

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
New York Regional Office
26 Federal Plaza, Room 37-100
New York, NY 10278



DIVISION OF MEDICAID AND CHILDREN'S HEALTH OPERATIONS

November 6, 2013

Jason Helgeson
Medicaid Director, Deputy Commissioner
Office of Health Insurance Programs
NYS Department of Health
Corning Tower (OCP- 1211)
Albany, New York 12237

Dear Mr. Helgeson:

We have completed our review of the submission of New York's State Plan amendment (SPA) 13-10 which was received in office September 25, 2013 and find it acceptable for incorporation into New York's Medicaid State Plan. This SPA proposes to change the service limits for comprehensive tobacco cessation services provided to pregnant women, including both counseling and pharmacotherapy, without cost sharing. New York State Medicaid has been providing comprehensive counseling and pharmacotherapy for cessation of tobacco use by all Medicaid eligible recipients including pregnant women since January 1, 2009. In accordance with Section 4107 of the Patient Protection and Affordable Care Act, this SPA will modify current coverage of smoking cessation counseling (SCC) services for all Medicaid recipients, including pregnant women, to include up to two quit attempts per 12 months, which will include up to 4 face-to-face counseling sessions per quit attempt; thus increasing the limits on counseling sessions from 6 to 8 per 12 months.

Assessment of utilization data shows that Medicaid recipients receive an average of 3 SCC visits in a 12 month period. Therefore, increasing the limit from 6 to 8 SCC visits in a 12 month period will not result in any additional cost to support this expanded service limit.

Please note the approval date of this SPA is November 6, 2013 with an effective date of October 1, 2013. Copies of the approved State Plan pages and the signed CMS - 179 are enclosed.

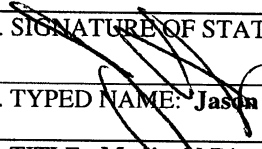
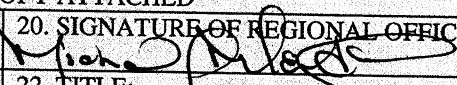
Should you have any questions or concerns please contact Vennetta Harrison at 212-616-2214.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Melendez", is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Melendez
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 13-10	2. STATE New York
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 October 1, 2013	
5. TYPE OF PLAN MATERIAL (Check One): <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 (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 365-a(2)(s) of the Social Services Law & Section 4107 of the Affordable Care Act		7. FEDERAL BUDGET IMPACT: a. FFY 10/01/13-09/30/14 \$ 0 b. FFY 10/01/14-09/30/15 \$ 0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1-A: Pages 2, 2.1 Attachment 3.1-A Supplement: Pages 2, 2.1 Attachment 3.1-B: Page 2a Attachment 3.1-B Supplement: Pages 2, 2.1 <p style="text-align: center;">**Please see remarks</p>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 3.1-A: Page 2 Attachment 3.1-A Supplement: Pages 2, 2.1 Attachment 3.1-B: Page 2a Attachment 3.1-B Supplement: Pages 2, 2.1	
10. SUBJECT OF AMENDMENT: Tobacco Cessation for Pregnant Women (FMAP = 50%)			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: New York State Department of Health Bureau of Federal Relations & Provider Assessments 99 Washington Ave – One Commerce Plaza Suite 1430 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medical Director Department of Health			
15. DATE SUBMITTED: September 25, 2013			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: November 06, 2013	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: October 01, 2013		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Michael Melendez		22. TITLE: Associate Regional Administrator Division of Medicaid and State Operations	
23. REMARKS: <p>**This SPA proposes to change the service limits for comprehensive tobacco cessation services provided to pregnant women, including both counseling and pharmacotherapy, without cost sharing. New York State Medicaid has been providing comprehensive counseling and pharmacotherapy for cessation of tobacco use by all Medicaid eligible recipients including pregnant women since January 1, 2009. In accordance with Section 4107 of the Patient Protection and Affordable Care Act, this SPA will modify current coverage of smoking cessation counseling (SCC) services for all Medicaid recipients, including pregnant women, to include up to two quit attempts per 12 months, which will include up to 4 face-to-face counseling sessions per quit attempt; thus increasing the limits on counseling sessions from 6 to 8 per 12 months.</p> <p>Assessment of utilization data shows that Medicaid recipients receive an average of 3 SCC visits in a 12 month period. Therefore, increasing the limit from 6 to 8 SCC visits in a 12 month period will not result in any additional cost to support this expanded service limit.</p>			

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AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

- 4.a. Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.
 Provided: No limitations With limitations* Not provided

- 4.b. Early and periodic screening, diagnostic and treatment services for individuals under 21 years of age, and treatment of conditions found. (Limited to federal requirements under 1905(a) per section 1905(r) per PM 90-2.)

- 4.c.i. Family planning services and supplies for individuals of child-bearing age and for individuals eligible pursuant to Attachments 2.2-A and 2.2-B, if this eligibility option is elected by the State.
 Provided: No limitations With limitations* Not provided

- 4.c.ii. Family planning-related services provided under the above State Eligibility Option.
 Provided: No limitations With limitations*

- 4.d.1. **Face-to-Face Counseling Services provided:**
 (i) By or under supervision of a physician;
 (ii) By any other health care professional who is legally authorized to furnish such services under State law and who is authorized to provide Medicaid coverable services other than tobacco cessation services; or
 (iii) Any other health care professional legally authorized to provide tobacco cessation services under State law and who is specifically designated by the Secretary in regulations. (none are designated at this time)

- 4.d.2. **Face-to-Face Tobacco Cessation Counseling Services for Pregnant Women**
 Provided: No limitations With limitations*
*Any benefit package that consists of less than four (4) counseling sessions per quit attempt, with a minimum of two (2) quit attempts per 12 month period should be explained below.
All Medicaid recipients, including pregnant women, receiving tobacco cessation counseling services can receive these services without any limitation as stated above.

Please describe any limitations:

* Description provided on attachment.

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Supersedes TN #12-12 Effective Date OCT 01 2013

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- 4a. Prior approval is required for all out-of-state placements at Specialized Care Facilities for difficult to place individuals or High level Care facilities for the head injured.

Medicaid payments shall not be authorized for nursing facilities which are not certified or have not applied for certification to participate in Medicare.

Care days in nursing facilities is reimbursed for Medicaid patients requiring and receiving medically necessary lower level of care services. Medical Assistance is provided until such time as the appropriate level of care becomes available.

4d.i. Face-to-Face Counseling Services

4d.ii. Face-to-Face Tobacco Cessation Counseling Services for Pregnant Women

Effective October 1, 2013, Medicaid coverage of comprehensive counseling and pharmacotherapy for cessation of tobacco use by all Medicaid eligible recipients, including pregnant women, will be provided. Such services will be provided face-to-face, by or under the supervision of a physician and no cost sharing (co-pays) will apply. In accordance with section 4107 of the Patient Protection and Affordable Care Act, current coverage of smoking cessation services for all Medicaid recipients, including pregnant women, will be modified to include a maximum of two quit attempts per 12 months, which will include a maximum of four face-to-face counseling sessions per quit attempt.

5. Prior approval is required for certain procedures which may be considered cosmetic or experimental. Physicians are informed of the specific prior approval requirements in the MMIS Physician Provider Manual.
- 5a. **Lactation consultant services:** effective September 1, 2012, reimbursement will be provided to physicians for breastfeeding health education and counseling services. Physicians must be currently registered and licensed by the State in accordance with 42 CFR 440.60(a) and also International Board Certified Lactation Consultants (IBCLC). Date of implementation will occur on the first day of the month following 30 days after Federal approval of this provision of the State Plan.
6. Care and services will be provided only if they are in accordance with regulations of the Department of Health.

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OCT 01 2013

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ATTACHMENT 3.1-A

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2.1**

**AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY**

- 5.a. Physicians' services whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere.
 Provided: No limitations With limitations* Not provided
- i. Lactation counseling services.
 Provided: No limitations With limitations* Not provided
- 5.b. Medical and surgical services furnished by a dentist (in accordance with section 1905(a) (5)(B) of the Act).
 Provided: No limitations With limitations* Not provided
6. Medical care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law.
- a. Podiatrists' services.
 Provided: No limitations With limitations* Not provided

* Description provided on attachment.

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Effective Date

OCT 01 2013

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[Page] 2.1**

6a. Medicaid does not cover routine hygienic care of the feet in the absence of pathology.

Payment for podiatry services will be made for services provided to Medicaid eligibles under twenty-one years of age under the EPSDT program and only by written referral from a physician, physician assistant, nurse practitioner or certified nurse midwife. Effective September 1, 2012, payment for podiatry services will include services provided to Medicaid recipients age 21 and older with a diagnosis of diabetes mellitus and only with a written referral from a physician, physician assistant, nurse practitioner or certified nurse midwife. Date of implementation will occur on the first day of the month following 30 days after Federal approval of this provision in the State Plan.

Only a qualified podiatrist, per 18 NYCRR Section 505.12(a)(1), who is licensed and currently registered to practice podiatry in New York State by the State Education Department, can provide podiatry services.

Such podiatry care and services may only be provided upon written referral by a physician, physician's assistant, nurse practitioner or nurse midwife, per their individual scope of practice consistent with New York State Education Law and the rules of the Commissioner of Education.

Nursing facilities, Intermediate Care Facilities for Individuals with Intellectual Disabilities, and Article 28 or Article 31 inpatient facilities and certified clinics which include foot care services in the rate established for medical care for Medicaid recipients will continue to receive payments for these services through their rates. Additionally, Medicaid will continue to pay for medically necessary items and supplies (e.g., prescription drugs) for all recipients when ordered by a private practicing podiatrist.

In the office setting, a podiatrist may only provide a limited number of clinical laboratory tests. Podiatrists are informed of the specific clinical laboratory tests they may perform, in their office setting, in the MIS Podiatrists Manual. A podiatrist may only provide radiological services which are within the scope of podiatric practice. Amputation and bunion surgery may be performed by a podiatrist in a hospital setting.

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**AMOUNT, DURATION AND SCOPE OF SERVICES PROVIDED
TO THE MEDICALLY NEEDY**

4.d.1. Face-to-Face Counseling Services provided:

- (i) By or under supervision of a physician;
- (ii) By any other health care professional who is legally authorized to furnish such services under State law and who is authorized to provide Medicaid coverable services other than tobacco cessation services; or
- (iii) Any other health care professional legally authorized to provide tobacco cessation services under State law and who is specifically designated by the Secretary in regulations. (none are designated at this time)

4.d.2. Face-to-Face Tobacco Cessation Counseling Services for Pregnant Women

- Provided: No limitations With limitations*

*Any benefit package that consists of less than four (4) counseling sessions per quit attempt, with a minimum of two (2) quit attempts per 12 month period should be explained below.

All Medicaid recipients, including pregnant women, receiving tobacco cessation counseling services can receive these services without any limitation as stated above.

Please describe any limitations:

5.a. Physicians' services whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere.

- Provided: No limitations With limitations* Not provided

i. Lactation counseling services.

- Provided: No limitations With limitations* Not provided

b. Medical and surgical services furnished by a dentist (in accordance with section 1905(a) (5)(B) of the Act).

- Provided: No limitations With limitations* Not provided

* Description provided on attachment

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