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State/Territory Name: NH

State Plan Amendment (SPA) #:17-0003

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



Center for Medicaid and CHIP Services

Disabled and Elderly Health Programs Group

January 17, 2018

Mr. Jeffrey A. Meyers
Commissioner
State of New Hampshire
Department of Health and Human Services
129 Pleasant Street
Concord, New Hampshire 03301-3857

Dear Mr. Meyers:

We have reviewed New Hampshire's State Plan Amendment (SPA) 17-0003, Prescribed Drugs, received in the Boston Regional Office on June 7, 2017. This SPA proposes to bring New Hampshire into compliance with the reimbursement requirements in the Covered Outpatient Drug final rule with comment period (CMS-2345-FC).

SPA 17-0003 establishes reimbursement for covered outpatient drugs using an actual acquisition cost methodology and implements a professional dispensing fee of \$10.47. This SPA also includes reimbursement for 340B drugs, physician-administered drugs, clotting factor, federal supply schedule, and drugs purchased at nominal price. In considering the proposed pharmacy reimbursement methodology, the state was required to provide adequate data, such as national or state surveys or studies, or other reliable data to demonstrate that the acquisition cost methodology and professional dispensing fees being paid are sufficient to ensure that New Hampshire Medicaid beneficiaries will have access to pharmacy services. In keeping with the requirements of section 1902 (a)(30)(A) of the Social Security Act, we believe the state has demonstrated that their reimbursement is consistent with efficiency, economy, and quality of care, and are sufficient to ensure that care and services are available at least to the extent they are available to the general population in the geographic area.

We believe that there is evidence regarding the sufficiency of New Hampshire's pharmacy provider network at this time to approve SPA 17-0003. Specifically, New Hampshire has reported to CMS that 277 of the state's 279 licensed in-state retail pharmacies are enrolled in New Hampshire's Medicaid fee-for-service program. With over a 99 percent participation rate, we can infer that New Hampshire's beneficiaries will have access to pharmacy services at least to the extent available to the general population since Medicaid requires that beneficiaries be provided access to all covered outpatient drugs of participating drug manufacturers with a rebate agreement through a broad pharmacy network. In contrast, commercial insurers often have more limited drug formularies and a more limited pharmacy network.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 17-0003 is approved with an effective date of April 1, 2017. A copy

of the revised signed CMS-179 form, as well as the pages approved for incorporation into New Hampshire's state plan will be forwarded by the Boston Regional Office.

If you have any questions regarding this amendment, please contact Lisa Shochet at (410) 786-5445 or lisa.shochet@cms.hhs.gov.

Sincerely,

/s/

Director, Division of Pharmacy

cc: Dawn Landry, New Hampshire Department of Health and Human Services
Richard R. McGreal, ARA, CMS, Boston Regional Office
Joyce Butterworth, CMS, Boston Regional Office

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 17-0003	2. STATE NH
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: HEALTH CARE FINANCING ADMINISTRATION	4. PROPOSED EFFECTIVE DATE April 1, 2017	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		

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: 42 CFR Part 447	7. FEDERAL BUDGET IMPACT: Remainder of FFY 2017: \$52,000 FFY 2018: \$104,000
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B, pages 2b, 2c Attachment 4.19-B, page 3	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): New Pages Attachment 3.1-B, page 3, TN 10-010
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10. SUBJECT OF AMENDMENT:
Outpatient Drug Reimbursement - Actual Acquisition Cost

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED: comments, if any, will follow

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: Dawn Landry Office of Medicaid Business and Policy/Brown Building Department of Health and Human Services 129 Pleasant Street Concord, NH 03301
13. TYPED NAME: Jeffrey A. Meyers	
14. TITLE: Commissioner	
15. DATE SUBMITTED: 6/7/17	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED: 06/07/2017	18. DATE APPROVED: 01/17/2018

19. EFFECTIVE DATE OF APPROVED MATERIAL: 04/01/2017

PLAN: APPROVED ONE

20. COPY TO ATTACHMENT: REGIONAL OFFICIAL ✓

21. TYPED NAME: Richard R. McGreal	22. TITLE: Associate Regional Administrator Div. of Medicaid & Children's Health Operations, Boston.
23. REMARKS:	

PAYMENT RATES FOR ALL TYPES OF CARE OTHER THAN INPATIENT
HOSPITAL, SKILLED NURSING, OR INTERMEDIATE NURSING CARE SERVICES

12. Prescribed Drugs

DEFINITIONS:

Actual Acquisition Cost (AAC): The AAC equals the National Average Drug Acquisition Cost (NADAC) when available. When the NADAC is not available for select NDC's, the back-up ingredient cost benchmark is the wholesale acquisition cost (WAC).

Professional Dispensing Fee: The professional dispensing fee for all drugs is \$10.47.

FOR RETAIL COMMUNITY PHARMACIES:

- Payment for brand and generic, legend and non-legend drugs (including compound drugs), is based on the lesser of (a) the Actual Acquisition Cost (AAC) plus the applicable professional dispensing fee, (b) the wholesale acquisition cost (WAC) plus the applicable professional dispensing fee, (c) a New Hampshire Maximum Allowable Cost (NH MAC) plus the applicable professional dispensing fee, (d) the Federal Upper Limit (FUL) plus the applicable professional dispensing fee, or (e) the usual and customary charge to the general public.

FOR SPECIALTY DRUGS THAT ARE DISTRIBUTED BY A NON-RETAIL PHARMACY:

- Payment is at the lesser of (a) the Actual Acquisition Cost (AAC) plus the applicable professional dispensing fee, (b) the wholesale acquisition cost (WAC) plus the applicable professional dispensing fee, (c) a New Hampshire Maximum Allowable Cost (NH MAC) plus the applicable professional dispensing fee, (d) the Federal Upper Limit (FUL) plus the applicable professional dispensing fee, or (e) the usual and customary charge to the general public.
- Clotting factors are paid at the lesser of (a) the Actual Acquisition Cost (AAC) plus the applicable professional dispensing fee, (b) the wholesale acquisition cost (WAC) plus the applicable professional dispensing fee, (c) a New Hampshire Maximum Allowable Cost (NH MAC) plus the applicable professional dispensing fee, (d) the Federal Upper Limit (FUL) plus the applicable professional dispensing fee, or (e) the usual and customary charge to the general public.
- Investigational drugs are not covered by NH Medicaid.

DRUGS NOT DISTRIBUTED BY A RETAIL COMMUNITY PHARMACY SUCH AS IN LONG TERM
CARE FACILITIES:

- Payment is at the lesser of (a) the Actual Acquisition Cost (AAC) plus the applicable professional dispensing fee, (b) the wholesale acquisition cost (WAC) plus the applicable professional dispensing fee, (c) a New Hampshire Maximum Allowable Cost (NH MAC) plus the applicable professional dispensing fee, (d) the Federal Upper Limit (FUL) plus the applicable professional dispensing fee, or (e) the usual and customary charge to the general public.

PAYMENT RATES FOR ALL TYPES OF CARE OTHER THAN INPATIENT
HOSPITAL, SKILLED NURSING, OR INTERMEDIATE NURSING CARE SERVICES

12. Prescribed Drugs (continued):

FOR PHYSICIAN ADMINISTERED DRUGS:

- Payment is set at the WAC, as listed on the published fee schedule available on the NH Medicaid provider website.

340 B DRUGS:

- 340B drugs purchased by 340B covered entities are not allowed to be billed to Medicaid. However, family planning providers are exempt from this billing prohibition because the Department has determined that it is more cost effective to allow family planning providers to bill 340B drugs.
- Drugs acquired by participating 340B covered entities will be reimbursed no more than AAC for drugs purchased through the 340B program.
- Drugs acquired through the federal 340B drug pricing program and dispensed by 340B contract pharmacies are not covered.

FEDERAL SUPPLY SCHEDULE DRUGS:

- Drugs acquired at the Federal Supply Schedule (FSS) will be reimbursed at the AAC plus the professional dispensing fee.

DRUGS ACQUIRED AT NOMINAL PRICE:

- Drugs acquired at a nominal price will be paid at the AAC plus the professional dispensing fee.

FUL INFORMATION:

For multiple source drugs which meet requirements set by the Secretary, payment will not exceed, in the aggregate, upper limits established by the Secretary. The state intends to meet this requirement through its lesser of logic. The NH MAC is an aggressive pricing methodology which is updated weekly and is often less than the FUL. NH also does a monthly update of the FUL upon its publication. Because of these timely updates and the above noted lesser of logic, payment will not exceed, in the aggregate, the upper limits established by the Secretary.

TN No: 17-0003
Supersedes
TN No: new page

Approval Date 01/17/2018

Effective Date: 04/01/2017

PAYMENT RATES FOR ALL TYPES OF CARE OTHER THAN INPATIENT
HOSPITAL, SKILLED NURSING, OR INTERMEDIATE NURSING CARE SERVICES

13. Prosthetic Devices and Durable Medical Equipment – Payments will be made in accordance with rates established by the Department. On certain medical services and supplies designated by the Secretary, payment will be made at the lowest charge level determined by the Title XVIII agency for Medicare covered services and for Medicaid covered services, the lowest charge level determined by the Title XIX State agency.
14. Eyeglasses – Eyeglasses are reimbursed in accordance with fee schedules established by the Department. On certain medical services and supplies designated by the Secretary, payment will be made at the lowest charge level determined by the Title XVIII agency for Medicare covered services and for Medicaid covered services, the lowest charge level determined by the Title XIX State agency.
15. Other Diagnostic, Screening, Preventative, and Rehabilitation Services – Payment is made in accordance with fee allowances determined by the Department. When such services are provided through clinics, payment is made at the negotiated fee based on the reasonable cost of providing such services by the Office of Community and Public Health. On certain medical services and supplies designated by the Secretary, payment will be made at the lowest charge level determined by the Title XVIII agency for Medicare covered services and for Medicaid covered services, the lowest charge level determined by the Title XIX State agency. For mental health and early interventions services, the Division of Behavioral Health and Division of Developmental Services has been designated to determine the fee allowances.

Payment for covered services provided by a supported residential health care facility (private non-medical institution) is reimbursed via a capitated rate established by the Department. Payment does not include room and board.

Payment for covered services provided by a residential child care facility (private non-medical institution) is reimbursed via a capitated rate established by the Department of Health and Human Services. Payment does not include room and board.

TN No: 17-0003

Supersedes

TN No: 10-010Approval Date 01/17/2018Effective Date: 04/01/2017