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## **Table of Contents**

**State/Territory Name: New Hampshire**

**State Plan Amendment (SPA) #: 19-0020**

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  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



**Center for Medicaid and CHIP Services**

**Disabled and Elderly Health Programs Group**

September 30, 2019

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

Dear Mr. Meyers:

We have reviewed New Hampshire State Plan Amendment (SPA) 19-0020 received in the Centers for Medicare and Medicaid Services (CMS) Boston Regional Operations Group on August 28, 2019. This SPA proposes implement a single Preferred Drug List for both managed care plans and fee-for-service, along with including managed care claim utilization for the state's NMPI supplemental rebate agreements.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 19-0020 is approved with an effective date of September 1, 2019. A copy of the 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 Operations Group.

If you have any questions regarding this request, please contact Lisa Shochet at (410) 786-5445 or [Lisa.Shochet@cms.hhs.gov](mailto:Lisa.Shochet@cms.hhs.gov).

Sincerely,

/s/

John M. Coster, Ph.D., R.Ph.  
Director  
Division of Pharmacy

cc: Francis T. McCullough, Director, Boston Regional Office  
Joyce Butterworth, Boston Regional Office  
Dawn Landry, New Hampshire Division of Medicaid  
Diane Peterson, New Hampshire Division of Medicaid

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
JFK Federal Building, Government Center  
Room 2275  
Boston, Massachusetts 02203



## **Boston Regional Operations Group**

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September 30, 2019

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

Dear Commissioner Meyers,

Enclosed is an approved copy of New Hampshire's (NH) State Plan Amendment (SPA) No 19-0020 entitled, "*State PDL*" which transmitted language to amend the NH Title XIX State plan to require that NH's three Medicaid managed care organizations (MCOs) must use the state's preferred drug list (PDL) and that the MCO's claim utilization will be included for supplemental rebate collection.

This state plan amendment was submitted in the quarter ending September 30, 2019, for an effective date of July 1, 2019.

If there are questions, please contact Joyce Butterworth at (603) 545-2941 or by e-mail at [Joyce.Butterworth@cms.hhs.gov](mailto:Joyce.Butterworth@cms.hhs.gov).

Sincerely,

/s/

Francis T. McCullough  
Director  
Division of Medicaid Field Operations East (Boston)

Enclosure/s

cc: Henry Lipman, State Medicaid Director  
Diane Peterson, Medicaid Business and Policy

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER <b>19-0020</b>	2. STATE <b>NH</b>
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
4. PROPOSED EFFECTIVE DATE <b>September 1, 2019</b>	

TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
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 <b>SSA 1927 and 42 CFR Part 447, Subpart I</b>	7. FEDERAL BUDGET IMPACT <b>Remainder of FFY 2019: (\$180,000) FFY 2020: (\$2,120,000)</b>
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT <b>Attachment 3.1-A, Page 5a(1) Attachment 3.1-B, Page 4c</b>	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) <b>Attachment 3.1-A, Page 5a(1), TN 13-010 Attachment 3.1-B, Page 4c, TN 13-010</b>

10. SUBJECT OF AMENDMENT

**State PDL**

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

UBMITTAL

/s/

13. TYPED NAME <b>Jeffrey A. Meyers</b>	16. RETURN TO <b>Dawn Landry Division of Medicaid Services/Brown Building Department of Health and Human Services 129 Pleasant Street Concord, NH 03301</b>
14. TITLE <b>Commissioner</b>	
15. DATE SUBMITTED <b>8/28/2019</b>	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED <b>08/28/2019</b>	18. DATE APPROVED <b>09/30/2019</b>
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL <b>09/01/2019</b>	20. SIGNATURE OF REGIONAL OFFICIAL <b>/s/</b>
21. TYPED NAME <b>Francis T. McCullough</b>	22. TITLE <b>Director Division of Medicaid Field Operations East (Boston)</b>

23. REMARKS

12a. Prescribed Drugs (continued)Preferred Drug Lists and Supplemental Rebate Agreements:

In accordance with Section 1927 of the Social Security Act, the state has established a preferred drug list.

Certain covered products, in accordance with Section 1927 of the Social Security Act, may not be among the baseline preferred drugs identified by the Drug Utilization Review (DUR) Board for various therapeutic classes. All Medicaid covered products remain available through the Medicaid program, but may require prior authorization. The state, or the state in consultation with a contractor, may negotiate supplemental rebate agreements that would reclassify any drug not designated as preferred in the baseline listing for as long as the agreement is in effect.

The prior authorization program provides a response by telephone or other telecommunication device within 24 hours of a request. In an emergency situation, the prior authorization program provides for the dispensing of at least a 72-hour supply of a covered drug.

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

- Supplemental rebate agreements between the state and a pharmaceutical manufacturer will be separate from federal rebates and are in excess of those required under the national drug rebate agreement.
- Effective September 1, 2019, the Department will implement a single state-managed PDL for all Medicaid participating managed care organizations (MCO's) and for Medicaid fee for service. The NMPI supplemental rebate agreements will apply to the drug benefit, both fee for service and those paid by contracted MCO's, under prescribed conditions in Attachment A-2 of the NMPI Supplemental Rebate Agreement, effective September 1, 2019.
- CMS has authorized New Hampshire to enter into the Michigan multi-state pooling agreement, also referred to as the National Medicaid Pooling Initiative (NMPI) for drugs provided to Medicaid recipients. The NMPI Supplemental Rebate Agreement (SRA) and the Amendment to the SRA submitted to CMS on April 9, 2004, have been authorized by CMS for pharmaceutical manufacturers' existing agreements through their current expiration dates. An updated NMPI SRA was submitted to CMS on January 25, 2008, and again on June 25, 2013, and has been authorized for any renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid recipients.
- Supplemental rebates received by the state 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 rebate agreement.
- All drugs covered by the program, irrespective of any prior authorization requirement, will comply with provisions of the national drug rebate agreement.
- Manufacturers with supplemental rebate agreements are allowed to audit utilization data.
- The unit rebate amount is confidential and cannot be disclosed in accordance with Section 1927(b)(3)(D) of the Social Security Act.

TN No: 19-0020

Supersedes

TN No: 13-010Approval Date 09/30/2019Effective Date: 9/1/2019

12a. Prescribed Drugs (continued)

Preferred Drug Lists and Supplemental Rebate Agreements:

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