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State/Territory Name: OH

State Plan Amendment (SPA) #: 19-010

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 S2-26-12
Baltimore, Maryland 21244-1850

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

Financial Management Group

May 21, 2019

Maureen Corcoran, Director
Ohio Department of Medicaid
50 West Town Street, Suite 400
Columbus, Ohio 43215

RE: Ohio State Plan Amendment (SPA) 19-010

Dear Ms. Corcoran:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 19-010. Effective January 3, 2019, this State Plan Amendment expands the Nursing Facilities ventilator program.

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 19-010 is approved effective January 3, 2019. We are enclosing the HCFA-179 and the amended plan pages.

If you have any questions, please contact Fred Sebree at Fredrick.sebree@cms.hhs.gov.

Sincerely,

[redacted]

Kristin Fan,
Director

Enclosure

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: **19-010**	2. STATE **OHIO**
FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES	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 **January 3, 2019**	

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:	7. FEDERAL BUDGET IMPACT:
Sections 1902(a)(30)(A) and 1905(a)(4)(A) of the Social Security Act	a. FFY 2019 $2,559 thousands b. FFY 2020 $3,480 thousands
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Attachment 4.19-D Supplement 1, Section 001.4, page 1 of 2 Supplement 1, Section 001.20.5, pages 1–2 of 3 Supplement 1, Section 001.20.5, page 3 of 3 (new)	**Attachment 4.19-D** Supplement 1, Section 001.4, page 1 of 2 (TN 18-003) Supplement 1, Section 001.20.5, pages 1-2 of 2 (TN 17-004)

10. SUBJECT OF AMENDMENT: Payment for Services: Nursing Facility Services - Ventilator Program and Relation to Other Services

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 State Medicaid Director is the Governor's designee

12. SIGNATURE OF STATE AGENCY OFFICIAL: [redacted]	16. RETURN TO:
13. TYPED NAME: **MAUREEN M. CORCORAN**	**Carolyn Humphrey** **Ohio Department of Medicaid** **P.O. BOX 182709** **Columbus, Ohio 43218**
14. TITLE: **STATE MEDICAID DIRECTOR**	
15. DATE SUBMITTED: March 29, 2019	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED: MAY 21 2019
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: JAN 03 2019	20. SIGNATURE OF REGIONAL OFFICIAL: [redacted]
21. TYPED NAME: Kristin Fan	22. TITLE: Director, FMG

23. REMARKS:

Instructions on Back

FORM CMS-179 (07-92)

Relation to Other Services

The nursing facility per diem rate is a comprehensive rate that includes many items and services for which the provider is not paid directly by the Medicaid program. The following items and services are included in the nursing facility per diem rate:

1) Personal hygiene services provided by facility staff or contracted personnel;
2) The purchase and administration of tuberculin tests;
3) Drawing specimens and forwarding specimens to a laboratory;
4) Medical supplies, defined as items with a very limited life expectancy (e.g., atomizers, nebulizers, bed pans, catheters, hypodermic needles, syringes, incontinence pads, splints, and disposable ventilator circuits);
5) Needed medical equipment, defined as items that can stand repeated use, are primarily and customarily used to serve a medical purpose, are not useful to a person in the absence of illness or injury, and are appropriate for use in the facility (e.g., hospital beds, wheelchairs other than custom wheelchairs, and intermittent positive-pressure breathing machines). For dates of service on and after January 1, 2014, custom wheelchairs are not included in the nursing facility rate and are covered on a fee for service basis;
6) Emergency oxygen;
7) Over the counter drugs and nutritional supplements;
8) Physical therapy, occupational therapy, speech therapy and audiology services provided by licensed therapists or therapy assistants;
9) Respiratory therapy services, including physician ordered administration of aerosol therapy rendered by a licensed respiratory care professional;
10) Resident transportation other than medically necessary transportation by ambulance or wheelchair van. Medically necessary transportation of residents who do not require an ambulance or wheelchair van is paid through the NF per diem.

The following items and services are not included in the nursing facility per diem rate but are paid directly to the provider by the Medicaid program:

1) Covered dental services provided by licensed dentists;
2) Laboratory and x-ray procedures covered under the Medicaid program;
3) Ventilators;
4) Prostheses and orthoses;
5) Pharmaceuticals, subject to the following conditions:
   a) When new prescriptions are necessary following expiration of the last refill, the new prescription may be ordered only after the physician examines the patient;
   b) A copy of all records regarding prescribed drugs for all patients must be retained by the dispensing pharmacy for at least six years;
   c) A receipt for drugs delivered to a NF must be signed by the facility representative at the time of delivery; a copy must be maintained by the pharmacy.

Ventilator Program

Under the Ohio Department of Medicaid (ODM) nursing facility (NF) ventilator program, ODM will pay an enhanced per-Medicaid-day payment rate to NFs that request and receive ODM approval to provide services to ventilator-dependent individuals, and that elect to participate in an alternative purchasing model for the provision of services to ventilator-dependent individuals. NFs can request and receive ODM approval to provide ventilator-only services, or both ventilator and weaning services to residents.

A NF that provides ventilator-only services, or both ventilator and weaning services, must meet all of the following criteria in order to receive enhanced payments under the ODM NF ventilator program:

1) Be a licensed and Medicaid-certified NF and meet the requirements for NFs in accordance with 42 U.S.C. 1396r.
2) Provide services to individuals who are ventilator-dependent and have Medicaid as their primary payer.
3) Comply with the provisions of State law regarding provider agreements, including the execution and maintenance of provider agreements between ODM and the operator of a NF.
4) Cooperate with ODM or its designee during all provider oversight and monitoring activities including but not limited to:
    a) Being available to answer questions pertaining to the ODM NF ventilator program;
    b) Providing necessary requested documentation;
    c) Providing required quarterly reports; and
    d) As applicable, submitting a plan of action if requested by ODM.
5) Designate a discrete unit within the NF for the use of individuals in the ODM NF ventilator program.
6) Have ventilators connected to emergency outlets, which are connected to an on-site backup generator sufficient to meet the needs of the ventilator-dependent individuals.
7) Have not been in the Centers for Medicare and Medicaid Services (CMS) special focus facility (SFF) program for the previous six months.
8) Have a valid ODM 03623 form "Ohio Medicaid Provider Agreement for Long-Term Care Facilities" and an approved ODM 10198 form, " Addendum to Provider Agreement for Ventilator Services in Nursing Facilities."

In addition to the above, approved nursing facilities must provide all of the following services:

1) For at least five hours per week, the services of a licensed respiratory care professional (RCP) or the services of a registered nurse (RN) who has worked for a minimum of one year with ventilator-dependent individuals. The licensed RCP or the RN, as applicable, shall provide direct care to the ventilator-dependent individuals.
2) If ordered by a physician, initial assessments for physical therapy, occupational therapy, and speech therapy within 48 hours of receiving the order for a ventilator-dependent individual.

3) If ordered by a physician, up to two hours of therapies per day, six days per week for each ventilator-dependent individual.
4) In emergency situations as determined by a physician, access to laboratory services that are available 24 hours per day, seven days per week, with a turnaround time of four hours.
5) For new admissions, administer pain medications to a ventilator-dependent individual within two hours from the receipt of the physician order.

Additionally, nursing facilities approved for ventilator weaning must meet the following criteria:

1) Have an approved ODM 10198 with approval to provide ventilator weaning services.
2) Have a ventilator weaning protocol in place established by a physician trained in pulmonary medicine who is available by phone 24 hours per day, seven days per week while ventilator weaning services are provided.
3) Have an RCP with training in basic life support on-site eight hours per day, seven days per week, and available by phone during the remaining hours of the day while ventilator weaning services are provided.
4) Have an RN with training in basic life support on-site 24 hours per day, seven days per week while ventilator weaning services are provided.

Enhanced Payment for Ventilator Services
The total per-Medicaid-day payment rate for services provided by a NF under the NF ventilator program for each state fiscal year shall be as follows:

1) For ventilator weaning services, 60% of the statewide average of the total per-Medicaid-day payment rate for those individuals receiving ventilator services in a long-term acute care hospital for the prior calendar year. Payment at the enhanced ventilator weaning rate is limited to 90 days per calendar year per individual and includes a post-ventilator-weaning evaluation period of up to 14 days.
2) For ventilator-only services, 50% of the statewide average of the total per-Medicaid-day payment rate for those individuals receiving ventilator services in a long-term acute care hospital for the prior calendar year.

NFs may have their enhanced NF ventilator program payment rate or rates reduced by a maximum of 5% if their number of ventilator-associated pneumonia (VAP) episodes exceeds, for two consecutive quarters, the maximum number of VAP episodes determined by ODM. The reduced payment or payments will become effective during the next full quarter and shall remain in effect for the entire quarter.

In the case of a change of operator (CHOP), if the exiting provider participated in the ODM NF ventilator program and the entering provider wishes to continue to participate in the program, the entering provider should submit the ODM 10227 to nfpolicy@medicaid.ohio.gov. If the ODM 10227 is submitted within 60 days of the effective date of the CHOP and ODM approves the ODM 10198, the entering provider is eligible to receive the enhanced rate or rates retroactive to the effective date of the CHOP or the date the requirements to participate in the NF ventilator program are met, whichever occurs later. If the ODM 10227 is not submitted within 60 days of the effective date of the

CHOP but ODM approves the ODM 10198, the entering provider is eligible to receive the enhanced rate or rates effective on the date of ODM approval. If there is no approved ODM 10198, the entering provider's participation in the ODM NF ventilator program shall cease effective on the effective date of the CHOP.

ODM shall terminate a NF from the ODM NF ventilator program if ODM determines that the NF has failed to meet the requirements of this program. If a NF fails to continue to meet the requirements for weaning services, but meets the requirements for ventilator-only services, ODM will terminate the NF's ability to provide ventilator weaning services and to receive the enhanced rate for ventilator weaning. The NF may continue to provide ventilator-only services and to receive the enhanced rate for ventilator-only services as long as the eligibility requirements for ventilator-only services are met.