

## **Table of Contents**

**State/Territory Name: OH**

**State Plan Amendment (SPA) #: 17-026**

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

**AUG 31 2017**

Barbara Sears, Director  
Ohio Department of Medicaid  
P.O. Box 182709  
50 West Town Street, Suite 400  
Columbus, Ohio 43218

RE: Ohio State Plan Amendment (SPA) 17-026

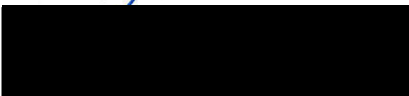
Dear Ms. Sears:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 17-026. Effective August 31, 2017, this SPA updates provisions to a narrative format and the section numbers as part of Ohio's 5 year Review.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the regulations at 42 CFR 447 Subpart C. We hereby inform you that Medicaid State plan amendment 17-026 is approved effective August 31, 2017. We are enclosing the HCFA-179 and the amended plan pages.

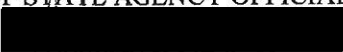

If you have any questions, please contact Fred Sebree at (217) 492-4122 or [Fredrick.sebree@cms.hhs.gov](mailto:Fredrick.sebree@cms.hhs.gov).

Sincerely,



Kristin Fan,  
Director

Enclosure

<b>3 TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>17-026</b>	2. STATE <b>OHIO</b>
<b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>August 31, 2017</b>	
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"/> <b>AMENDMENT</b>			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1905(a)(4)(A) of the Social Security Act		7. FEDERAL BUDGET IMPACT: a. FFY <u>2017</u> \$0 thousands b. FFY <u>2018</u> \$0 thousands	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  <u>Attachment 4.19-D, Supplement 1:</u> Section 001.31, page 1 of 1 Section 001.32, pages 1 and 2 of 2		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <u>Attachment 4.19-D, Supplement 1:</u> Section 5111.02.002, pages 1 and 2 of 2 (TN 06-010) Section 5111.28.000, pages 1 and 2 of 2 (TN 06-010)	
10. SUBJECT OF AMENDMENT: Payment for Services: Nursing Facility Services – Rate Recalculations, Overpayments and Penalties			
11. GOVERNOR'S REVIEW (Check One):			
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		<input checked="" type="checkbox"/> <b>OTHER, AS SPECIFIED:</b> The State Medicaid Director is the Governor's designee	
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO:  Carolyn Humphrey Ohio Department of Medicaid P.O. BOX 182709 Columbus, Ohio 43218	
13. TYPED NAME: <b>BARBARA R. SEARS</b>			
14. TITLE: <b>STATE MEDICAID DIRECTOR</b>			
15. DATE SUBMITTED: <u>July 17, 2017</u>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED: <b>AUG 31 2017</b>	
<b>PLAN APPROVED – ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>AUG 31 2017</b>		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: <u>Kristen FAN</u>		22. TITLE: <u>Director, FMC</u>	
23. REMARKS:			

**Instructions on Back**

**Rate Recalculations and Overpayments**

The Ohio Department of Medicaid may recalculate a nursing facility's rate if the Department determines the facility has received a higher rate than it was entitled to receive. Any of the following may result in such a determination:

- 1) A nursing facility provider properly amends its cost report.
- 2) The Department of Medicaid makes a finding based on an audit.
- 3) The Department of Medicaid makes a finding based on an exception review of resident assessment data conducted after the effective date of the rate for direct care costs that is based on the assessment information.
- 4) The department makes a finding based on a post-payment review.

The Department of Medicaid will apply the recalculated rate to the periods when the nursing facility received the incorrect rate to determine the amount of the overpayment that must be refunded by the nursing facility. In addition to requiring a refund, the Department may charge the nursing facility interest at the following rates from the time the overpayment was made:

- 1) The interest shall be no greater than two times the average bank prime rate if the overpayment was equal to or less than 1% of the total Medicaid payments to the provider for the fiscal year for which the overpayment was made.
- 2) The interest shall be no greater than two and one-half times the average bank prime rate if the overpayment was greater than 1% of the total Medicaid payments to the provider for the fiscal year for which the overpayment was made.

The Department will deduct any amount a facility is required to refund, along with the amount of any interest charged, from the next available Medicaid payment to the facility.

TN 17-026 Approval Date AUG 31 2017  
Supersedes  
TN 06-010 Effective Date 08/31/2017

**Penalties**

The Ohio Department of Medicaid may impose the following penalties and fines:

- 1) If a nursing facility provider does not furnish invoices or other documentation that the Department requests during an audit within 60 days after the request, no more than the greater of \$1,000 per audit or 25% of the cumulative amount by which the costs for which documentation was not furnished increased the total Medicaid payments to the provider during the fiscal year for which the costs were used to establish a rate.
- 2) If a nursing facility owner or operator fails to provide notice of a facility closure, voluntary withdrawal or voluntary termination of participation in the Medicaid program, or change of operator, no more than the current average bank prime rate plus 4% of the last two monthly Medicaid payments.
- 3) The Department shall fine a nursing facility provider if the report of an audit regarding a cost report for the facility includes either of the following:
  - a) Adverse findings that exceed 3% of the total amount of Medicaid-reimbursable costs reported in the cost report.
  - b) Adverse findings that exceed 20% of Medicaid-reimbursable costs for a particular cost center reported in the cost report.
- 4) A fine issued under paragraph 3) above shall equal the greatest of the following:
  - a) If the adverse findings exceed 3% but do not exceed 10% of the total amount of Medicaid-reimbursable costs reported in the cost report, the greater of 3% of those reported costs or \$10,000.
  - b) If the adverse findings exceed 10% but do not exceed 20% of the total amount of Medicaid-reimbursable costs reported in the cost report, the greater of 6% of those reported costs or \$25,000.
  - c) If the adverse findings exceed 20% of the total amount of Medicaid-reimbursable costs reported in the cost report, the greater of 10% of those reported costs or \$50,000.
  - d) If the adverse findings exceed 20% but do not exceed 25% of Medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of 3% of the total amount of Medicaid-reimbursable costs reported in the cost report or \$10,000.
  - e) If the adverse findings exceed 25% but do not exceed 30% of Medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of 6% of the total amount of Medicaid-reimbursable costs reported in the cost report or \$25,000.
  - f) If the adverse findings exceed 30% of Medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of 10% of the total amount of Medicaid-reimbursable costs reported in the cost report or \$50,000.

The Department may not collect a fine issued according to paragraph 3) of this section until all appeal rights relating to the audit report that is the basis for the fine are exhausted. The Department will deduct the amount of any penalties or fines imposed on a facility according to this section from the next available Medicaid payment to the facility. The Department and the provider may enter into an agreement under which the amount, together with the interest, is deducted in installments from Medicaid payments to the provider.

TN 17-026  
Supersedes  
TN 06-010

Approval Date AUG 31 2017  
Effective Date 08/31/2017

Fines issued under paragraph 3) of this section that have been paid shall be deposited into the State's Health Care Services Administration Fund. The Department shall transmit all other refunds and penalties issued under this section to the Ohio Treasurer of State for deposit in the General Revenue Fund.

TN 17-026  
Supersedes  
TN 06-010

Approval Date AUG 31 2017  
Effective Date 08/31/2017