quarterly.

A. Prospective Payment System (PPS) Rate

A center shall be reimbursed using a prospective payment system for services furnished on or after January 1, 2001 using a payment rate based on the center's reasonable costs for the center's fiscal years 1999 and 2000. 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 and will be adjusted on January 1 of each year by the Medicare Economic Index (MEI).

When an entity first qualifies as a FQHC after January 1, 2003 the rate for the first year, or partial year thereof, in which services are first provided shall be the Medicaid interim rate. In accordance with Section 1902(bb)(4) of the Social Security Act, the Medicaid interim rate shall be the amount that is equal to the PPS or APM rate during the most recent calendar year for other FQHCs with similar services and caseloads located in the state. For purposes of this section, a "new FQHC" is an FQHC that meets all applicable licensing or enrollment requirements, and qualifies as an FQHC on or after January 1, 2003. Sites of an existing FQHC that are newly recognized by the Health Resources and Services Administration (HRSA) are not new FQHCs. The rate established shall not be subject to settlement. Beginning January 1 of the year following the year an entity first qualifies as an FQHC, the previous year's Medicaid interim rate shall be adjusted by the MEI. Beginning January 1 of the second year following the year an entity first qualifies as an FQHC a PPS rate shall be established based on the FQHC's Medicare cost report for the first full year of operation.

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

B. Alternative Payment Methodology (APM) Rates

Two APM rates shall be established for each FQHC: one rate for medical and other services (i.e., all Medicaid-covered services other than dental services); and one rate for dental services (the "dental APM rate"). These APM rates are fixed rates and are not subject to adjustment or reconciliation except as provided for below.

The FQHC's medical and dental APM rates shall be established according to a two-step process, as follows:

1. Establishment of APM Rate:
  - (a) The medical APM rate shall be equal to an amount (calculated on a per visit basis) that is:
    - i. For an FQHC that qualified as an FQHC before fiscal year 1999, equal to 100 percent of the average of the reasonable costs of the FQHC of furnishing FQHC services (other than dental services) during fiscal years 1999 and 2000; or
    - ii. For an FQHC that first qualified as an FQHC in or after fiscal year 1999, equal to 100 percent of the reasonable costs of the FQHC of furnishing FQHC services (other than dental services) during the first full fiscal year after the date on which the entity qualified as an FQHC.
  - (b) The APM dental rate shall be equal to an amount (calculated on a per visit basis) that is:
    - i. For an FQHC that provided dental services before 1999, equal to 100 percent of the average of the reasonable costs of the FQHC of furnishing dental services during fiscal years 1999 and 2000; or
    - ii. For an FQHC that first provided dental services in or after 1999, equal to 100 percent of the reasonable costs of furnishing dental services during the first full fiscal year after the date on which the FQHC first provided dental services.
  - (c) The calculation of the APM rates and any subsequent adjustments to those rates shall be on the basis of the reasonable costs of the FQHC 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.
2. One-Time Adjustment: Each FQHC that is an enrolled provider on March 31, 2012 shall have one opportunity to modify its APM medical rate, dental rate, or both its medical and dental rates. The FQHC shall choose a Medicare cost report utilizing either fiscal year 2010 or fiscal year 2011 as the basis for the modified rate. For the year chosen, the APM medical and dental rates will be:
  - (a) Adjusted by the Medicare Economic Index (MEI), and
  - (b) Adjusted to reflect any increase or decrease in the scope of services.
3. Effective April 1, 2012, the state implemented an APM medical and dental rate. Beginning in calendar year 2013, the State shall adjust the APM medical and dental rates on January 1 of each year by the MEI for that year.
4. Upon the FQHC's application, the medical or dental APM rates shall be adjusted to reflect any increase or decrease in the scope of services furnished by the FQHC.

5. Rate-Setting for New FQHCs

For the purpose of this Section, a “new FQHC” is an FQHC that meets all applicable licensing or enrollment requirements, and qualifies as an FQHC on or after April 1, 2012. Sites of an existing FQHC that are newly recognized by the Health Resources and Services Administration (HRSA) are not new FQHCs.

- (a) Establishment of Interim Rate: The state shall pay new FQHCs under the methodology effective for services provided on or after the effective date the provider is an enrolled provider. The new FQHC shall choose between two options for interim medical and dental APM rates that shall be effective until new APM rates are established:
- i. 90% of the average medical APM rate and average dental APM rate for all FQHCs in North Dakota; or
  - ii. A rate based on an actual or *pro forma* cost report.
- (b) Establishment of APM Rates: The FQHC’s medical and dental APM rates will be determined according to subsection B.1 and shall be effective on the first day of the second full fiscal year of operations.
- (c) Reconciliation: Payments made to an FQHC under the interim rate described in subsection B.5 shall be subject to cost settlement, and the FQHC shall be entitled to receive the reasonable cost of providing covered services during the first two fiscal years of operation.

6. Behavioral Health Services Encounter

A behavioral health services encounter provided at a FQHC may be rendered by a licensed provider, within their scope of practice and who meets the provider qualifications for rehabilitative services under Attachment to Page 6 of Attachment 3.1-A and Attachment to Page 5 of Attachment 3.1-B.

The rate for a behavioral health encounter shall be equal to the medical APM rate. A behavioral health encounter may be reimbursed in addition to a separate medical encounter on the same day.

7. Wrap-around payment under managed care arrangements

If services furnished by a FQHC 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 by the managed care entity. When supplemental payments are made by the managed care entity to the FQHC, the individually affected FQHC must agree to this payment methodology.