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State/Territory Name: Michigan

State Plan Amendment (SPA)#: 21-0017

This file contains the following documents in the order listed

- 1) Approval Letter
- 2) CMS 179
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 East 12th Street, Suite 0300
Kansas City, Missouri 64106-2898



Medicaid and CHIP Operations Group

January 24, 2022

Ms. Kate Massey
Medicaid Director
Medical Services Administration
400 S Pine St 7th Fl
Lansing, MI 48933-2250

RE: State Plan Amendment (SPA) Transmittal Number 21-0017

Dear Ms. Massey:

Enclosed for your records is an approved copy of the following State Plan Amendment:

Transmittal #21-0014 Effective Date: 01/01/2022
 Approval Date: 01/14/2022

If you have any questions regarding this State Plan Amendment, please have a member of your staff contact Keri Toback at 312 353 1754 or by email at keri.toback@cms.hhs.gov.

Sincerely,

A solid black rectangular box redacting the signature of James G. Scott.

James G. Scott, Director
Division of Program Operations

Enclosures

Cc: Erin Black, MDHHS

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

1. TRANSMITTAL NUMBER

21 — 0017

2. STATE

MI

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

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

3. PROPOSED EFFECTIVE DATE
January 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 433.138
42 CFR 431.625
Section 1902a, 1905a, 1906 of the Social Security Act

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

General Program Administration, Page 29b, 69, 69a, 70
Attachment 4.22-A Pages 1 and 2
Attachment 4.22-B Page 1
Attachment 4.22-B Pages 2 and 3 (New)

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
General Program Administration, Page 29b (TN 98-01), 29d (TN 91-30 Delete), 69 (TN 07-05), 69a (TN 97-01), 70 (TN 97-01)
Attachment 4.22-A Pages 1 and 2 (TN 07-05)
Attachment 4.22-B Page 1 (TN 16-0013)

9. SUBJECT OF AMENDMENT

This SPA provides authority to make technical changes regarding Third Party Liability and coordination of benefits processing.

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:

11. SIGNATURE OF STATE AGENCY OFFICIAL

11. TYPED NAME
Kate Massey

12. TITLE
Director, Health and Aging Services Administration

13. DATE SUBMITTED
December 20, 2021

15. RETURN TO

Health and Aging Services Administration
Office of Strategic Partnerships & Medicaid Administrative Services – Federal Liaison
Capitol Commons Center – 7th Floor
400 South Pine
Lansing, Michigan 48933

Attn: Erin Black

FOR CMS USE ONLY

16. DATE RECEIVED
12/20/2021

17. DATE APPROVED
01/14/2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
01/01/2022

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL
James G. Scott

21. TITLE OF APPROVING OFFICIAL
Director, Division of Program Operations

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Michigan

Requirements for Third Party Liability – Identifying Liable Resources

1. Frequency of Data Exchanges

433.138: Determining Liability of Third Parties

(d)(1) – State wage information collection agencies (SWICA): the Michigan Department of Health and Human Services (MDHHS) receives a SWICA file, but no longer uses this file to determine employer sponsored health insurance. Instead, MDHHS uses the Michigan insurance disclosure program that requires health insurance carriers and pharmacy benefit managers to submit member eligibility data on a monthly basis at minimum.

(d)(2) – Commercial health insurance carriers: monthly at minimum

(d)(3) – IV-A: Part of the SWICA exchange

(d)(4) – Workers' compensation: Monthly

- Motor vehicle: MDHHS has a data exchange agreement with the Michigan State Police Traffic Crash Reporting System (TCRS): Weekly
- Trauma codes: Weekly

2. Timeliness of Follow-up

433.138(g)(1)(ii): When appropriate the MDHHS follows up on acquired information within 30 days to determine the legal liability of other resources. County caseworkers, as a matter of routine, pursue potential employer leads for both outside income and other insurance. Other third party resources discovered by the caseworkers as a result of the follow up are reported to third party and incorporated into the third party and eligibility case files. This information is accessed to assure appropriate claims payment.

Within 60 days information is obtained to determine the legal liability of other resources. Health insurance information received from the caseworkers is entered on the TPL master file for use in both the cost-avoidance and recovery processes.

433.138 (g)(2): Workers Compensation

MDHHS contracts with a vendor who receives a quarterly file from the department of workforce development (DWD) which contains social security numbers utilized for matching purposes.

433.138 (g)(2): Insurance Disclosure Requirement

This program that requires health insurers to disclose eligibility information on all insured Michigan residents monthly, at minimum. This information is used by Michigan to match against the Medicaid eligibility files to identify Medicaid members with insurance coverage.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Michigan

Requirements for Third Party Liability – Identifying Liable Resources

3. Motor Vehicle Data Match and Tort/Casualty Processing

433.138 (g)(2)(ii): The motor vehicle data exchange agreement allows for matching recipient claims data with the Michigan State Police Traffic Crash Reporting System (TCRS) accident files for potential matches and potential recovery action.

4. Methods for Paid Claim Follow-up

433.138 (g)(3), 433.138 (g)(4): MDHHS identifies and pursues paid claims that are indicative of trauma and injury for the purposes of determining the legal liability of third parties. Once the aggregation of claims meets the threshold, a questionnaire is mailed to the recipient requesting information to determine if recovery is possible. The collection case file maintained by the MDHHS Third Party Electronic Database (TED) contains all information relevant to management of the case.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Michigan

Requirements for Third Party Liability – Payment of Claims

Guidelines Used to Determine When to Seek Reimbursement from a Liable Third Party

The following criteria are used in selecting claims which will be billed to third party insurers, or will be investigated for further collection action:

433.139 (d)(3); 433.139 (f): Health Insurance

Through analysis of schedules of benefits, payment statistics, and the denial notices sent to us by insurance carriers, certain items and services are excluded from cost avoidance and have been eliminated from post payment billing.

When it is discovered that commercial insurance benefits have been paid to the provider or the insured in duplication of the medical assistance payment to the provider, recovery of amounts that are greater than \$20 is sought from the provider within 12 months of the claim from date of service. Amounts of less than \$20 are pursued directly from the payer within three years of the claim from date of service if staff time permits recovery.

433.139 (f)(2): Thresholds for Seeking Reimbursement

MDHHS uses no accumulation threshold for health insurance reimbursement.

Health insurance recovery action on claim types likely to be covered by insurance occurs when payments made by the MDHHS are greater than \$20.00 for medical services and \$15.00 or greater for pharmacy services.

Personal injury investigative action occurs when hospital bills with trauma diagnoses having billed amounts equal to or greater than \$300 are investigated. Investigative resources which would be required to pursue smaller bills can be used more productively to carry out tasks that yield much higher rates of return.

Casualty cases are pursued when they meet a \$300 threshold for automobile and workers' compensation cases and \$1,000 for general liability and medical malpractice. Cases under the threshold may be pursued if time permits.

Paternity confinement expenses - the State of Michigan IV-D program refers paternity cases to the local prosecuting attorney who petitions the court to order the absent parent to provide support for the minor child and repay Medicaid confinement expenses. The prosecutor and/or court requests from the third party liability division a statement of confinement expenses for inclusion in the court order.

TN NO.: 21-0017

Approval Date: 01/14/2022

Effective Date: 1/01/2022

Supersedes
TN No.: 16-0013

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Michigan

Requirements for Third Party Liability – Payment of Claims

Confinement expense statements are provided by the third party liability division for every paternity case whether or not repayment is ordered and the terms of repayment is at the discretion of the court. Enforcement and collection are vested with an extension of each judicial circuit court in Michigan.

Third Party Billing Conditions:

1. Monitoring Provider Compliance:
433.139 (b)(1); 433.139 (b)(3): Cost Avoidance

Claims are processed in an automated environment, according to configurable table rules. These rules describe avoidance criteria in terms of claim content and provider supplied insurance explanation codes on claims. When the claim conditions match the configured table rules, the cost avoidance edits prevent payment, and tell providers that other insurance is available to bill prior to Michigan Medicaid.

433.139 (c): The State requires the provider to utilize all other resources to their fullest extent before presenting the claim to Medicaid for payment. Providers must secure other insurance adjudication response(s) which must include claim adjustment reason codes (CARCS) prior to billing Medicaid.

433.139 (b)(3): If the insurance provided by a non-custodial parent has restrictions for services received outside a service area, the dependents are treated as uninsured. This kind of insurance information is either not added to the dependent's eligibility record on MMIS or it is removed when the situation is identified. This assures that access to medical care is not precluded or diminished by provider concerns about payment when a non-custodial parent is uncooperative in claiming insurance benefits.

Michigan complies with the following requirements.

- SSA section 1902 (a)(25)(e): the requirement for states to apply cost avoidance procedures to claims for prenatal services, including labor, delivery, and postpartum care services.
- SSA section 1902 (a)(25)(e): the requirement for states to make payments without regard to potential third party liability for pediatric preventive services, unless the state has made a determination related to cost-effectiveness and access to care that warrants cost avoidance for up to 90 days.

TN NO.: 21-0017

Approval Date: 01/14/2022

Effective Date: 1/01/2022

Supersedes
TN No.: 16-0013

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Michigan

Requirements for Third Party Liability – Payment of Claims

- SSA section 1902 (a)(25)(f): State flexibility to make payments without regard to potential third party liability for up to 100 days for claims related to child support enforcement beneficiaries.

433.139 (b)(1); 433.139 (d): Providers are monitored for compliance with insurance billing requirements through post payment recovery responses. If a report of prior payment to either the provider or the insured person is received, the amount paid by the insurer is recouped from the provider.

2. 433.139 (d), 433.139 (f): Provider Based Billing, also Called “Disallowment” Nationally

Provider based billing occurs when Medicare (parts a, b and d), Medicare advantage insurance coverage, Medicare supplemental insurance coverage, and other commercial health insurance coverage is discovered after Medicaid has paid provider claims. Under provider-based billing, Medicaid produces notices that are sent to the providers of service with instructions to bill Medicare or the other health insurance carrier. If payment is received from Medicare or the other health insurance carrier, providers need to adjust their original Medicaid claim. If an adjustment is not received, or if the provider does not forward a copy of the Medicare or other health insurance carrier denial, Medicaid will recoup its payment 30 days from the date of the provider based billing.

3. 433.139 (d), 433.139 (f): insurance Based Billing, also Called “Direct Billing” Nationally

Insurance based billing occurs when Medicare advantage insurance coverage, Medicare supplemental insurance coverage, or other commercial health insurance coverage is found after Medicaid has paid provider claims and after a provider’s timely filing allowance has expired with these carriers. Under insurance based billing, Medicaid produces and sends claims to the other health insurance carrier directly for payment recovery purposes.

Enclosure 3 continued

29b

Revision: HCFA-PM-97-3 (CMCO)
December 1997

State: MICHIGAN

Citation:

1843(b) and 1905(a)
of the Act and
42 CFR 431.625

(vi) Other Medicaid recipients

The Medicaid agency pays Medicare Part B premiums to make Medicare Part B coverage available to the following individuals:

All Individuals who are: (a) receiving benefits under titles I, IV-A, X, IIV, or XVI (AABD or SSI); (b) receiving State supplements under title XVI, or (c) within a group listed at 42 CFR 431.625(d)(2).

Individuals receiving title II or Railroad Retirement benefits.

Medically needy individuals (FFP is not available for this group).

1902(a) (30) and
1905(a) of the Act

(2) Other Health Insurance

The Medicaid agency pays insurance premiums for medical or any other type of remedial care to maintain a third party resource for Medicaid covered services provided to eligible individuals (except individuals 65 years of age or older and disabled individuals, entitled to Medicare Part A but not enrolled in Medicare Part B).

TN NO: 21-0017

Approval Date: 01/14/2022

Effective Date: 01/01/2022

Supersedes
TNNO: 98-01

29d

Revision: HCFA-PM-91-8 (MB)
October 1991

State: MICHIGAN

Deleted

TN NO.: 21-0017

Approval Date: 01/14/2022

Effective Date: 1/01/2022

Supersedes

TN No.: 91-30

State of Michigan

Citation

42 CFR 433.137

4.22 Third Party Liability

(a) The Medicaid agency meets all requirements of:

- 1902(a)(25) of the Act
- 1) 42 CFR 433.138 and 433.139
 - 2) 42 CFR 433.145 through 433.148
 - 3) 42 CFR 433.151 through 433.154
 - 4) Section 1902(a)(25) of the Social Security Act

(b) Attachment 4.22-A Specifies the Following:

- 42 CFR 433.138(f)
- 1) The frequency with which the data exchanges required in §433.138(d)(1), (d)(3) and (d)(4) and the diagnosis and trauma code edits required in §433.138(e) are conducted;
- 42 CFR 433.138(g)(1)(ii) and (2)(ii)
- 2) The methods the agency uses for meeting the follow up requirements contained in §433.138(g)(1)(i) and (g)(2)(i);
- 42 CFR 433.138(g)(3)(i) and (iii)
- 3) The methods the agency uses for following up on information obtained through the State motor vehicle accident report file data exchange required under §433.138(d)(4)(ii) and specifies the time frames for incorporation into the eligibility case file and into its third party data base and third party recovery unit of all information obtained through the follow up that identifies legally liable third party resources; and
- 42 CFR 433.138(g)(4)(i) through (iii)
- 4) The methods the agency uses for following up on paid claims identified under §433.138(e) and specifies the time frames for incorporation into the eligibility case file and into its third party recovery unit of all information obtained through the follow up that identifies legally liable third party resources.

Revision: HCFA-PM-94-1 (MB)
February 1994

State/Territory: MICHIGAN

Citation

- 42 CFR 433.139(b)(3)(ii)(A) (c) Providers are required to bill liable third parties when services covered under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency.
- 42 CFR 433.139(b)(3)(ii)(C) (d) Attachment 4.22-B specifies the following:
- 1) The method used in determining a provider's compliance with the third party billing requirements at §433.139(b)(3)(ii)(C).
 - 2) The threshold amount or other guideline used in determining whether to seek recovery of reimbursement from a liable third party, or the process by which the agency determines that seeking recovery of reimbursement would not be cost effective.
 - 3) the dollar amount or time period the state uses to accumulate billings from a particular liable third party in making the decision to seek recovery of reimbursement.
 - 4) The Medicaid agency assures that the state has in effect the laws that require third parties to comply with the provisions, including those which require third parties to provide the state with coverage, eligibility, and claims data, under section 1902(a)(25) of the social security act, and specifies the compliance with 1902(a)(25)(e) and 1902(a)(25)(f).
- 42 CFR 433.139(f)(2)
- 42 CFR 433.139(f)(3)
- 1902(a)(25) of the Act
- 42 CFR 447.20 (e) The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 447.20.

Revision: HCFA-PM-94-1 (MB)
February 1994

State/Territory: MICHIGAN

Citation: 4.22 (Continued)

42 CFR 433.151(a) (f) The Medicaid agency has written cooperative agreements for the enforcement of rights to and collection of third party benefits assigned to the State as a condition of eligibility for medical assistance with the following: (Check as appropriate.)

- State title IV-D agency. The requirements of 42 CFR 433.152(b) are met.
- Other appropriate State agency(s)--
- Other appropriate agency(s) of another State--
- Courts and law enforcement officials.

1902(a)(60) of the Act (g) The Medicaid agency assures that the State has in effect the laws relating to medical child support under section 1908 of the Act.