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State/Territory Name: New Hampshire

State Plan Amendment (SPA) #:13-010

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form
- 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 & Elderly Health Programs Group**

November 21, 2013

Mr. Nicholas A. Toumpas
Commissioner
State of New Hampshire
Department of Health and Human Services
129 Pleasant Street
Concord, New Hampshire 03301

Dear Mr. Toumpas:

We have reviewed New Hampshire State Plan Amendment (SPA) 13-010, Prescribed Drugs, received in the Regional Office on June 25, 2013. This amendment proposes to revise the existing National Medicaid Pooling Initiative (NMPI) Supplemental Rebate Agreement. We are pleased to inform you that the amendment is approved effective October 1, 2013.

New Hampshire is also authorized to include utilization of Participating Medicaid managed care organizations (MCO) for rebate collection under the New Hampshire NMPI Supplemental Rebate Agreement (SRA) effective December 1, 2013. Please note that if revisions are subsequently made to the SRA, attachments or schedules, all such documents should be submitted to CMS for review and approval.

A copy of the CMS-179 form, as well as the pages approved for incorporation into the New Hampshire state plan will be forwarded to you by the Boston Regional Office. If you have any questions regarding this amendment, please contact Lisa Ferrandi at (410) 786-5445.

Sincerely,

/s/

Larry Reed
Director
Division of Pharmacy

cc: Dawn Landry, Department of Health and Human Services
Richard R. McGreal, ARA, Boston Regional Office
Joyce Butterworth, Boston Regional Office

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|---|--|----------------|
| TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL | 1. TRANSMITTAL NUMBER: 13-010 | 2. STATE NH |
| 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, 2013 | |

5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

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|--|--|
| 6. FEDERAL STATUTE/REGULATION CITATION: Section 1927 of the SSA | 7. FEDERAL BUDGET IMPACT: FFY 2014 & 2015 -- no fiscal impact; changes are being made to contract language only FFY 2014: (\$1,464,718) FFY 2015: (\$2,929,437) |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1-A, page 5a(1) Attachment 3.1-B, page 4c | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 3.1-A, page 5a(1), TN 08-001 Attachment 3.1-B, page 4c, TN 08-001 |

10. SUBJECT OF AMENDMENT:
National Medicaid Pooling Initiative (NMPI) Supplemental Drug Rebate Agreement (SRA) Revisions

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED: comments, if any, will follow

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

| | |
|--|--|
| 12. SIGNATURE OF STATE AGENCY OFFICIAL: /s/ | 16. RETURN TO: Dawn Landry Division of Family Assistance/Brown Building Department of Health and Human Services 129 Pleasant Street Concord, NH 03301 |
| 13. TYPED NAME: Nicholas A. Toumpas | |
| 14. TITLE: Commissioner | |
| 15. DATE SUBMITTED: June 25, 2013 | |

FOR REGIONAL OFFICE USE ONLY

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|-------------------------------------|---|
| 17. DATE RECEIVED: June 25, 2013 | 18. DATE APPROVED: November 21, 2013 |
|-------------------------------------|---|

PLAN APPROVED - ONE COPY ATTACHED

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| 19. EFFECTIVE DATE OF APPROVED MATERIAL: October 1, 2013 | 20. SIGNATURE OF REGIONAL OFFICIAL: /s/ |
| 21. TYPED NAME: Richard R. McGreal | 22. TITLE: Associate Regional Administrator Division of Medicaid & Children's Health Operations, Boston, MA |

23. REMARKS:

12/30/2013: NH requests a pen & ink change to reflect the fiscal impact of including the MCO utilization in the supplemental rebate invoices effective on or after October 1, 2013. Supplemental rebate amounts for a four month time period were determined by averaging the most recent four quarters of supplemental rebate invoices and applying a factor of an estimated 75% recipient participation in managed care. This three-month average was then divided by three and multiplied by four to obtain an estimated amount of \$976,479 for a four month time period in FFY2014. The total fiscal impact for FFY 2014 was determined as follows: (1) savings of \$976,479 for 4 months (April 1 thru July 31) once manufacturers are under contract plus (2) savings for remaining 2 months of FFY 2014 (Aug 1 thru Sept 30) which would be 1/2 of the 4 month amount, or \$488,239 for a total of \$1,464,718. For the quarter of December 1, 2013 through March 31, 2014, there is an expectation for additional savings from any manufacturers who agree to the supplemental rebates prior to April 1. The fiscal impact for FFY 2015 was determined by taking the 4 month amount of \$976,479 and multiplying by 3 to get an annual savings of \$2,929,437.

12a. Prescribed Drugs (continued)

Preferred Drug Lists and Supplemental Rebate Agreements:

In accordance with Section 1927 of the Social Security Act, the state has established a preferred drug list.

Certain covered products, in accordance with Section 1927 of the Social Security Act, may not be among the baseline preferred drugs identified by the Drug Utilization Review (DUR) Board for various therapeutic classes. All Medicaid covered products remain available through the Medicaid program, but may require prior authorization. The state, or the state in consultation with a contractor, 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.

The prior authorization program provides a response by telephone or other telecommunication device within 24 hours of a request. In an emergency situation, the prior authorization program provides for the dispensing of at least a 72-hour supply of a covered drug.

The state is in compliance with Section 1927 of the Social Security Act. Based on the requirements for Section 1927 of the Act, the state has the following policies for the supplemental drug rebate program for the Medicaid population:

- Supplemental rebate agreements between the state and a pharmaceutical manufacturer will be separate from federal rebates and are in excess of those required under the national drug rebate agreement.
- The supplemental rebate agreements will apply to the Medicaid program.
- CMS has authorized New Hampshire to enter into the Michigan multi-state pooling agreement, also referred to as the National Medicaid Pooling Initiative (NMPI) for drugs provided to Medicaid recipients. The NMPI Supplemental Rebate Agreement (SRA) and the Amendment to the SRA submitted to CMS on April 9, 2004, have been authorized by CMS for pharmaceutical manufacturers' existing agreements through their current expiration dates. An updated NMPI SRA was submitted to CMS on January 25, 2008, and again on June 25, 2013, and has been authorized for any renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid recipients.
- Supplemental rebates received by the state in excess of those required under the national drug rebate agreement will be shared with the federal government on the same percentage basis as applied under the national rebate agreement.
- All drugs covered by the program, irrespective of any prior authorization requirement, will comply with provisions of the national drug rebate agreement.
- Manufacturers with supplemental rebate agreements are allowed to audit utilization data.
- The unit rebate amount is confidential and cannot be disclosed in accordance with Section 1927(b)(3)(D) of the Social Security Act.

TN No: 13-010
Supersedes
TN No: 08-001

Approval Date 11/21/2013

Effective Date: 10/01/13

AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED

Title XIX – NH
Attachment 3.1-A
Page 5a(1)

12a. Prescribed Drugs (continued)

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