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State/Territory Name: Nevada

State Plan Amendment (SPA) #: 17-004

This file contains the following documents in the order listed:

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

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Center for Medicaid and CHIP Services

Disabled and Elderly Health Programs Group

July 21, 2017

Mr. Richard Whitley
Director
Department of Health and Human Services
Division of Health Care Financing and Policy
1100 East William Street
Suite 101
Carson City, Nevada 89701

Dear Mr. Whitley:

We have reviewed Nevada's State Plan Amendment (SPA) 17-0004, Prescribed Drugs, received in the San Francisco Regional Office on April 27, 2017. This SPA proposes to bring Nevada into compliance with the reimbursement requirements in the Covered Outpatient Drug final rule with comment (CMS-2345-FC). This SPA includes reimbursement for 340B drugs, physician-administered drugs, clotting factor, federal supply schedule, and drugs purchased at nominal price.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 17-0004 is approved with an effective date of April 1, 2017. A copy of the signed CMS-179 form, as well as the pages approved for incorporation into Nevada's state plan will be forwarded by the San Francisco 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,

[redacted]

Meagan T. Khau
Deputy Director
Division of Pharmacy

cc: Henrietta Sam-Louie, ARA, CMS, San Francisco Regional Office
Kitaho Kato, CMS, San Francisco Regional Office
Lynne Foster, Chief of Division Compliance, Nevada Dept. of Health & Human Services
Rebecca Vernon-Ritter, Nevada Dept. of Health & Human Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: **17-004**

2. STATE: **NEVADA**

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
April 1, 2017

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:
State Plan Under Title XIX of the Social Security Act: 42 CFR 447

7. FEDERAL BUDGET IMPACT:
a. FFY 2017 $0
b. FFY 2018 $0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Attachment 4.19-B, Page 3 And Page 3 (Continued)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Attachment 4.19-B, Page 3

10. SUBJECT OF AMENDMENT:
As a result of the final rule with comment (CME-2345-FC) published on February 1, 2016, titled "Medicaid Program: Covered Outpatient Drugs," a state plan amendment is necessary to address the reimbursement provisions outlined within the final regulations.

11. GOVERNOR'S REVIEW *(Check One)*:
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☒ OTHER, AS SPECIFIED:
The Governor's Office does not wish to review the State Plan Amendment.

12. SIGNATURE OF STATE AGENCY OFFICIAL:
[redacted]

13. TYPED NAME:
Richard Whitley

14. TITLE:
Director, Department of Health and Human Services

15. DATE SUBMITTED: 4/27/17

16. RETURN TO:
Lynne Foster, Chief of Division Compliance
DHCFP/Medicaid
1100 East William Street, Suite 101
Carson City, NV 89701

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 4/27/17

18. DATE APPROVED: July 21, 2017

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: 4/1/17

20. SIGNATURE OF REGIONAL OFFICIAL:
/s/

21. TYPED NAME: Henrietta Sam Loui

22. TITLE: Associate Regional Administrator

23. REMARKS: Pen and Ink Request:

1. Update Box 8 to add "And Page 3 (Continued)"

2. Update Box 15 to read "4/27/17".

12. a. Nevada Medicaid will meet all reporting and provision of information requirements of section 1927(b)(2) and the requirements of subsections (d) and (g) of section 1927.

The State assures that the State will not provide reimbursement for an innovator multi-source drug, subject to the Federal Upper Limits (42 CFR 447.332(a)), if, under applicable State law, a less expensive non-innovator multi-source drug could have been dispensed.

1. Payment for multi-source drugs shall be the lowest of (a) Federal Upper Limit (FUL) as established by the Centers for Medicare and Medicaid Services (CMS) for listed multi-source drugs plus a professional dispensing fee of $10.17 per prescription; (b) State Maximum Allowable Cost (MAC) plus a professional dispensing fee of $10.17 per prescription; (c) Actual Acquisition Cost (AAC) plus a professional dispensing fee of $10.17 per prescription; or (d) the pharmacist's usual and customary charge.

2. Payment for covered outpatient drugs other than multi-source drugs shall not exceed the lower of (a) AAC plus a professional dispensing fee of $10.17 per prescription; or (b) the pharmacist's usual and customary charge to the general public.

3. Actual Acquisition Cost (AAC) is defined by Nevada Medicaid as the Agency's determination of the actual prices paid by pharmacy providers to acquire drug products marked or sold by specific manufacturers and is based on the National Average Drug Acquisition Cost (NADAC). Wholesale Acquisition Cost (WAC) + 0% will be offered for those drugs not available on NADAC, plus a professional dispensing fee of $10.17 per prescription.

4. A generic drug may be considered for MAC pricing if there are two or more therapeutically equivalent, multi-source, non-innovator drugs with a significant cost difference. The MAC will be based on drug status (including non-rebatable, rebatable, obsolete, therapeutic equivalency ratings) marketplace availability and cost. The obsolete drug status will be taken into account to ensure that the MAC pricing is not influenced by the prices listed for obsolete drugs. The SMAC will be based on drug prices obtained from a nationally recognized comprehensive data file maintained by a vendor under contract with the Department.

5. Ingredient cost reimbursement for 340B covered entities shall be the lowest of (a) AAC, or (b) the 340B ceiling price. A professional dispensing fee of $10.17 will also be paid.

6. Drugs acquired through the federal 340B drug pricing program and dispensed by 340B contract pharmacies are not covered.

7. For drugs that are purchased outside the 340B program, the ingredient cost reimbursement will be based on AAC plus a professional dispensing fee of $10.17 per prescription.

8. For drugs purchased through the Federal Supply Schedule (FSS), the ingredient cost reimbursement is based on AAC plus a professional dispensing fee of $10.17 per prescription.

9. For drugs acquired at a nominal price (outside of 340B or FSS), the ingredient cost reimbursement is based on AAC plus a professional dispensing fee of $10.17 per prescription.

10. Providers that are approved to be reimbursed through an encounter rate(s) meet AAC requirements.

11. For drugs (such as specialty drugs) not distributed by a retail community pharmacy, and distributed primarily through the mail, the ingredient cost reimbursement is based on AAC plus a professional dispensing fee of $10.17 per prescription.

12. For drugs (such as a long-term care facility drugs) not distributed by a retail community pharmacy, the ingredient cost reimbursement will be based on AAC plus a professional dispensing fee of $10.17 per prescription.

13. For physician-administered drugs, the ingredient cost reimbursement shall be the lowest of (a) MAC; (b) AAC; or (c) the physician's usual and customary charge.

    a. For 340B physician-administered drugs, the ingredient cost reimbursement will be the lowest of (a) AAC or (b) 340B ceiling price.

14. For clotting factor drugs, ingredient cost reimbursement will be the lowest of AAC plus a professional dispensing fee of $10.17 per prescription, or the pharmacist's usual and customary charge.

    a. For clotting factor drugs provided by 340B entities, the ingredient cost reimbursement will be the lowest of (a) AAC, or (b) 340B ceiling price, plus a professional dispensing fee of $10.17 per prescription.

15. Out-of-state providers will be reimbursed a professional dispensing fee of $10.17 per prescription.

16. The state of Nevada does not cover investigational drugs.