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State/Territory Name: ND

State Plan Amendment (SPA) #: 24-0011

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 & HUMAN SERVICES

Centers for Medicare & Medicaid Services
Center for Medicaid & CHIP Services
230 South Dearborn
Chicago, Illinois 60604



Financial Management Group

July 25, 2024

Sarah Aker, Executive Director
Medical Services Division
North Dakota Department of Human Services
600 E. Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

RE: TN 24-0011

Dear Director Aker,

The Centers for Medicare & Medicaid Services (CMS) has reviewed the proposed North Dakota State Plan Amendment (SPA) to Attachment 4.19-B TN: #24-0011, which was submitted to CMS on June 5, 2024. This plan amendment proposes to implement an increase of three percent for services rendered by Medicaid Providers for various non-institutional services.

We reviewed your SPA submission for compliance with statutory requirements including in sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903 as it relates to the identification of an adequate source for the non-federal share of expenditures under the plan, as required by 1902(a)(2), of the Social Security Act and the applicable implementing Federal regulations.

Based upon the information provided by the state, we have approved the amendment with an effective date of July 1, 2024. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Matthew Klein at 214-767-4625 or via email at matthew.klein@cms.hhs.gov

Sincerely,



Todd McMillion
Director
Division of Reimbursement Review

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

1. TRANSMITTAL NUMBER <u>2 4 — 0 0 1 1</u>	2. STATE <u>ND</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE <u>July 1, 2024</u>
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5. FEDERAL STATUTE/REGULATION CITATION <u>42 CFR 447.204</u>	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>2024</u> \$ <u>1,159,287</u> b. FFY <u>2025</u> \$ <u>3,503,042</u>
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7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT <u>Page 66(b) of Section 4 of the State Plan; Attachment 4.19-B, pages 1, 1a, 1b, 3a, 3b, 7 and 7a</u>	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) <u>Page 66(b) of Section 4 of the State Plan (TN 23-0017); Attachment 4.19-B, page 1 (TN 23-0028), pages 1a and 1b (TN 23-0020), page 3a (TN 23-0015), page 3b (TN 23-0020), page 7 (TN 23-0019), and page 7a (TN 23-0018)</u>
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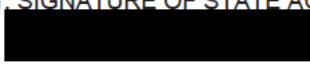
9. SUBJECT OF AMENDMENT

Amends the State Plan to to implement an increase of three percent for services rendered by Medicaid Providers.

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 	15. RETURN TO Sarah Aker, Executive Director Medical Services Division ND Department of Health and Human Services 600 East Boulevard Avenue Dept 325 Bismarck ND 58505-0250
12. TYPED NAME Sarah Aker	
13. TITLE Medical Services Director	
14. DATE SUBMITTED June 5, 2024	

FOR CMS USE ONLY

16. DATE RECEIVED June 5, 2024	17. DATE APPROVED July 25, 2024
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL July 1, 2024	19. SIGNATURE OF APPROVING OFFICIAL 
20. TYPED NAME OF APPROVING OFFICIAL Todd McMillion	21. TITLE OF APPROVING OFFICIAL Director, Division of Reimbursement Review

22. REMARKS

Revision: HCFA-PM-94-9 (MB)
JUNE 2009

State/Territory: North Dakota

Citation

4.19 (m) Medicaid Reimbursement for Administration of Vaccines Under the Pediatric Immunization Program

1928 (c) (2)
(C) (ii) of the Act

(i) A provider may impose a charge for the administration of a qualified pediatric vaccine as stated in 1928(c) (ii) of the Act. Within this overall provision, Medicaid reimbursement to providers will be administered as follows:

(ii) The State:

- sets a payment rate at the level of the regional maximum established by the DHHS Secretary.
- is a Universal Purchase State and sets a payment rate at the level of the regional maximum established in accordance with State law.
- sets a payment rate below the level of the regional maximum established by the DHHS Secretary.

The reimbursement rates are the same for both public and private providers. Administration fees will be updated by annual or periodic adjustments to the professional services fee schedule.

The reimbursement rate for initial immunization administrations; for subsequent immunization vaccine administration; and for subsequent intranasal/oral vaccine administration is \$17.57.

- is a Universal Purchase State and sets a payment rate below the level of the regional maximum established by the Universal purchase State.

TN No: 24-0011
Supersedes
TN No: 23-0017

Approval Date: July 25, 2024

Effective Date: 07-01-2024

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

The following is a description of the policies that apply to rates and fees established for services other than inpatient hospital care, nursing facility care, and intermediate care facilities.

Out-of-state providers are paid the same rates and fees applicable to providers in North Dakota.

All rates are published on the agency's website at:

<https://www.hhs.nd.gov/healthcare/medicaid/provider/fee-schedules>. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

1) Outpatient services.

- a. Outpatient hospital services are paid using a fixed percentage of charges established by the state agency, except for laboratory procedures paid according to item 3 below, dietitian services paid at the lower of the actual charge or maximum allowable charge established by the state agency, partial hospitalization paid a per diem fee schedule rate established by the state agency effective for dates of service on or after July 1, 2023, and in-state prospective payment system hospitals. The fixed percentage of charges for in-state hospitals designated as Critical Access Hospitals will be established using the hospital's most recent audited Medicare cost report. Cost settlement to reasonable cost for outpatient services at in-state hospitals designated as Critical Access Hospitals for Title XIX services will be based on the Medicare cost report and will occur after the hospital's Medicare cost report has been audited and finalized by the Medicare fiscal intermediary. The fixed percentage of charges for all other in-state hospitals will be established using the hospital's most recent Medicare cost report available as of June 1 of each year. The fixed percentage of charges for out-of-state hospitals shall be 57.4 percent except for laboratory procedures paid according to item 3 below. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024 as authorized and appropriated by the 2023 Legislative Assembly.
- b. Effective October 1, 2023, in-state prospective payment system hospitals will be reimbursed based on Enhanced Ambulatory Patient Group (EAPG) payment system version 3.17. The conversion factor shall be increased by two percent effective July 1, 2024.
- c. Partial hospitalization is paid a per diem fee schedule rate as outlined in item a above.

2) Clinic services payment is based on the cost of delivery of the services on a prospective basis as determined by the single state agency from cost data submitted annually by the clinic. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Clinic rates are set as of July 1, 2024 and are effective for services provided on or after that date. Providers will be notified of the rates, via letter and/or email correspondence.

- a. Payment to dental clinics, including mobile dental clinics, is based on the cost of delivery of the service as determined by the single state agency from cost data submitted annually by the clinic. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Individual provider rates will be effective October 1, 2024. Providers will be notified of the rates, via letter and/or email correspondence. Except as otherwise noted in the Plan, State developed fee schedule rates are the same for both governmental and private providers.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

- (continued)

- 4) Effective July 1, 2019, for x-ray services, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 5) For prosthetic devices, medical equipment, supplies and appliances, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024, as authorized and appropriated by the 2023 Legislative Assembly.
 - a. For DMEPOS items associated with Section 1903(i)(27) of the Social Security Act, amended by Section 5002 of the 21st Century Cures Act, and identified by the Centers for Medicare and Medicaid Services (CMS) as covered by Medicare, Medicaid will pay the lower of the following: (1)The Medicare DMEPOS fee schedule rate for North Dakota geographic, non-rural areas, set as of January 1 of each year which will be reviewed on a quarterly basis and updated as needed; or (2)The provider's billed charges.
- 6) For services, including optometric and chiropractic services, paid from the North Dakota Professional Services Fee Schedule, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers paid from the North Dakota Professional Services Fee Schedule will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024, as authorized and appropriated by the 2023 Legislative Assembly. For rates developed using the resource-based relative value scale methodology, the posted fee schedule accounts for annual cost neutral adjustments to the North Dakota Medicaid conversion factor made to reflect updates to the Medicare RVUs and utilization changes.
 - a. For services, other than those reimbursed using resource-based relative value scale methodology, North Dakota Medicaid providers paid from the North Dakota Professional Services Fee Schedule will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024, as authorized and appropriated by the 2023 Legislative Assembly.
 - b. For services rendered by licensed or registered pharmacists, the lower of billed charges or the fee schedule established by the state agency.
- 7) For dental services and dentures, Medicaid will pay the lower of billed charges or Medicaid fee established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024, as authorized and appropriated by the 2023 Legislative Assembly.
 - a. Effective for dates of service on or after October 10, 2017, reimbursement for dental sealants and fluoride varnish provided in a school setting by dental hygienists employed by the North Dakota Department of Health (Department) are based on the cost of delivery of services on a prospective basis as determined by the single state Medicaid agency from cost data submitted annually by the Department. The rate components include dental hygienist and administrative salaries, supplies, and overhead. The Department will be notified of the rate via letter and/or email correspondence.
- 8) Effective July 1, 2019, for private duty nursing services, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 9) Effective July 1, 2019, for physical, occupational and speech therapy, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standard for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.

- 10) Effective July 1, 2019, for services rendered by enrolled providers via telemedicine; payment for the telemedicine connectivity code will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standard for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 11) For eyeglasses, Medicaid will pay the lower of billed charges or the rate established by the state agency competitive bidding process. North Dakota meets the certification requirements of Section 1902(a)(23) of the Social Security Act to permit the selection of one or more providers, through a competitive bidding process, to deliver eyeglasses on a statewide basis under the authority of Section 1915(a)(1)(B) of the Social Security Act and 42 CFR 431.54(d).

- 2) The per diem rate for a residential provider is established based on the residential provider's reported allowable costs for direct and indirect personal care services divided by the number of days personal care services were provided during the report period. The per diem rate is applicable to all eligible individuals authorized to receive personal care services from the residential provider and does not vary based on the amount of services authorized for each individual. The per diem rate is payable only for days in which at least 15 minutes of personal care services is provided to the individual in the residential facility. For an individual who does not receive at least 15 minutes of personal cares per day, the rate payable to a residential provider for personal care services shall not exceed the maximum allowable hourly rate for an agency as established in paragraph a.

The per diem rate shall be established annually for each residential provider based on a cost report that identifies actual costs incurred for the provision of personal care services during the provider's fiscal year. The established per diem rate may not exceed the maximum per diem rate. North Dakota Medicaid providers will receive a three and one-half percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024, as authorized and appropriated by the 2023 Legislative Assembly.

Allowable costs included in the personal care per diem rate are:

1. Salaries, fringe benefits and training expenses for direct supervisors and staff who provide assistance with:
 - a. Activities of daily living including eating, bathing, dressing, mobility, toileting, transferring and maintaining continence; and
 - b. Instrumental activities of daily living that include personal hygiene, light housework, laundry, meal preparation, transportation, grocery shopping, using the telephone, medication management and money management.
2. Administration and overhead expenses that include salaries and fringe benefits of an administrator, assistant administrator or top management personnel, liability insurance, central and home office costs excluding property costs, telephone, personnel recruitment costs, computer software costs, business office expenses, and working capital interest.

24. Vacated

25. Organ Transplants - Payments for physician services are based on Attachment 4.19-B No. 6 as described in this attachment. Payment for hospital services are based on Attachment 4.19-A.

26. For diagnostic, screening and preventive services, Medicaid will pay the lower of actual billed charges or the maximum allowable fee established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024, as authorized and appropriated by the 2023 Legislative Assembly.
27. Emergency hospital services provided by hospitals not otherwise participating in the Medicaid program are paid at the fixed percentage of charges for out-of-state hospitals as established in paragraph 1.
28. For ambulatory surgical center services, payment will be the lower of the provider's billed charges or the fee schedule established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024, as authorized and appropriated by the 2023 Legislative Assembly.
29. For rehabilitative services, each qualified Medicaid service practitioner will be reimbursed a rate from the Medicaid fee schedule for defined units of service.

For services provided by non-governmental providers, payment will be the lower of the provider's actual billed charges or the fee schedule established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2024, as authorized and appropriated by the 2023 Legislative Assembly.

For the governmental providers, payment is established based on the cost of delivering the services on a prospective basis as determined by the single state agency from cost data submitted annually. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Governmental provider rates are set as of July 1, 2024 and are effective for services provided on or after that date. Providers will be notified of the rates via letter or email correspondence.

30. For non-ASAM services rendered by licensed addiction counselors within their scope of practice, each qualified Medicaid service practitioner will be reimbursed a rate from the Medicaid fee schedule for defined units of service.

Effective November 1, 2018, for services provided by non-governmental providers, payment will be the lower of the provider's actual billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), Item 6, 6a and 6b.

For the governmental providers, payment is established based on the cost of delivering the services on a prospective basis as determined by the single state agency from cost data submitted annually. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Governmental provider rates are set as of July 1, 2024 and are effective for services provided on or after that date. Providers will be notified of the rates via letter or email correspondence.

35. *EPSDT Services*

For medically necessary services not otherwise identified in the State Plan* but available to EPSDT participants, reimbursement shall be the lower of submitted charges or the fee schedule as determined by the State Agency.

For EPSDT services, Medicaid will pay the lower of billed charges or fee schedule established by the state agency.

*Services not identified under 1905(a) of the Social Security Act are not reimbursed under this authority.

36. For Targeted Case Management Services for individuals with a serious mental illness or serious emotional disturbance, payment will be based on the lower of the provider's actual billed charge or the fee schedule established in 15-minute increments.
- a. Payment to state government providers will be based on the cost of delivery of the services on a prospective basis as determined by the single state agency from cost data submitted annually by state government providers. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. State government provider rates are set as of July 1, 2024 and are effective for services provided on or after that date. Providers will be notified of the rates, via letter and/or email correspondence.
- b. As authorized by the 2023 Legislative Assembly, North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement as of July 1, 2024 and is effective for services provided on or after that date. The agency's fee schedule for non-state government providers and private providers will be set as of July 1, 2024 and is effective for services on or after that date.
37. For Targeted Case Management Services for individuals served in the child welfare system, payment will be based on the lower of the provider's actual billed charge or the fee schedule established in 15-minute increments. As authorized by the 2023 Legislative Assembly, North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement as of July 1, 2024 and is effective for services provided on or after that date. The agency's fee schedule rate will be set as of July 1, 2024 and is effective for services on or after that date.
38. For Targeted Case Management Services for Individuals needing Long Term Care services, payment will be based on the lower of the provider's actual billed charge or the fee schedule established in monthly increments. As authorized by the 2023 Legislative Assembly, North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement as of July 1, 2024 and is effective for services provided on or after that date. The agency's fee schedule rate will be set as of July 1, 2024 and is effective for services provided on or after that date.
39. For Targeted Case Management Services for Pregnant women and infants, payment will be based on the lower of the provider's actual billed charge or the fee schedule established per the procedure code definition. As authorized by the 2023 Legislative Assembly, North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement as of July 1, 2024 and is effective for services provided on or after that date. The agency's fee schedule rate will be set as of July 1, 2024 and is effective for services provided on or after that date.