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State/Territory Name: South Dakota

State Plan Amendment (SPA) #: 13-0012

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Summary Form (with 179-like data)
- 3) Superseding Pages Notice
- 4) Approved SPA Pages
- 5) Additional Attachments that are part of the state plan

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1600 Broadway, Suite 700
Denver, CO 80202-4967



Region VIII

November 21, 2013

Kim Malsam-Rysdon, Secretary
Department of Social Services
Richard F. Kneip Building
700 Governors Drive
Pierre, SD 57501-2291

RE: South Dakota #13-0012

Dear Ms. Malsam-Rysdon:

We have reviewed the proposed State Plan Amendment (SPA) submitted under transmittal number (TN) 13-0012. With this SPA, the State affirms citizenship regulations, specifies reasonable opportunity options, and specifies policy options related to immigrant eligibility in accordance to the Affordable Care Act.

Please be informed that this State Plan Amendment was approved on November 19, 2012 with an effective date January 1, 2014. We are enclosing the summary page (formerly CMS 179) and the amended plan page(s).

If you have any questions concerning this amendment, please contact Laurie Jensen at (303) 844-7126.

Sincerely,

/s/


Richard C. Allen
Associate Regional Administrator
Division for Medicaid & Children's Health Operations

CC: Kirby Stone, Medicaid Director
Ann Schwartz
Amy Stewart

Medicaid State Plan Eligibility: Summary Page (CMS 179)**State/Territory name:** South Dakota**Transmittal Number:**

Please enter the Transmittal Number (TN) in the format ST-YY-0000 where ST= the state abbreviation, YY = the last two digits of the submission year, and 0000 = a four digit number with leading zeros. The dashes must also be entered.

SD-13-0012

Proposed Effective Date

01/01/2014 (mm/dd/yyyy)

Federal Statute/Regulation Citation

1902(a)(46)(B); 8 U.S.C. 1611, 1612, 1613, and 1641; 1903(v)(2),(3) and (4); 42 CFR 435.4; 42 CFR 435.406; 4

Federal Budget Impact

	Federal Fiscal Year	Amount
First Year	2014	\$ 0.00
Second Year	2015	\$ 0.00

Subject of Amendment

This State Plan Amendment contains assurances that South Dakota provides Medicaid to citizens and nationals of the United States and certain non-citizens consistent with the requirements of 42 CFR 435.406.

Governor's Office Review
 Governor's office reported no comment
 Comments of Governor's office received

Describe:

 No reply received within 45 days of submittal
 Other, as specified

Describe:

Signature of State Agency Official

Submitted By: Ann Schwartz

Last Revision Date: Nov 8, 2013

Submit Date: Aug 23, 2013

**SUPERSEDING PAGES OF
STATE PLAN MATERIAL**

TRANSMITTAL NUMBER:

13-0012

STATE:

South Dakota

**PAGE NUMBER OF THE PLAN SECTION OR
ATTACHMENT:**

S89 Non-Financial Eligibility- Citizenship and Non-citizen Eligibility

Attachment 2.6-A: Page 2, item (3), paragraphs (a) , (b), and (c)

Attachment 2.6-A: Page 3, item (3), paragraphs (d) and (e)

**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT *(If Applicable):***

(NEW)

Attachment 2.6-A: Page 2, item (3), paragraphs (a) , (b), and (c),
TN 92-01

Attachment 2.6-A: Page 3, item (3), paragraphs (d) and (e), TN
91-19



Medicaid Eligibility

OMB Control Number 0938-1148

OMB Expiration date: 10/31/2014

Non-Financial Eligibility S89 Citizenship and Non-Citizen Eligibility

1902(a)(46)(B)
8 U.S.C. 1611, 1612, 1613, and 1641
1903(v)(2),(3) and (4)
42 CFR 435.4
42 CFR 435.406
42 CFR 435.956

Citizenship and Non-Citizen Eligibility

The state provides Medicaid to citizens and nationals of the United States and certain non-citizens consistent with requirements of 42 CFR 435.406, including during a reasonable opportunity period pending verification of their citizenship, national status or satisfactory immigration status.

The state provides Medicaid eligibility to otherwise eligible individuals:

Who are citizens or nationals of the United States; and

Who are qualified non-citizens as defined in section 431 of the Personal Responsibility and Work Opportunity

Reconciliation Act (PRWORA) (8 U.S.C. §1641), or whose eligibility is required by section 402(b) of PRWORA (8 U.S.C. §1612(b)) and is not prohibited by section 403 of PRWORA (8 U.S.C. §1613); and

Who have declared themselves to be citizens or nationals of the United States, or an individual having satisfactory immigration status, during a reasonable opportunity period pending verification of their citizenship, nationality or satisfactory immigration status consistent with requirements of 1903(x), 1137(d), 1902(ee) of the SSA and 42 CFR 435.406, and 956.

The reasonable opportunity period begins on and extends 90 days from the date the notice of reasonable opportunity is received by the individual.

The agency provides for an extension of the reasonable opportunity period if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency needs more time to complete the verification process.

Yes No

The agency begins to furnish benefits to otherwise eligible individuals during the reasonable opportunity period on a date earlier than the date the notice is received by the individual.

Yes No

The date benefits are furnished is:

The date of application containing the declaration of citizenship or immigration status.

The date the reasonable opportunity notice is sent.

Other date, as described:



Medicaid Eligibility

The state provides Medicaid coverage to all Qualified Non-Citizens whose eligibility is not prohibited by section 403 of PRWORA (8 U.S.C. §1613).

Yes No

Indicate which requirements apply:

The state requires Lawful Permanent Residents to have 40 qualifying work quarters under Title II of the Social Security Act.

Yes No

The state limits eligibility to 7 years for certain non-citizens.

Yes No

The state elects the option to provide Medicaid coverage to otherwise eligible individuals under 21 and pregnant women, lawfully residing in the United States, as provided in section 1903(v)(4) of the Act.

Yes No

An individual is considered to be lawfully residing in the United States if he or she is lawfully present and otherwise meets the eligibility requirements in the state plan.

An individual is considered to be lawfully present in the United States if he or she:

1. Is a qualified non-citizen as defined in 8 U.S.C. 1641(b) and (c);
2. Is a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));
3. Is a non-citizen who has been paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;
4. Is a non-citizen who belongs to one of the following classes:
 - Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;
 - Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. §1254a, and individuals with pending applications for TPS who have been granted employment authorization;
 - Granted employment authorization under 8 CFR 274a.12(c);
 - Family Unity beneficiaries in accordance with section 301 of Pub. L. 101-649, as amended;
 - Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;
 - Granted Deferred Action status;
 - Granted an administrative stay of removal under 8 CFR 241;
 - Beneficiary of approved visa petition who has a pending application for adjustment of status;
5. Is an individual with a pending application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who -

Has been granted employment authorization; or

Is under the age of 14 and has had an application pending for at least 180 days;



Medicaid Eligibility

6. Has been granted withholding of removal under the Convention Against Torture;
7. Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);
8. Is lawfully present in American Samoa under the immigration laws of American Samoa; or
9. Is a victim of severe trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. 7105(b));
10. Exception: An individual with deferred action under the Department of Homeland Security's deferred action for the childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (9) of this definition.

Other

The state assures that it provides limited Medicaid services for treatment of an emergency medical condition, not related to an organ transplant procedure, as defined in 1903(v)(3) of the SSA and implemented at 42 CFR 440.255, to the following individuals who meet all Medicaid eligibility requirements, except documentation of citizenship or satisfactory immigration status and/or present an SSN:



Qualified non-citizens subject to the 5 year waiting period described in 8 U.S.C. 1613;

Non-qualified non-citizens, unless covered as a lawfully residing child or pregnant woman by the state under the option in accordance with 1903(v)(4) and implemented at 435.406(b).

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: SOUTH DAKOTA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Citation(s)

Condition or Requirement

(A) General Conditions of Eligibility (continued)

2. (Continued)

- | | | |
|----------------------------|----|---|
| | b. | For the medically needy, meets the non-financial eligibility conditions of 42 CFR Part 435. |
| Section 1905(p) of the Act | c. | For financially eligible qualified Medicare beneficiaries covered under section 1902(a)(10)(E)(i) of the Act, meets the non-financial criteria of section 1905(p) of the Act. |
| Section 1905(s) of the Act | d. | For financially eligible qualified disabled and working individuals covered under section 1902(a)(10)(E)(ii) of the Act, meets the non-financial criteria of section 1905(s). |

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: SOUTH DAKOTA
ELIGIBILITY CONDITIONS AND REQUIREMENTS

Page 3 is superseded by SD-13-12.