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State/Territory Name: New Hampshire

State Plan Amendment (SPA) #: 24-0033

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106

Medicaid and CHIP Operations Group

August 27, 2024

Lori A. Weaver
Commissioner
Department of Health and Human Services
Office of the Commissioner
129 Pleasant Street
Concord, NH 03301

Re: New Hampshire State Plan Amendment (SPA) 24-0033

Dear Commissioner Weaver:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 24-0033. This amendment indicates that New Hampshire complies with the Consolidated Appropriations Act Chapter 146, Laws of 2024 (SB312) regarding third-party liability.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations Section 1902(a)(25)(I) of the Social Security Act. This letter informs you that New Hampshire's Medicaid SPA TN 24-0033 was approved on August 27, 2024, with an effective date of July 1, 2024.

Enclosed are copies of Form CMS-179 and approved SPA pages to be incorporated into the New Hampshire State Plan.

If you have any questions, please contact Joyce Butterworth at (857) 357-6375 or via email at Joyce.Butterworth@cms.hhs.gov.

Sincerely,

James G. Scott, Director
Division of Program Operations

Enclosures

cc: Henry Lipman, State Medicaid Director
Dawn Tierney, Medicaid Business and Policy

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DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 2 4 — 0 0 3 3

2. STATE: NH

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
July 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION
Section 1902(a)(25)(I)of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2024 $ 0
b. FFY 2025 $ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Attachment 4.22-B, Page 2
Section 4, page 69a

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*
Attachment 4.22-B, Page 2 (TN 22-0030)
Section 4, page 69a (TN 22-0030)

9. SUBJECT OF AMENDMENT
Compliance with the Third Party Liability Requirements under the Consolidated Appropriations Act, 2022

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. [redacted] E AGENCY OFFICIAL

12. TYPED NAME
Ann H. Landry

13. TITLE
Associate Commisioner

14. DATE SUBMITTED
August 8, 2024

15. RETURN TO
Sara Hall
Division of Medicaid Services - Brown Building
129 Pleasant Street
Concord, NH 03301

FOR CMS USE ONLY

16. DATE RECEIVED
August 8, 2024

17. DATE APPROVED
August 27, 2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
July 1, 2024

19. SIGNATURE OF APPROVING OFFICIAL
[redacted]

20. TYPED NAME OF APPROVING OFFICIAL
James G. Scott

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

22. REMARKS
Governor's comments, if any, will follow.

the MMIS in the previous month. NH does not have a cost-effectiveness threshold to pursue recovery on a health insurance claim. However, any claims under $50 that are not paid by the primary carrier within 6 months may be closed as not recoverable.

Generally, casualty insurance claims are pursued for recovery. Casualty cases are determined by referral/inquiry from a provider, insurance carrier, Medicaid member, or attorney. Paid claims related to an accident/Injury on a Medicaid client are manually reviewed. MMIS automatically reviews the paid amount on an accident- or injury-related claim and initiates a Medical Service Questionnaire (MSQ) letter to the client if a case has not already been established. Casual cases are pursued regardless of amount, if it is determined recovery is probable.

(6) The Medicaid provider may not refuse covered services to an individual who is eligible for medical assistance under the plan on account of a third party's potential liability. The provider may not seek to collect from the Medicaid eligible individual (or any financially responsible relative or representative of that individual) if the total amount of the third party liability is equal to or greater than the amount payable under the State Plan (which includes, when applicable, approved cost-sharing payments.) When the total third party payment is less than the amount payable under the State Plan (which includes, when applicable, approved cost-sharing payments), the provider may collect from the individual (or any financially responsible relative or representative) an amount the lesser of any approved cost-sharing amount or the difference between the amount payable under the State Plan and the total third party payment.

(7) NH has passed legislation that bars responsible third-party payers from refusing payment to NH Medicaid for an item or service solely on the basis that such item or service did not receive prior authorization under the third-party payer's rules. If the responsible third-party payer requires prior authorization for an item or service furnished to a Medicaid-eligible individual, the responsible third-party payer must accept the authorization provided by the State that the item or service is covered under the State Plan (or waiver of such plan) for such individual, as if such authorization was made by the third party for such item or service. NH has also passed legislation that requires third parties to respond within 60 days of receiving an inquiry from the Department regarding a health care claim that is submitted not later than three years after the provision of such item or service. These provisions comply with section 202 of the Consolidated Appropriations Act (CAA), 2022.

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

State/Territory: New Hampshire

Citation		
42 CFR 433.139 (b)(3)(i)	(c)	The State will make payment for pediatric preventive services, including early and periodic screening, diagnosis, and treatment services, without regard to third party liability and seek reimbursement from any liable third party to the extent of such legal liability. 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.
	(d)	ATTACHMENT 4.22-B specifies the following:
42 CFR 433.139(b)(3)(ii)(A)		(1) The method used in determining a provider's compliance with the third party billing requirements at §433.139(b)(3)(ii)(C).
42 CFR 433.139(f)(2)		(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.
42 CFR 433.139(f)(3)		(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.
42 CFR 447.20 42 CFR 447.15	(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.
1902(a)(25)(I)		(7) The Medicaid agency ensures that laws are in effect that bar liable third-party payers from refusing payment to NH Medicaid for an item or service solely on the basis that such item or service did not receive prior authorization under the third-party payer's rules and requires third-parties to respond within 60 days of receiving an inquiry from the Department regarding a health care claim that is submitted not later than three years after the provision of such item or service. These laws comply with the provisions of section 202 of the Consolidated Appropriations Act, 2022.