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## **Table of Contents**

**State/Territory Name: North Dakota**

**State Plan Amendment (SPA) #: 19-0003**

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



**Center for Medicaid and CHIP Services**

**Disabled and Elderly Health Programs Group**

May 29, 2019

Ms. Maggie D. Anderson, Director  
North Dakota Department of Human Services  
Medical Services Division  
600 East Boulevard Avenue  
Department 325  
Bismarck, ND 58505-0250

Dear Ms. Anderson:

We have reviewed North Dakota State Plan Amendment (SPA) 19-0003 received in the Centers for Medicare and Medicaid Services (CMS) Denver Regional Operations Group on March 29, 2019. This SPA proposes to amend the number of days of medication that can be dispensed for Medicaid recipients for certain prescription drugs.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 19-0003 is approved with an effective date of February 6, 2019. A copy of the signed, revised CMS-179 form, as well as the pages approved for incorporation into North Dakota's state plan will be forwarded by the Denver Regional Operations Group.

If you have any questions regarding this amendment, please contact Whitney Swears at (410) 786-6543 or [Whitney.Swears@cms.hhs.gov](mailto:Whitney.Swears@cms.hhs.gov).

Sincerely,

A solid black rectangular box redacting the signature of John M. Coster.

John M. Coster, Ph.D., R.Ph.  
Director  
Division of Pharmacy

cc: Trinia Hunt, Acting Deputy Director, Denver Regional Operations Group  
Kirstin Michels, Denver Regional Operations Group

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>19-0003</b>	2. STATE <b>North Dakota</b>
<b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>February 6, 2019</b>	
5. TYPE OF PLAN MATERIAL (Check One): <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 (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: <b>1927 of the Act</b>		7. FEDERAL BUDGET IMPACT: a. FFY <u>2019</u> <u>\$17,000</u> b. FFY <u>2020</u> <u>\$75,000</u>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Attachment to Page 5 to Attachment 3.1-A Attachment to Page 4 to Attachment 3.1-B		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  Attachment to Page 5 to Attachment 3.1-A Attachment to Page 4 to Attachment 3.1-B	
10. SUBJECT OF AMENDMENT: <b>Amends the State Plan regarding the change the number of days of medication that can be dispensed for Medicaid recipients for certain prescription drugs.</b>			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <u>Maggie D. Anderson, Director</u> <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL <u>Medical Services Division</u>			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: <b>Maggie D. Anderson, Director Medical Services Division ND Department of Human Services 600 East Boulevard Avenue Dept 325 Bismarck ND 58505-0250</b>	
13. TYPED NAME: <b>Maggie D. Anderson</b>			
14. TITLE: <b>Director, Medical Services Division</b>			
15. DATE SUBMITTED: <b>3/29/2019</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: <b>March 29, 2019</b>		18. DATE APPROVED: <b>May 29, 2019</b>	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>February 6, 2019</b>		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: <b>Mary Marchioni</b>		22. TITLE: <i>o</i> <b>Acting Deputy Director, DROG</b>	
23. REMARKS:			

ON AMOUNT, DURATION AND SCOPEServices12a. Drugs

In compliance with Section 1902(a)54 and Section 1927 of the Social Security Act the Medical Services Division of the Department of Human Services will cover drugs supplied by those manufacturers participating in the drug rebate program with the federal Centers for Medicare & Medicaid Services (CMS) with the following limitations as defined by the Medical Services Division of the Department of Human Services:

1. Drug Efficacy Study Implementation (DESI) Study drugs as determined by the Food and Drug Administration to be less-than-effective and items that are identical, related, or similar (IRS) will not be allowed for payment.
2. Experimental or investigational drugs will not be allowed for payment.
3. Drugs dispensed in quantities of more than a 34-day supply will not be allowed for payment with the exception of:
  - a. Claims received in which a third party liability has been processed; or
  - b. Claims for unit of use products where the directions are such that the supply will last longer than 34 days.
  - c. Claims for products that are typically stable therapies and when cost efficiencies can be gained by paying for greater than a 34 day supply.
4. Drugs identified by the Medical Services division as requiring prior approval will not be allowed for payment except in accordance with SSA 1927(d). The following prior authorization requirements, found in section 1927(d)(5) of the Act, are met: The prior authorization program provides a response by telephone or other telecommunication device within 24 hours of a request and the prior authorization program provides for the dispensing of at least a 72-hour supply of a covered drug in an emergency situation.
  - a. Supplemental Rebate Agreements: Certain covered products in accordance with Section 1927 of the Social Security Act may not be among the baseline preferred drugs identified by the State of North Dakota's Drug Use Review Board for various therapeutic classes. The state may negotiate supplemental rebate agreements that would reclassify any drug not designated as preferred in the baseline listing for as long as the agreement is in effect.

In addition, the State has the following policies for the supplemental rebate program for the Medicaid Population:

The state of North Dakota has entered into an agreement with the "Sovereign States Drug Consortium (SSCD)" Medicaid multi-State purchasing pool. In addition to collecting supplemental rebates for fee-for-service claims, the state may, at its option, also collect supplemental rebates for Medicaid member utilization through MCO(s) under an agreement. Funds received from supplemental rebate agreements will be reported to CMS.

ON AMOUNT, DURATION AND SCOPEServices

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