

Table of Contents

State/Territory Name: NE

State Plan Amendment (SPA) #: 16-0013 Pharmacy

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 S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and CHIP Services
Disabled and Elderly Health Programs Group

November 17, 2016

Calder Lynch, Medicaid Director
Department of Health and Human Services
Division of Medicaid and Long-Term Care
301 Centennial Mall South, 5th Floor
P.O. Box 95026
Lincoln, NE 68509-0250

Dear Mr. Lynch:


We have reviewed the Nebraska State Plan Amendment (SPA) 16-0013 received in the Kansas City Regional Office on October 5, 2016. This amendment updates the terms upon which the state intends to collect supplemental rebates from drug manufacturers with continued participation in The Optimal PDL Solution (TOP\$SM), a multi-state pooling supplemental rebate agreement (SRA). The TOP\$SM SRA includes the terms upon which the state will collect supplemental rebates from drug manufacturers on those drugs dispensed to Medicaid Managed Care Organization (MCO) enrollees. Based upon the information provided, we are pleased to inform you that SPA 16-0013 is approved with an effective date of January 1, 2017.

A copy of the CMS-179 form, as well as the pages approved for incorporation into the Nebraska state plan, will be forwarded by the Kansas City Regional Office. If you have any questions regarding this amendment, please contact Renee Hilliard at (410) 786-2991.

Sincerely,

John M. Coster, Ph.D., R.Ph.
Director, Division of Pharmacy
CMS, CMCS/DEHPG

cc: James G. Scott, ARA, Kansas City Regional Office

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|---|--|---|----------------------|
| TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL | | 1. TRANSMITTAL NUMBER: 16-0013 | 2. STATE Nebraska |
| FOR: HEALTH CARE FINANCING ADMINISTRATION | | 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, 2017 | |
| 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"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>) | | | |
| 6. FEDERAL STATUTE/REGULATION CITATION: | | 7. FEDERAL BUDGET IMPACT: a. FFY 2017 \$0.00 b. FFY 2018 \$0.00 | |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1-A, Item 12a, Page 4 | | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Attachment 3.1-A, Item 12a, Page 4 | |
| 10. SUBJECT OF AMENDMENT: Limitations-Prescribed Drugs | | | |
| 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 Governor has waived review <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL | | | |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:  | | 16. RETURN TO: Nancy Keller Division of Medicaid & Long-Term Care Nebraska Department of Health & Human Services 301 Centennial Mall South Lincoln, NE 68509 | |
| 13. TYPED NAME: Calder Lynch | | | |
| 14. TITLE: Director, Division of Medicaid and Long-Term Care | | | |
| 15. DATE SUBMITTED: October 5, 2016 | | | |
| FOR REGIONAL OFFICE USE ONLY | | | |
| 17. DATE RECEIVED: October 5, 2016 | | 18. DATE APPROVED: November 17, 2016 | |
| PLAN APPROVED – ONE COPY ATTACHED | | | |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2017 | | 20. SIGNATURE OF REGIONAL OFFICIAL: // s // | |
| 21. TYPED NAME: Megan K. Buck | | 22. TITLE: Acting 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

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 October 5, 2016 and has been authorized by CMS, effective January 1, 2017.
- 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) Supplemental rebate agreements would apply to the drug benefit, both fee-for-service and those paid by contracted managed care organizations (MCOs).
- i) 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).
- j) Rebates paid under the CMS-authorized TOP\$sm for the Nebraska Medicaid population do not affect AMP or best price under the Medicaid program.
- k) 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.
- l) Pharmaceutical manufacturers are allowed to audit utilization rates.

TN No. NE-16-0013

Supersedes

Approval Date November 17, 2016

Effective Date January 1, 2017

TN No. NE 13-25