

Table of Contents

State/Territory Name: Colorado

State Plan Amendment (SPA) #: 21-0034-A

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850



Financial Management Group

July 18, 2022

Tracy Johnson
Medicaid Director
Colorado Department of Health Care
Policy and Financing
1570 Grant Street
Denver, CO 80203-1818

Re: Colorado 21-0034-A

Dear Ms. Johnson,

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 21-0034-A. Effective for services on or after October 1, 2021, this amendment updates the reimbursement methodology for the state's Hospital Back-Up Program. Specifically, rate setting will be based on the level of care needs of members, prospectively.

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 implementing Federal regulations at 42 CFR 447 Subpart C. We are pleased to inform you that Medicaid State plan amendment TN 21-0034-A is approved effective October 1, 2021. The CMS-179 and the amended plan pages are attached.

If you have any questions, please contact Christine Storey at Christine.storey@cms.hhs.gov.

Sincerely,



Rory Howe
Director

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER
2 1 — 0 0 3 4 -A

2. STATE
CO

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT
 XIX XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
October 1, 2021

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 440.155

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2022 \$ 0
b. FFY 2023 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Attachment 4.19-D – Nursing Facility Benefits -- Pages 47-48

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (if Applicable)
Attachment 4.19-D -- Nursing Facility Benefits -- Pages 47-48 (TN 08-007)

9. SUBJECT OF AMENDMENT

Update the reimbursement methodology for the Hospital Back-Up Program. The update to the reimbursement methodology reflects the Department's discontinuation of utilizing cost reporting for rate setting and instead setting rates based off the level of care needs of members.

10. 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:

Governor's letter date 14 July, 2021

11. SIGNATURE OF STATE AGENCY Officially Signed by Bettina Schneider,

2021.12.28 11:53:54 -07'00'

12. TYPED NAME
Bettina Schneider

13. TITLE
Chief Financial Officer

14. DATE SUBMITTED
December 29, 2021

15. RETURN TO

Colorado Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203-1818

Attn: Amy Winterfeld

FOR CMS USE ONLY

16. DATE RECEIVED
December 29, 2021

17. DATE APPROVED
July 18, 2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
October 1, 2021

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL
Rory Howe

21. TITLE OF APPROVING OFFICIAL
Director, FMG

22. REMARKS

Pen and ink changes authorized by state to reflect SPA number as CO 21-0034-A as indicated in block 1.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM
STATE OF COLORADO

ATTACHMENT 4.19-D
Page 47

1. All monies in the fund shall be subject to federal matching as authorized under federal law and subject to annual appropriation by the general assembly for the purpose of paying the administrative cost of implementing section 25.5-6-202 and this section and to pay a portion of the per diem rates established pursuant to section 25.5-6-202 (1) to (4).
2. Following payment of the amounts described above, the moneys remaining in the fund shall be subject to federal matching as authorized under federal law and subject to annual appropriation by the general assembly for the purpose of paying the rates established under section 25.5-6-202 (5) to (7).
3. Any monies in the fund not expended for these purposes may be invested by the state treasurer as provided by law.
 - a. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund.
 - b. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund but may be appropriated by the general assembly to pay nursing facility providers in future fiscal years.

The state department shall establish administrative penalties for the late payment by a nursing facility of a fee assessed pursuant to this section.

The state department may recoup any payments made to nursing facilities providing services pursuant to the Medicaid program up to the amount of the fees owed as determined pursuant to this section and any administrative penalties owed if a nursing facility fails to remit the fees and administrative penalties owed within 30 days after the date they are due. Before recoupment of payments pursuant to this section, the state department may allow a nursing facility that fails to remit fees and administrative penalties owed an opportunity to negotiate a repayment plan with the state department. The terms of the repayment plan may be established at the discretion of the state department.

HOSPITAL BACK UP LEVEL OF CARE

This program provides extra reimbursement to nursing facilities for costly, heavy care patients admitted from a hospital or nursing facility. The program is limited to patients whose hospitalization is being paid by Medicaid. In addition, the Statewide Utilization Review

Contractor (SURC) must make a finding that the patient would continue to need hospital level of care.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM
STATE OF COLORADO

ATTACHMENT 4.19-D
Page 48

Rate-setting under the Hospital Level Nursing Facility Clients Program is based on a client's CMS accepted resident assessment and related reimbursement classification. The reimbursement rate is subject to revision according to the client's most recent level of care needs and reimbursement classification which is reported by facilities to the Department on a consistent basis. The third-party contractor employed by the Department conducts biannual reviews of the CMS resident assessment results to verify that the reported classification is reflective of the patient's medical documentation and care plan. The ceiling for payment under this program shall not exceed ninety percent (90%) of the Medicaid payment to the discharging hospital.

HOSPITAL SWING BEDS

When a hospital offers swing bed services, payment will be made at the average rate per client day paid to class I nursing facilities for services furnished during the previous calendar year. Payment for nursing facility services may not exceed the rates charged for the same services to private residents or residents with other sources of income.

Oxygen provided to swing bed patients is being paid at the same rate currently paid for residents in nursing care facilities in addition to payments made for routine services.

Recipients shall be required to contribute all patient income minus the personal needs amount to the cost of their skilled or intermediate nursing care. Collection as well as determination of the patient income amount shall be in accordance with the 10 C.C.R. 2505-10, §8.482 entitled "Resident Income and Possession".

RECOVERIES

In the event that an audit or other competent evidence reveals that a provider is indebted to the Medicaid program, the State shall recover this amount either through a repayment agreement by offsetting against current and future claims of the provider, through litigation, or by any other appropriate legal resource. Recovered amounts shall be reported to the Federal government through the CMS 64.

APPEALS AND HEARING

The State provides an appeals or exception procedure that allows an individual nursing facility to submit additional evidence during and subsequent to the field audit of the nursing facility's annual cost report. Following completion of the rate audit process and the Department's issuance of a "rate letter" (stating the nursing facility's rate), the nursing facility is entitled to prompt administrative review through (1) informal reconsideration by the Department, and (2) a de novo hearing before an administrative law judge. Any issue relevant to the Department's