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State/Territory Name: North Carolina

State Plan Amendment (SPA) #: 17-0015

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Atlanta Regional Office
61 Forsyth Street, Suite 4T20
Atlanta, Georgia 30303



DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS

February 6, 2018

Mr. Dave Richard
Deputy Secretary for Medical Assistance
North Carolina Department of Health and Human Services
1985 Umstead Drive
Raleigh, NC 27699-2501

RE: SPA 17-0015

Dear Mr. Richard:

Enclosed is an approved copy of North Carolina's state plan amendment (SPA) 17-0015 which was submitted to the Centers for Medicare & Medicaid Services (CMS) on December 21, 2017. The SPA submission updates references to the Code of Federal Regulations (CFR) to be in compliance with 42 CFR 483, Subpart B. It also deletes the submission of prior approval to nursing facilities via phone to reflect the current approval process being utilized by NCDHHS's Utilization Review Contractor. Additionally, the SPA updates a list of items that can be charged to nursing facility resident and deletes 13 diagnoses previously required for skilled care. Finally, the SPA updates documentation required on the form for admission to nursing facilities for ventilator dependent beneficiaries and changes the word PASARR to PASRR.

Based on the information provided, the Medicaid State Plan Amendment NC 17-0015 was approved on February 6, 2018. The effective date of this SPA is October 1, 2017. The signed 179 and the approved plan pages are enclosed.

CMS appreciates the work your staff dedicated to preparing this state plan amendment. If you have any questions concerning this SPA, please contact Kenni Howard at 404-562-413 or by email at kenni.howard@cms.hhs.gov.

Sincerely,

//s//

Charles A. Friedrich, MPA
Acting, Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 17-0015	2. STATE NC
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE October 1, 2017	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 483 Subpart B		7. FEDERAL BUDGET IMPACT: a. FFY 2018 \$0.00 b. FFY 2019 \$0.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Page 76 Section 4.28 Appeals Process, Page 79n, 79o, 79p 79r Section 4.38, Attachment 3.1-A.1, Page 7, Attachment 3.1-A, Page 7a, Appendix 4 to Attachment 3.1-A Page 1 a, and Appendix 1 to Attachment 3.1-A, Pages 1 and 2		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Page 76 Section 4.28 Appeals Process, Page 79n, 79o, 79p 79r Section 4.38, Attachment 3.1-A.1, Page 7, Attachment 3.1-A, Page 7a, Appendix 4 to Attachment 3.1-A Page 1 a, and Appendix 1 to Attachment 3.1-A, Pages 1 and 2	
10. SUBJECT OF AMENDMENT: Nursing Facilities			
11. GOVERNOR'S REVIEW (<i>Check One</i>): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Secretary <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: /s/		16. RETURN TO: Office of the Secretary Department of Health and Human Services 2001 Mail Service Center Raleigh, NC 27699-20014	
13. TYPED NAME: Mandy Cohen, MD, MPH			
14. TITLE: Secretary			
15. DATE SUBMITTED:			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 12/21/17		18. DATE APPROVED: 02/06/18	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 10/01/17		20. SIGNATURE OF REGIONAL OFFICIAL: /s/	
21. TYPED NAME: Charles A. Friedrich, MPA		22. TITLE: Acting, Associate Regional Administrator Division of Medicaid & Children's Health Operations	
23. REMARKS: Approved with the following changes to block # 8 and 9 as authorized by the state agency on email dated 02/05/18. Block # 8 Attachment 3.1-A.1, Page 7a, Appendix 4 to Attachment 3.1-A Pag8 changed to read: Page 76 Section 4.28 Appeals Process, Page 7e 1, and Appendix 1 to Attachment 3.1-A, Page 29n, 79o, 79p 79r Section 4.38, Attachment 3.1-A.1, Page 7, Block # 9 Attachment 3.1-A-1, Page 7a, Appendix 4 to Attachment 3.1-A Pag9 changed to read: Page 76 Section 4.28 Appeals Process, Page 7e 1, and Appendix 1 to Attachment 3.1-A, Page 29n, 79o, 79p 79r Section 4.38, Attachment 3.1-A.1, Page 2			

Revision: HCFA-PK-93-1 (BPD)
January 1993

State/Territory: North Carolina

Citation

4.28

Appeals Process

42 CFR 431.152;
AT-79-18
52 FR 22444;
Secs. .
L9 02 (a) (2 8) (D) I)
ana 1919(e)(7) of
the Act; P.L.
100-203 (Sec. 4211(c)).

- (a) The Medicaid agency has established appeals procedures for NFs as specified in 42 CFR 431.153 and 431.154.
- (b) The State provides an appeals system that meets the requirements of 42 CFR 431 Subpart E, 42 CFR 483.15(c)(1)(ii), and 42 CFR 483 Subpart E for residents who wish to appeal a notice of intent to transfer or discharge from a NF and for individuals adversely affected by the preadmission and resident review requirements of 42 CFR 483 Subpart C.

TN No. 17-0015

Supersedes

TN No. 94-30

Approval Date: 02-06-18

Effective Date: 10/01/2017

Revision: HCFA-PM-91- 10 (BPD)
DECEMBER 1,991

State/Territory: North Carolina

Citation

42 CFR 483.35; 42
CFR 483 Subpart D;
Secs. 1902(a)(28),
1919(e)(1) and (2),
and 1919(f)(2),
P.L. 100-203 (Sec.
4211(a)(3)); P.L.
101-239 (Secs.
6901(b)(3) and (4));
P.L. 101-508
(Sec. 4801(a)).

4.38 Nurse Aide Training and Competency
Evaluation for Nursing Facilities

- (a) The State assures that the requirements of 42 CFR 483.150(a), which relate to individuals deemed to meet the nurse aide training and competency evaluation requirements, are met.
- X (b) The State waives the competency evaluation requirements for individuals who meet the requirements of 42 CFR 483.150(b)(1).
- X (c) The State deems individuals who meet the requirements of 42 CFR 483.150(b)(2) to have met the nurse aide training and competency evaluation requirements.
- (d) The State specifies any nurse aide training and competency evaluation programs it approves as meeting the requirements of 42 CFR 483.152 and competency evaluation programs it approves as meeting the requirements of 42 CFR 483.154.
- No (e) The State offers a nurse aide training and competency evaluation program that meets the requirements of 42 CFR 483.152.
- No (f) The State offers a nurse aide competency evaluation program that meets the requirements of 42 CFR 483.154.

Revision: HCFA-PM-91- 10 (BPD)
DECEMBER 1991

State/Territory: North Carolina

Citation

42 CFR 48335; 42
CFR 483 Subpart D ;
Secs. 1902(a)(28),
1919(e)(1) and (2),
and 1919(f)(2),
P.L. 100-203 (Sec-
4211(a)(3)); P.L.
101-239 (Secs.
6901(b)(3) and
(4)); P.L. 101-508
(Sec. 4801(a)).

- (g) If the State does not choose to offer a nurse aide training and competency evaluation program or nurse aide competency evaluation program, the State reviews all nurse aide training and competency evaluation programs and competency evaluation programs upon request.
- (h) The State survey agency determines, during the course of all surveys, whether the requirements of 483.35(c) and (d) and 483.95(g) are met.
- (i) Before approving a nurse aide training and competency evaluation program, the State determines whether the requirements of 42 CFR 483-152 are met.
- (j) Before approving a nurse aide competency evaluation program, the state determines whether the requirements of 42 CFR 483-154 are met.
- (k) For program reviews other than the initial review, the State visits the entity providing the program.
- (l) The State does not approve a nurse aide training and competency evaluation program or competency evaluation program offered by or in certain facilities as described in 42 CFR 483.151(b)(2) and (3).

Revision: HCFA-PH-91-10
DECEMBER 1991

(BPD)

State/Territory: North Carolina

Citation

42 CFR 483.35; 42
CFR 483 Subpart D;
Secs. 1902 (a) (28),
1919 (e) (1) and (2)
and 1919(f)(2),
P.L. 100-203 (Sec.
4211(a)(3)); P.L.
101-239 (Secs.
6901(b) (3) and
(4)); P.L. 101-508
(Sec. 4801 (a))

- (m) The State, within 90 days of receiving a request for approval of a nurse aide training and competency evaluation program or competency evaluation program, either advises the requestor whether or not the program has been approved or requests additional information from the requestor.
- (n) The State does not grant approval of a nurse aide training and competency evaluation program for a period longer than 2 years.
- (o) The State reviews programs when notified of substantive changes (e.g., extensive curriculum modification).
- (p) The State withdraws approval from nurse aide training and competency evaluation program and competency evaluation programs when the program is described in 42 CFR 483.151(b)(2) or (3).
- X (q) The State withdraws approval of nurse aide training and competency evaluation programs that cease to meet the requirements of 42 CFR 463.152 and competency-evaluation programs that cease to meet the requirements of 42 CFR 483.154.
- (r) The State withdraws approval of nurse aide training and competency evaluation program and competency evaluation programs that do not permit unannounced visits by the State.

Revision: HCFA-PH-91-10
DECEMBER 1991

(BPD)

State/Territory: North Carolina

Citation

42 CFR 483-35; 42
CFR 483 Subpart D;
Secs. 1902(a)(28),
1919(e)(1) and (2),
and 1919(f)(2),
P.L. 100-203 (Sec.
4211(a)(3)); P.L.
101-239 (Secs.
6901(b)(3) and
(4)); P.L. 101-508
(Sec. 4801(a)).

(z) The State includes a record of
successful completion of a
competency evaluation within 30
days of the date an individual is
found competent.

No

The State imposes a maximum upon
(aa) the number of times an individual
may take a competency evaluation
program (any maximum imposed is
not-less than 3).

(bb) The State maintains a nurse aide registry that meets the
requirements in 42 CFR 483.156.

x

(cc) The State includes home health
aides on the registry.

No

(dd) The State contracts the operation
of the registry to a non State entity.

x (ee)

ATTACHMENT 4.38 contains the state's description of
registry information to be disclosed in addition to that
required in 42 CFR 483.156 (c)(1)(iii) and (iv).

x

(ff) ATTACHMENT 4.38-A contains the
State's description of information included on the
registry in addition to the information required by 42
CFR 483.156(c).

11. Isolation: When medically necessary as a limited measure because of contagious or infectious disease.
12. Sterile Dressings: Requiring prescription medications and aseptic technique by qualified staff.
13. Decubitus Ulcer(s): When infected or extensive.
14. Uncontrolled Diabetes

4601.3 Less Serious Conditions Which Alone May Not Justify Placement at the Skilled Level

Although any one of these conditions alone may not justify placement at the skilled level, presence of several of these factors may justify skilled care. This determination will require careful judgement.

1. Diagnostic Procedures: Frequent laboratory procedures when intimately related to medication administration (such as monitoring anticoagulants, arterial blood gas analysis, blood sugars in unstable diabetics)
2. Medications: Frequent intramuscular injections, routine or PRN medications requiring daily administration and/or judgement by a licensed nurse.
3. Treatments: Required observation, evaluation and assistance by skilled personnel for proper use or patient's safety (e.g., oxygen, hot packs, hot soaks, whirlpool, diathermy, IPPB, etc.).
Skilled procedures including the related teaching and adaptive aspects of skilled nursing are part of the active treatment and the presence of licensed nurses at the time when they are performed is required.
4. Dietary: Special therapeutic diets ordered by a physician and requiring close dietary supervision for treatment or control of an illness, such as chronic renal failure, 0.5 grams or less sodium restrictions, etc.
5. Incontinency: Intense bowel and bladder retraining programs if deemed necessary in accordance with facility procedures.
6. Mental and Behavioral Problems: Mental and behavioral problems requiring treatment or observation by skilled professional personnel, to the extent deemed appropriate for the nursing home.
7. Psychosocial Conditions: The psychosocial conditions of each patient will be evaluated in relation to his/her medical condition when determining a change in level of care. Factors taken into consideration along with the patient's medical needs include age, length of stay in current placement, location and condition of spouse, proximity of social support and the effect of transfer on the patient. It is understood that there can always be, to a greater or lesser degree, some trauma with transfer; even sometimes from one room or hall to

CRITERIA FOR VENTILATOR-DEPENDENT RECIPIENTS
(Hospital Based or Nursing Facility)

I. Definition

- A. Ventilator dependent is defined by the Division of Medical Assistance as requiring at least ten (10) hours/day of mechanical ventilation to maintain a stable respiratory status.

II. Criteria

- A. Recipient's condition must meet the definition of ventilator dependence.
- B. The recipient's condition at time of placement must be stable without infections or extreme changes in ventilatory settings and/or duration (i.e. increase in respiratory rate by 5 breaths per minute, increase in FIO₂ of 25% or more, and/or increase in tidal volume of 200 mls or more).
- C. The recipient must have prior approval for admission to a long-term care facility. Prior approval requests for ventilator services must include the following:
- a. The FL-2 or the North Carolina Medicaid designated screening form with the PASARR number, the National Provider Identifier (NPI) of the long term care facility, signed and dated by the attending physician.
 - b. Medical records documenting the criteria for ventilator level of care.
 - c. A ventilator addendum form, signed and dated by the attending physician within 45 days of the authorization for ventilator level of care.

- (1) Private accommodations are authorized only when directed by a physician as medically necessary or when all semi-private accommodations are occupied.
- (2) The items and services furnished in NFs and ICF-IID that are payable by the Medicaid Program when medically necessary and for which recipients may not be charged are listed below. Unless stated otherwise these services are payable only to long term care facilities.
 - (a) Semi-private room, ward accommodations or private room if medically necessary, including room supplies such as water pitchers, basins, and bedpans.
 - (b) Nursing staff services.
 - (c) Food and intravenous fluids or solutions.
 - (d) Linens and patient gowns and laundering of these items.
 - (e) Housekeeping services.
 - (f) Social services and activity programs.
 - (g) Physical therapy, speech therapy, audiology, occupational therapy, respiratory therapy, and all other forms of therapy.
 - (h) Medical supplies, oxygen, orthotics, prostheses and durable medical equipment.
 - (i) Non legend drugs, serums, vaccines, antigens, and antitoxins.
 - (j) Transportation to other medical providers for routine, non-emergency care.
 - (k) Laboratory and radiology services, payable to either the long term care facility or directly to the provider furnishing the service.
 - (l) Physician and dental services, payable only to the practitioners if provided in private facilities.
 - (m) Legend drugs and insulin payable only to pharmacies if provided in private facilities.
 - (n) Transportation to other medical providers for emergency care, payable only to ambulance providers.

The following items can be charged to recipients:

- (a) Customary room charge to reserve a room during a recipient's hospital stay, therapeutic leave in excess of the maximum allowed, and other absences;
- (b) Customary private room differential charge if a private room is not medically necessary;
- (c) Private duty nurse or attendants;
- (d) Telephone, television, newspaper, and magazines;
- (e) Guest meals;
- (f) Barber and beauty shop, services other than routine grooming required as part of the patient's care plan;
- (g) Personal clothing;
- (h) Grooming items;
- (i) Tobacco products;
- (j) Burial services and items;
- (k) Personal computer and other electronic device for personal use;
- (l) Radio;
- (m) Personal comfort items such as notions, novelties or confections;
- (n) Gifts purchased on behalf of residents;
- (o) Flowers and plants;
- (p) Cost to participate in social events and entertainment offered outside the scope of the activities program; and
- (q) Specially prepared or alternative food requested instead of food and meals generally prepared by the facility, unless ordered by the resident's physician, physician's assistant, nurse practitioner or clinical nurse specialist.

Level of Care criteria is described in Appendix 1 of Attachment 3.1-A. Level of Care criteria for non acute intensive rehabilitation head-injury care described in Appendix 3 of Attachment 3.1-A. Level of Care criteria for ventilator-dependent care described in Appendix 4 of Attachment 3.1-A.

4.b. Early and Periodic Screening, Diagnosis and Treatment

(1) Hearing Aid Services

Prior approval is required for hearing aids. The prior approval request must be supported by a certification of need for beginning the hearing aid selection process (medical clearance) from a physician or otologist (including otolaryngologist or otorhinolaryngologist). A copy of the hearing evaluation (including the audiogram) and the results of the hearing aid selection and evaluation must be included. Hearing aid services are provided in accordance with 42 CFR 440.110.

(2) Dental Services

Covers fillings, extractions, restorative services, stainless steel space maintainers, prophylaxes, scaling and curettage, fluoride, x-rays, relief of pain, periodontal services, complete and partial dentures with rebasing and relining, endodontic therapy, surgery, and orthodontics in accordance with evidence-based best practices and/or where medical necessity dictates.