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State/Territory Name: NE

State Plan Amendment (SPA) #: 13-25

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Disabled & Elderly Health Programs Group

January 22, 2014

Vivianne M. Chaumont, Director
Nebraska Department of Health and Human Services
Division of Medicaid and Long-Term Care
301 Centennial Mall South, 3rd Floor
PO Box 95026
Lincoln, NE 68509-5026

Dear Ms. Chaumont:

We have reviewed Nebraska's state plan amendment (SPA) 13-25 received in the Kansas City Regional Office of the Centers for Medicare and Medicaid Services (CMS) on December 12, 2013. Under this amendment, the state proposes to remove barbiturates, benzodiazepines, and agents used to treat smoking cessation from the list of drugs a Medicaid program may exclude from coverage or otherwise restrict. This change is being made in accordance with the Patient Protection and Affordable Care Act amendment to section 1927(d)(2) of the Social Security Act. We are pleased to inform you that Nebraska 13-25 is approved, effective January 1, 2014

The Kansas City Regional Office will forward to you a copy of the CMS-179 form, as well as the pages approved for incorporation into the Nebraska Medicaid State Plan. If you have any questions regarding this amendment, please contact Jessica Walker at (410) 786-2457.

Sincerely,

/s/

Kim Howell
Acting Director
Division of Pharmacy

cc: James G. Scott, ARA Kansas City Regional Office
Jenny Minchow, Nebraska Department of Health and Human Services
Lisa deVries, Nebraska Department of Health and Human Services
Nancy Keller, Nebraska Department of Health and Human Services

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 13-25	2. STATE Nebraska
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: HEALTH CARE FINANCING ADMINISTRATION		
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):

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: 1927(d)(2) Social Security Act	7. FEDERAL BUDGET IMPACT: a. FFY 2014 \$0.00 b. FFY 2015 \$0.00
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: ATTACHMENT 3.1-A, Item 12a, Page 1 Attachment 3.1-A, Item 12a, Page 2 Attachment 3.1-A, Item 12a, Page 3 ATTACHMENT 3.1-A, Item 12a, Page 4	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): ATTACHMENT 3.1-A, Item 12a, Page 1 of 4 Attachment 3.1.A, Page 2 of 4 Attachment 3.1.A, Page 3 of 4 Attachment 3.1.A, Page 4 of 4 ATTACHMENT 3.1-A, Item 12a, Page 3

10. SUBJECT OF AMENDMENT:
Coverage of Agents for Smoking Cessation - Removal of Barbiturate Coverage for Dual Eligibles

11. GOVERNOR'S REVIEW (Check One):
 GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Governor has waived review
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:
13. TYPED NAME: Vivianne M. Chaumont	Nancy Keller Division of Medicaid & Long-Term Care Nebraska Department of Health & Human Services 301 Centennial Mall South Lincoln, NE 68509
14. TITLE: Director, Division of Medicaid and Long-Term Care	
15. DATE SUBMITTED: December 12, 2013	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: December 12, 2013	18. DATE APPROVED: January 22, 2014
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PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2014	20. SIGNATURE OF REGIONAL OFFICIAL: //s//
21. TYPED NAME: James G. Scott	22. TITLE: Associate Regional Administrator for Medicaid and Children's Health Operations

23. REMARKS:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Nebraska

LIMITATIONS – PRESCRIBED DRUGS

The Nebraska Medicaid Program covers outpatient drugs, in accordance with Sections 1902(a)(54) and 1927 of the Social Security Act, which are covered by a national or State agreement, with the following restrictions or exceptions (as indicated by checkmark).

- A. Prior authorization program which complies with Section 1927(d)(5) of the Social Security Act.
- B. The following drugs are covered, or restricted, as indicated by the checkmark:
 - 1. Certain drugs are not covered if the prescribed use is not for a medically accepted indication, as defined by Section 1927(k)(6)
 - 2. Drugs subject to restrictions pursuant to an agreement between a manufacturer and this State authorized by the Secretary under 1927(a)(1) or 1927(a)(4).

TN No. NE 13-25

Supersedes

TN No. NE 13-01

Approval Date January 22, 2014 Effective Date January 1, 2014

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Agency Nebraska

MEDICAID PROGRAM: REQUIREMENTS RELATING TO COVERED OUTPATIENT DRUGS
FOR
BOTH THE CATEGORICALLY NEEDY AND MEDICALLY NEEDY

12.a. Prescribed Drugs: Description of Service Limitation

Citation(s)	Provision(s)
1935(d)(1)	Effective January 1, 2006, the Medicaid agency will not cover any Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B.
1927(d)(2) and 1935(d)(2)	<p>The Medicaid agency provides coverage for the following excluded or otherwise restricted drugs or classes of drugs, or their medical uses to all Medicaid recipients, including full benefit dual eligible beneficiaries under the Medicare prescription Drug Benefit –Part D.</p> <p>X The following excluded drugs are covered:</p> <p><i>(“All” drugs categories covered under the drug class) <input type="checkbox"/></i></p> <p><i>(“Some” drugs categories covered under the drug class X -List the covered common drug categories not individual drug products directly under the appropriate drug class)</i></p> <p><i>(“None” of the drugs under this drug class are covered) <input type="checkbox"/></i></p> <p>X (a) agents when used for anorexia, weight loss, weight gain (limited to weight gain only)</p> <p><input type="checkbox"/> (b) agents when used to promote fertility</p> <p><input type="checkbox"/> (c) agents when used for cosmetic purposes or hair growth</p> <p>X (d) agents when used for the symptomatic relief of cough and colds</p>

TN No. NE 13-25
Supersedes
TN No. NE 13-01

Approval Date January 22, 2014 Effective Date January 1, 2014

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Agency Nebraska

MEDICAID PROGRAM: REQUIREMENTS RELATING TO COVERED OUTPATIENT DRUGS
FOR BOTH THE CATEGORICALLY NEEDY AND MEDICALLY NEEDY

12.a. Prescribed Drugs: Description of Service Limitation

Citation(s)	Provision(s)
X	(e) prescription vitamins and mineral products, except prenatal vitamins and fluoride
X	(f) nonprescription drugs (All drugs in this category are potential benefits, subject to medical necessity). Covered over the counter (OTC) classes include analgesics, anesthetics, anti-inflammatory products, anti-asthmatics, antihistamines, anti-infectives, cough and cold preparations, eye, ear and nose preparations, gastrointestinal products, hypoglycemic, and topicals.
X	(g) covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

TN No. NE 13-25
Supersedes
TN No. NE 13-09

Approval Date January 22, 2014

Effective Date January 1, 2014

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Nebraska

LIMITATIONS – PRESCRIBED DRUGS

Supplemental Rebate Program:

The state is in compliance with Section 1927 of the Social Security Act. Based on the requirements of Section 1927 of the act, the state has the following policies for the supplemental rebate program for Medicaid recipients:

- a) All covered drugs of federal participating manufacturers remain available to the Medicaid program but may require prior authorization.
- b) CMS has authorized the State of Nebraska to enter into the TOP\$sm, *The Optimal PDL Solution* (“TOP\$sm”) multi state pooling agreement to collect supplemental rebates through the TOP\$sm program. The Supplemental Drug Rebate Agreement was submitted to CMS on July 15, 2013 and has been authorized by CMS, effective October 1, 2013.
- c) Any contracts not authorized by CMS will be submitted to CMS for authorization.
- d) Any changes to the contracts for the TOP\$sm program will be submitted to CMS for approval.
- e) All drugs covered by this program irrespective of a supplemental agreement, will comply with the provisions of the National Drug Rebate Agreement.
- f) The State will negotiate supplemental rebates in addition to federal rebates provided for in Title XIX.
- g) Supplemental rebates received by Nebraska in excess of those required under the National Drug Rebate Agreement will be shared with the federal government on the same percentage basis as applied under the National Drug Rebate Agreement.
- h) The unit rebate amount is confidential and cannot be disclosed for purposes other than rebate invoicing and verification, in accordance with Section 1927(b)(3)(D).
- i) Rebates paid under the CMS-authorized TOP\$sm for the Nebraska Medicaid population do not affect AMP or best price under the Medicaid program.
- j) The CMS-authorized TOP\$sm Agreement for the Nebraska Medicaid population only covers supplemental rebates for Medicaid programs. It does not cover non-Medicaid programs.

TN No. NE 13-25

Supersedes

Approval Date January 22, 2014

Effective Date January 1, 2014

TN No. NE 13-17