

Table of Contents

State/Territory Name: NE

State Plan Amendment (SPA) #: 16-0006

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Additional Companion letter
- 3) Summary Form (with 179-like data)
- 4) Approved SPA Pages



Financial Management Group

SEP 16 2016

Calder Lynch, Director
Division of Medicaid & Long Term Care
Nebraska Department of Health & Human Services
301 Centennial Mall South
Lincoln, NE 68509

RE: Nebraska State Plan Amendment TN: 16-006

Dear Mr. Lynch:

We have reviewed the proposed amendment to Attachments 3.1-A, 4.19-B and 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 16-006. Effective July 1, 2016, this amendment provides that licensed nurse practitioners are permitted to be prescribing providers of physical, occupational, speech and audiology services.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C. This is to inform you that Medicaid State plan amendment 16-006 is approved effective July 1, 2016. We are enclosing the CMS-179 and the amended plan pages.

If you have any questions, please call Tim Weidler at (816) 426-6429.

Sincerely,

Kristin Fan
Director

Enclosures

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 East 12th Street, Suite 355
Kansas City, Missouri 64106



Division of Medicaid and Children's Health Operations

September 16, 2016

Calder Lynch, Medicaid Director
Department of Health & Human Services
Division of Medicaid and Long-Term Care
PO Box 95026
Lincoln, NE 68509

RE: NE 16-0006

Dear Mr. Lynch:

On May 15, 2016 the Centers for Medicare & Medicaid Services (CMS) received Nebraska's State Plan Amendment (SPA) transmittal# 16-0006. We are issuing this Companion Letter to the approval of this SPA.

In order to move forward to approval on SPA# NE 16-0006 we reviewed the corresponding pages for multiple services affected by this SPA. As a result, CMS determined the methodology for payment related to the pages listed below was not comprehensive.

Federal Regulations at 42 CFR 430.10 and 447.252, require that the state plan contain a comprehensive description of the rate methodologies. We have included the comments below to address the issues identified and this Companion Letter is being issued to document CMS's intent to continue to work with Nebraska to resolve our concerns.

Reimbursement Questions/Comments:

1. Attachment 4.19-B, Item 2a, Page 2 - Please clarify how the rate is established for Payment to Hospital-Affiliated Ambulatory Surgical Centers (HAASC) when the HAASC is a Medicare-participating Ambulatory Surgical Center.
2. Attachment 4.19-B, Item 2a, Page 2 - Please clarify how Diagnostic and Therapeutic Services are paid.
3. Attachment 4.19-B, Item 5, Page 2 - Delete sentence stating, "The Department may issue revisions of the Nebraska Medicaid Practitioner Fee Schedule during the year that it is effective. Providers will be notified of the revisions and their effective dates."
4. Attachment 4.19-B, Item 5, Page 2 - Add the following effective date language for Smoking Cessation services.

"Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of Smoking Cessation Services. The agency's fee schedule rate was set as of (insert date here) and is effective for services provided on or after that date. All rates are published (ex. on the agency's website)."

5. Attachment 4.19-B, Item 11a, Page 1 - Delete sentence stating, “The Department may issue revisions of the Nebraska Medicaid Practitioner Fee Schedule during the year that it is effective. Providers will be notified of the revisions and their effective dates.”
6. Attachment 4.19-B, Item 11a, Page 1 - Add the following effective date language for Physical Therapy services.

“Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of Physical Therapy Services. The agency’s fee schedule rate was set as of (insert date here) and is effective for services provided on or after that date. All rates are published (ex. on the agency’s website).”

7. Attachment 4.19-B, Item 11a, Page 2 - Please provide a copy of the cost report used to develop rates and a step by step explanation of how costs are identified.
8. Attachment 4.19-B, Item 11b, Page 1 - Delete sentence stating, “The Department may issue revisions of the Nebraska Medicaid Practitioner Fee Schedule during the year that it is effective. Providers will be notified of the revisions and their effective dates.”
9. Attachment 4.19-B, Item 11b, Page 1 - Add the following effective date language for Occupational Therapy services.

“Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of Occupational Therapy Services. The agency’s fee schedule rate was set as of (insert date here) and is effective for services provided on or after that date. All rates are published (ex. on the agency’s website).”

10. Attachment 4.19-B, Item 11b, Page 2 - Please provide a copy of the cost report used to develop rates and a step by step explanation of how costs are identified.

The state has 90 days from the date of this letter to address the issues described above. Failure to respond may result in the initiation of a formal compliance process. During the 90 days, CMS will provide any required technical assistance.

If you have any questions, please contact Kevin Slaven, of my staff, at (816) 426-5925 or Kevin.Slaven@cms.hhs.gov.

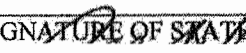
Sincerely,

9/16/2016

James G. Scott
Associate Regional Administrator
for Medicaid and Children’s Health Operations

Signed by: James G. Scott -A

cc:
Rocky Thompson
Kimberly McClintick

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 16-0006	2. STATE Nebraska
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 July 1, 2016	
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:		7. FEDERAL BUDGET IMPACT: a. FFY 2016 \$0.00 b. FFY 2017 \$0.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Att. 3.1-A, Item 2a, page 3 Att. 3.1-A, Item 5, page 3 of 3 Att. 3.1-A, Item 11a Att. 3.1-A, Item 11b, page 1 of 2 Att. 3.1-A, Item 11c, page 1 of 3, 2 of 3 Att. 4.19-B, Item 2a, page 2 Att. 4.19-D, page 3		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Att. 3.1-A, Item 2a, page 3 Att. 3.1-A, Item 5, page 3 of 3 Att. 3.1-A, Item 11a Att. 3.1-A, Item 11b, page 1 of 2 Att. 3.1-A, Item 11c, page 1 of 3, 2 of 3 Att. 4.19-B, Item 2a, page 2 Att. 4.19-D, page 3	
10. SUBJECT OF AMENDMENT: Nurse Practitioner and Services			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Governor has waived review			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Nancy Keller Division of Medicaid & Long-Term Care Nebraska Department of Health & Human Services 301 Centennial Mall South Lincoln, NE 68509	
13. TYPED NAME: ✓ Calder Lynch			
14. TITLE: Director, Division of Medicaid and Long-Term Care			
15. DATE SUBMITTED: May 18, 2016			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: SEP 16 2016	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: JUL 01 2016		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Kristin FAN		22. TITLE: Director, FMCO	
23. REMARKS:			

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Nebraska

LIMITATIONS - PHYSICIANS SERVICES

TOBACCO CESSATION COUNSELING

NMAP covers up to two tobacco cessation sessions in a 12-month period. A tobacco cessation session includes (a) visits to the primary practitioner for evaluation, particularly for any contraindications for drug product(s) and to obtain prescription(s) if tobacco cessation products are needed, and (b) up to a total of four tobacco cessation counseling visits with a physician, licensed nurse practitioner or pharmacist tobacco cessation counselor. These visits may be a combination of intermediate and intensive counseling. All limits may be exceeded based on medical necessity.

Telehealth:

Physicians services are covered when provided via telehealth technologies subject to the limitations as set forth in state regulations, as amended.

TN No. NE-16-0006

Supersedes

TN No. NE-08-14

Approval Date SEP 16 2016

Effective Date JUL 01 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Nebraska

LIMITATIONS – PHYSICAL THERAPY

Nebraska Medicaid covers physical therapy services when the following conditions are met:

1. The services must be prescribed by a physician or licensed nurse practitioner;
2. The services must be performed by, or under the direct supervision of, a licensed physical therapist;
3. The services must be restorative; and
4. There must be a medically appropriate expectation that the patient's condition will improve significantly in a reasonable period of time or the services are recommended in a Department-approved individual program plan (IPP).

Nebraska Medicaid does not cover physical therapy if the expected restoration potential is insignificant in relation to the extent and duration of the services required to achieve the potential.

Exception: Nebraska Medicaid covers physical therapy services for EPSDT eligibles when the following conditions are met:

1. The services must be prescribed by a physician or licensed nurse practitioner;
2. The services must be performed by, or under the direct supervision of, a licensed physical therapist; and
3. There must be a medically appropriate expectation that the patient's condition will improve significantly in a reasonable period of time or the services are recommended in a Department-approved individual program plan (IPP).

For clients age 21 and older, Nebraska Medicaid covers a combined total of 60 therapy sessions per fiscal year, physical therapy, occupational therapy and speech therapy. All limits may be exceeded based on medical necessity.

Telehealth: Physical therapy services are covered when provided via telehealth technologies subject to the limitations as set forth in state regulations, as amended. Services requiring "hands on" professional care are excluded.

TN No. NE 16-0006

Supersedes

TN No. MS-08-09

Approval Date SEP 16 2016

Effective Date JUL 01 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Nebraska

LIMITATIONS – OCCUPATIONAL THERAPY

Nebraska Medicaid covers occupational therapy services provided by independent therapists under the following conditions.

The therapist must be licensed by the Nebraska Department of Health and Human Services Regulation and Licensure. If services are provided by an OT assistant under the supervision of an OT, the assistant must be licensed by the Nebraska Department of Health and Human Services Regulation and Licensure. If services are provided outside Nebraska, the provider must be licensed in that state.

Occupational therapy is defined as improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation; improving ability to perform tasks for independent functioning when functions are impaired or lost; or preventing, through early intervention, initial or further impairment or loss of function.

Nebraska Medicaid covers OT services when the following conditions are met. The services must be:

1. Prescribed by a physician or licensed nurse practitioner;
2. Performed by a licensed occupational therapist or a licensed occupational therapy assistant under the supervision of a licensed occupational therapist;
3. Restorative; and
4. Reasonable and medically necessary for the treatment of the client's illness or injury.

Nebraska Medicaid covers orthotic appliances or devices when medically necessary for the client's condition. Nebraska Medicaid does not reimburse an occupational therapist for orthotic devices or appliance which do not require customized fabrication by the therapist.

Exception: Nebraska Medicaid covers occupational therapy services for EPSDT eligibles when the following conditions are met. The services must be:

1. Prescribed by a physician or licensed nurse practitioner;
2. Performed by a licensed occupational therapist or a licensed occupational therapy assistant under the supervision of a licensed occupational therapist; and
3. Reasonable and medically necessary for the treatment of the client's illness or injury.

For clients age 21 and older,

Nebraska Medicaid covers a combined total of 60 therapy sessions per fiscal year (physical therapy, occupational therapy, and speech therapy). All limits may be exceeded based on medical necessity.

TN No. NE 16-0006

Supersedes

Approval Date SEP 16 2016

Effective Date JUL 01 2016

TN No. MS-08-09

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Nebraska

LIMITATIONS – SERVICES FOR INDIVIDUALS WITH SPEECH, HEARING, AND
LANGUAGE DISORDERS

To be covered by Nebraska Medicaid speech pathology and audiology services must be prescribed by a licensed physician or licensed nurse practitioner and performed by a licensed speech pathologist or audiologist in accordance with 42 CFR §440.110. The speech pathologist or audiologist must be in constant attendance. The services must meet at least one of the following conditions:

1. The services must be an evaluation;
2. The services must be restorative speech pathology with a medically appropriate expectation that the patient's condition will improve significantly within a reasonable period of time; or
3. The services must have been recommended in a Department-approved individual program plan (IPP); or
4. The services must be necessary for an individual with an augmentative communication device.

Nebraska Medicaid covers speech pathology and audiology services when the following conditions are met:

1. The services must be prescribed by a physician or licensed nurse practitioner;
2. The services must be performed by, or under the supervision of, a licensed speech pathologist or audiologist;
3. The services must be restorative; and
4. There must be a medically appropriate expectation that the patient's condition will improve significantly in a reasonable period of time or the services are recommended in a Department-approved individual program plan (IPP).

TN No. NE 16-0016
Supersedes
TN No. 10-03

Approval Date SEP 16 2016

Effective Date JUL 01 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Nebraska

LIMITATIONS – SERVICES FOR INDIVIDUALS WITH SPEECH, HEARING, AND LANGUAGE DISORDERS

Nebraska Medicaid does not cover speech pathology and audiology services when the expected restoration potential is insignificant in relation to the extent and duration of the services required to achieve the potential.

Exception: Nebraska Medicaid covers speech pathology and audiology services for EPSDT eligibles when the following conditions are met:

1. The services must be prescribed by a physician (Exception: Audiology screening services for EPSDT eligibles do not require a physician's prescription);
2. The services must be performed by, or under the supervision of, a licensed speech pathologist or audiologist; and
3. There is a medically appropriate expectation that the patient's condition will improve significantly in a reasonable period of time or the services are recommended in a Department-approved individual program plan (IPP).

For clients age 21 and older, Nebraska Medicaid covers a combined total of 60 therapy sessions per fiscal year (physical therapy, occupational therapy, and speech therapy). All limits may be exceeded based on medical necessity.

LIMITATIONS – HEARING AIDS

To be covered by the Nebraska Medical Assistance Program, hearing aids, hearing aid repairs, hearing aid rental, assistive listening devices, and other hearing aid services must be prescribed by a physician and meet medical necessity criteria.

For clients age 20 and younger, Nebraska Medicaid covers hearing aids when required by medical necessity.

For clients age 21 and older, Nebraska Medicaid covers hearing aids limited to not more than one aid per ear every four years and then only when required by medical necessity.

TN No. NE 16-0006

Supersedes

TN No. MS-08-09

Approval Date SEP 16 2016

Effective Date JUL 01 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Nebraska
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

Payment to Hospital-Affiliated Ambulatory Surgical Centers: The Department pays for services provided in an HAASC according to Payment for Outpatient Hospital and Emergency Room Services, unless the HAASC is a Medicare-participating ambulatory surgical center (ASC). If the HAASC is a Medicare-participating ASC, payment is made at the rate established by Medicaid for the appropriate group of procedures.

Approval of Payment for Emergency Room Services: At least one of the following conditions must be met before the Department approves payment for use of an emergency room:

1. The patient is evaluated or treated for a medical emergency, accident, or injury (see definition of medical emergency in NAC 10-001.03)
2. The patient's evaluation or treatment in the emergency room results in an approved inpatient hospital admission (the emergency room charges must be displayed on the inpatient claim as charges and included in the inpatient per diem); or
3. The patient is referred by a physician or licensed nurse practitioner such as for allergy shots or when traveling (a written referral by the physician or licensed nurse practitioner must be attached to the claim);

The facility should review emergency room services and determine whether services provided in the emergency room constitute an emergency and bill accordingly.

When the facility or the Department determine services are non-emergent, the room fee for non-emergent services provided in an emergency room will be disallowed to 50 percent of the applicable ratio of cost-to-charges. All other Medicaid allowable charges incurred in this type visit will be paid at eighty percent (80%) of the ratio of cost-to-charges.

Diagnostic and Therapeutic Services: The payment rate for diagnostic and therapeutic services includes payment for services required to provide the service. Extra charges, such as stat fees, call-back fees, specimen handling fees, etc., are considered administrative expenses and are included in the payment rate.

Payment to a New Hospital for Outpatient Services: See the definition of a new operational facility in 471 NAC 10-010.03A. Payment to a new hospital (an operational facility) will be made at eighty percent (80%) of the statewide average ratio of cost to charges for Nebraska hospitals as of July 1 of that year as determined by the Department. This payment is retrospective for the first reporting period for the facility. This ratio will be used until the Department receives the hospital's initial cost report. The Department shall cost-settle claims for Medicaid-covered services which are paid by the Department using eighty percent (80%) of the statewide average ratio of cost to charges. The cost settlement will be the lower of cost or charges as reflected on the hospital's cost report (i.e., the Department's payment must not exceed the upper limit of the provider's charges for services).

TN # NE 14-013

Supersedes

TN # NE 16-0006

Approval Date SEP 16 2016 Effective Date JUL 01 2016

1. Comply with the standards prescribed by the Secretary of the Federal Health and Human Services (HHS) for nursing facilities in 42 CFR 442;
2. Comply with requirements established by the Nebraska Department of Health and Human Services Division of Public Health standards, under 42 CFR 431.610; and
3. Comply with any other state law licensing requirements necessary for providing nursing facility services, as applicable.

12-011.04B Routine Services: Routine nursing facility services include regular room, dietary, and nursing services; social services where required by certification standards; minor medical supplies; oxygen and oxygen equipment; the use of equipment and facilities; and other routine services. Examples of items that routine services may include are:

1. General nursing services, including administration of oxygen and related medications; collection of all laboratory specimens as ordered by the physician or licensed nurse practitioner, such as: blood, urine; handfeeding; incontinency care; tray service; normal personal hygiene which includes bathing, skin care, hair care (excluding professional barber and beauty services), nail care, shaving, and oral hygiene; enema; etc.;
2. Maintenance Therapy: facility staff must aid the client as necessary, under the client's therapy program, with programs intended to maintain the function(s) being restored; to include but not limited to augmentative communication devices with related equipment and software
3. Items which are furnished routinely and relatively uniformly to all clients, such as patient gowns, water pitchers, basins, bedpans, etc.;
4. Items stocked at nursing stations or on each floor in gross supply and distributed or used individually in small quantities, such as alcohol, applicators, cotton balls, band-aids, incontinency care products, colostomy supplies, catheters, irrigation equipment, tape, needles, syringes, I.V. equipment, supports (e.g. trusses and compression stockings with related components), hydrogen peroxide, O-T-C enemas, tests (Clinitest, Testape, Ketostix), tongue depressors, hearing aid batteries, facial tissue, personal hygiene items (which includes soap, lotion, powder, shampoo, deodorant, tooth-brushes, toothpaste, denture cups and cleaner, mouth wash, peri-care products, etc.);
5. Items which are used by individual clients which are reusable and expected to be available, such as ice bags, bed rails, canes, crutches, walkers, standard wheelchairs, gerichairs, traction equipment, alternating pressure pad and pump, other durable medical equipment, etc. not listed in 12-009.05 and 12-009.06;
6. Nutritional supplements and supplies used for oral, parenteral or enteral feeding.
7. Laundry services, including personal clothing;
8. Cost of providing basic cable television service, including applicable installation charge, to individual rooms. This is not a mandatory service.
9. Repair of medically necessary facility owned/purchased durable medical equipment and their maintenance;
10. Injections and supplies: including syringes and needles, but excluding the cost of the drug(s) not listed in 12-009.05 and 12-009.06.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Nebraska

LIMITATIONS – OUTPATIENT HOSPITAL SERVICES

Abortions are covered when a physician or licensed nurse practitioner certifies that the pregnancy was a result of rape or incest, or the woman suffers from a physical disorder, injury or illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion is performed.

TN No. NE 16-0006

Supersedes

TN No. NE 11-23

Approval Date SEP 16 2016

Effective Date JUL 01 2016