

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1961 Stout Street, Room 08-148
Denver, CO 80294



Denver Regional Operations Group

December 30, 2019

William Snyder, Medicaid Director
South Dakota Department of Social Services
Richard F. Kneip Building
700 Governors Drive
Pierre, SD 57501- 2291

Dear Mr. Snyder:

This letter is being sent with the Centers for Medicare and Medicaid Services' (CMS) approval of South Dakota's State Plan Amendment (SPA) #14-001, consistent with the State Medicaid Director letter (SMD) #10-020 published on October 1, 2010 (relating to SPA review process), to address concerns that the state is not tracking cost sharing and other issues. South Dakota's SPA #14-001 proposes to exempt beneficiaries receiving treatment for breast and cervical cancer from cost sharing, which is consistent with section 1916A(b)(3)(B)(viii) of the Social Security Act ("Act").

During review of SPA #14-001, CMS identified a cost sharing policy that is not consistent with federal requirements. Sections 1916A(a)(2)(B), (b)(1)(B)(ii) and (b)(2)(A) of the Social Security Act (the Act), implemented at 42 CFR §447.56(f), set an aggregate cap on the total premiums and cost sharing charged to a given beneficiary (or, in the case of a family with multiple beneficiaries, all beneficiaries in the household) to five percent of the beneficiary's family income. This five percent aggregate cap may be applied, at state option, on either a monthly or quarterly basis ("aggregate cap period"). Pursuant to 42 CFR §447.56(f), if a state adopts premiums or cost-sharing charges that place beneficiaries at risk of reaching the aggregate cap, states may not rely on beneficiaries to document or track their own premium and cost sharing payments. In the state's responses to the request for additional information, the state described a potential three-year timeframe to come into compliance by fully automating tracking by linking a new eligibility system currently under development and its claims information systems. However, as discussed previously, the state needs to come into full compliance sooner or identify a short-term mitigation strategy that it can implement in order to meet the tracking requirements in a shorter period of time.

Additionally, CMS informed the state that it may not be in compliance with other parts of section 1916A of the Act and implementing regulations. Section 1916A(a)(2)(A) of the Act, implemented at 42 CFR 447.52, limits the cost sharing that states may assess to individuals with income under 100% of the FPL to nominal amounts. For FFY20, the maximum amount that the state may impose are:

- Outpatient and preferred drugs: \$4.55;
- Non-emergency use of the ED: \$9.10; and
- Inpatient: \$84.95.

CMS has identified coinsurance for several services (outpatient, durable medical equipment, prosthetics, and mental health services) which are listed at 5% of the cost to the agency for all beneficiaries. Additional information is needed from the state to determine whether the calculated 5% of the cost to the agency would comport with the nominal amounts listed above. If the coinsurance amounts exceed the maximum allowable amounts, then the state will need to modify these copay amounts.

Finally, shortly after the implementation of the new cost sharing rules on January 1, 2014, CMS released new cost sharing state plan pages using the Medicaid Model Data Lab (MMDL) portal. These new pages update all the state plan pages to reflect the changes in regulation. States are expected to migrate their cost sharing pages from the older state plan pages into MMDL. These new MMDL pages will supersede the state's existing cost sharing policies articulated on pages 54-56 in section 4 and Attachments 4.18 (A-E) of the Medicaid state plan. CMS expects that future cost sharing changes, including the state's compliance with the cost sharing aggregate household limit and the tracking requirement, will be submitted on the MMDL G1-G3 pages or any other updates to these pages in the MACPro system.

During a telephone call on December 13, 2019, CMS reiterated the need for the state to identify short term tracking strategies in order to limit cost sharing to the statutory limits and to confirm that the coinsurance amounts are consistent with the federal statute and regulations. The items identified during the review of the state's submission are not integral to the purpose of the proposed SPA #14-001. In accordance with SMD #10-020, CMS explained to the state the option it has to resolve this issue separately from the approval of the SPA. The state informed CMS that it would like to address the steps needed to comply with federal policy on cost sharing separately. This letter initiates that separate process.

Please respond within 90 days of receipt of this letter by submitting a plan to bring the state plan into compliance. During this 90-day period, CMS welcomes the opportunity to work with you and your staff. Should you or your staff have any questions, please contact Stephanie Kaminsky, Director, Division of Medicaid Eligibility and Policy at Stephanie.Kaminsky@cms.hhs.gov.

Sincerely,



Richard C. Allen
Director, Western Regional Operations Group
Denver Office
Centers for Medicaid and CHIP Services

Table of Contents

State/territory Name: South Dakota

State Plan Amendment (SPA) #: 14-001

This file contains the following documents in the order listed:

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

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William Snyder, Medicaid Director
South Dakota Department of Social Services
Richard F. Kneip Building
700 Governors Drive
Pierre, SD 57501- 2291

Dear Mr. Snyder:

The Centers for Medicare and Medicaid Services (CMS) has reviewed the proposed State Plan amendment (SPA) submitted under transmittal number 14-001. This amendment proposed to exempt beneficiaries receiving treatment for breast and cervical cancer from cost-sharing.

Please be informed that this SPA was approved on December 26, 2019 with an effective date of January 1, 2014. We are enclosing the CMS-179 and the amended page. Please also note a companion letter was issued with this approval.

Should you have any questions, please contact Kirstin Michel at (303) 844-7036.

Sincerely,

A solid black rectangular box used to redact the signature of Richard C. Allen.

Richard C. Allen
Director, Western Regional Operations Group
Denver Office
Centers for Medicaid and CHIP Services

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER: SD-14-01	2. STATE: South Dakota
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1, 2014	

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)

6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR §447.56(a)(1)(xi)	7. FEDERAL BUDGET IMPACT: a. FFY 2014: \$ 10,937.52 b. FFY 2015: \$ 14,583.36
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Page 55, Section 4.18	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Page 55, Section 4.18
10. SUBJECT OF AMENDMENT: Exempts individuals eligible under the Breast and Cervical Cancer Program from cost sharing.	


11. GOVERNOR'S REVIEW (Check One):

☒ GOVERNOR'S OFFICE REPORTED NO COMMENT


☐ OTHER, AS SPECIFIED:

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: DEPARTMENT OF SOCIAL SERVICES DIVISION OF MEDICAL SERVICES 700 GOVERNORS DRIVE PIERRE, SD 57501-2291
13. TYPED NAME: Kim Malsam- Rysdon	
14. TITLE: Cabinet Secretary	
15. DATE SUBMITTED: February 4, 2014	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 2/4/2014	18. DATE APPROVED: December 26, 2019
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2014	20. SIGNATURE OF REGIONAL OFFICIAL: 
21. TYPED NAME: Richard C. Allen	22. TITLE: Director, WROG

23. REMARKS:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM
State/Territory: SOUTH DAKOTA

SECTION 4. GENERAL PROGRAM ADMINISTRATION

Citation

4.18 Recipient Cost Sharing and Similar Charges (continued)

42 CFR 447.50 through
447.57

(b) (2) (continued)

(iii) All services furnished to pregnant women.

X Not applicable. Charges apply for services provided to pregnant women unrelated to the pregnancy. Services relating to a pregnancy, post-partum condition, a condition caused by the pregnancy, or a condition that may complicate the pregnancy, including services listed in Supplement to Attachment 3.1-A, page 39, are exempt from cost sharing.

(iv) Services furnished to any individual whose medical assistance for services furnished in an institution or in a home and community-based setting, is reduced by amounts reflecting available income other than required for personal needs.

(v) Emergency services if the services meet the requirements in 42 CFR 447.56(a)(2)(i).

(vi) Family planning services and supplies described in section 1905(a)(4)(C) of the Act.

Section 1916(a) and (j), and
1916A(b) of the Act

(vii) Services furnished to an individual receiving hospice care, as defined in section 1905(o) of the Act.

(viii) Services furnished to individuals who are receiving Medicaid under 42 CFR 435.213.

(ix) Services furnished to an Indian who is receiving or has ever received an item or service furnished by an Indian health care provider or through referral under contract health services.

(x) Provider-preventable services as defined in §447.26(b).