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State/Territory Name: Tennessee

State Plan Amendment (SPA) #:11-015

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

APR 08 2014

Mr. Darin J. Gordon
Director, Bureau of TennCare
State of Tennessee
Department of Finance and Administration
Division of Health Care Finance and Administration
Bureau of TennCare
310 Great Circle Road
Nashville, Tennessee 37243

RE: State Plan Amendment TN 11-015

Dear Mr. Gordon:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 11-015. Effective January 1, 2012 this amendment proposes to revise the payment methodology for intermediate care facilities/individuals with intellectual disabilities services. Specifically, the amendment proposes to reduce payments by two and one-half percent (2.5%) to for profit and not-for-profit facilities.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR Part 447. We have found that the proposed changes in payment methodology comply with applicable requirements and therefore have approved them with an effective date of January 1, 2012. We are enclosing the CMS-179 and the amended approved plan pages.

If you have any questions, please call Stanley Fields at (502) 223-5332.

Sincerely,

//s//

Cindy Mann
Director

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

CENTERS FOR MEDICARE & MEDICAID SERVICES

DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS

April 8, 2014

Mr. Darin J. Gordon, Director
State of Tennessee
Department of Finance and Administration
Division of Health Care finance and Administration
Bureau of TennCare
310 Great Circle Road
Nashville, Tennessee 37243

Re: Tennessee Title XIX State Plan Amendment, Transmittal #11-015 Companion Letter

Dear Mr. Gordon:

This letter is being sent as a companion to our approval of Tennessee State Plan Amendment (SPA) TN 11-015 which was submitted to implement a rate reduction for private for profit and private not-for -profit ICF/MRs.

Based on our review, it was determined that page 12 of 13 of Attachment 4.19-D is not consistent with the statutory and regulatory requirements that are described below. While we are proceeding with the approval of Tennessee SPA 11-015, this letter follows up on these matters, we want to work with you to resolve the issues.

Statutory and Regulatory Requirements

Section 1902(a) of the Social Security Act (the Act) requires that states have a state plan for medical assistance that meets certain Federal requirements that set out a framework for the state program.

Section 1902(a)(30)(A) of the Act requires that states have methods and procedures in place to assure that payments to providers are consistent with efficiency, economy, and quality of care. 42 CFR 430.10 requires that the state plan be a comprehensive written statement that describes the nature and scope of the State's Medicaid program and that it contain all information necessary for CMS to determine whether the plan can be approved to serve as the basis for federal financial participation (FFP) in the state program. To be comprehensive, payment methodologies should be understandable, clear, and unambiguous. In addition, because the plan is the basis for FFP, it is important that the plan language provide an auditable basis for determining whether payment is appropriate.

Attachment 4.19-D, Page 12, Section II, E.1, Paragraph 1

This section reads, "Effective July 1, 1998, the Commissioner of the Department of Health shall establish a program-wide maximum per-diem payment rate for Medicaid/TennCare nursing facilities providing Level I nursing care. The maximum rate shall be established at such time(s) as deemed desirable by the Commissioner. The maximum per-diem rate shall be set at the 65th percentile cost of participating facilities or beds, whichever is lower, rounded to the nearest one cent. The rate of reimbursement, however, will be adjusted as necessary to assure that spending does not exceed the amount budgeted for each state fiscal year. Savings from one level of care will be used to offset any shortfalls from the other level of care."

This section pertains to setting nursing facility rates it must be understandable, clear, and unambiguous. As written we cannot determine what the provider's rates will be each year.

Within 90 days of the date of this letter, the State is required to submit a state plan amendment that resolves the issues, or a corrective action plan to resolve the issues, whichever is appropriate. During the 90-day period, we are happy to provide any technical assistance that the State requires. State plans that are not in compliance with requirements referenced above are grounds for initiating a formal compliance process.

If you have any questions or need any further assistance, please contact Stanley Fields at (502) 223-5332.

Sincerely,

//s//

Jackie Glaze
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 11-015	2. STATE TENNESSEE
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1, 2012	

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN X 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:
42 CFR 447 Subpart C.	a. FFY 2012 ~~($2,111,175)~~ $1,244,250 b. FFY 2013 ~~($2,814,900)~~ $1,653,250
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Attachment 4.19D, page 12 of 13.	Attachment 4.19D, page 12 of 13.

10. SUBJECT OF AMENDMENT:
Methods and Standards for Establishing Payment Rates – Intermediate Care Facilities for the Mentally Retarded (ICFs/MR).

11. GOVERNOR'S REVIEW *(Check One)*:
X GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO:
//s//	Tennessee Department of Finance and Administration Division of Health Care Finance and Administration Bureau of TennCare 310 Great Circle Road Nashville, Tennessee 37243
13. TYPED NAME: Darin J. Gordon	
14. TITLE: Director, Bureau of TennCare	
15. DATE SUBMITTED: 12/15/11	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED: 04/08/14
12/15/11	
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
01/01/12	//s//
21. TYPED NAME: Penny Thompson	22. TITLE: Deputy Director, Policy and Financial Mgt

23. REMARKS: Approved with the following change to block 7a and 7b:

Block #7a changed to read: $1,244,250 and 7b $1,653,250.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: TENNESSEE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES-NURSING FACILITIES

Effective July 1, 1998, the Commissioner of the Department of Health shall establish a program-wide maximum per-diem payment rate for Medicaid/TennCare nursing facilities providing Level I nursing care. The maximum rate shall be established at such time(s) as deemed desirable by the Commissioner. The maximum per-diem rate shall be set at the 65th percentile cost of participating facilities or beds, whichever is lower, rounded to the nearest one cent. The rate of reimbursement, however, will be adjusted as necessary to assure that spending does not exceed the amount budgeted for each state fiscal year. Savings from one level of care will be used to offset any shortfalls from the other level of care.

2. The maximum per diem payment level for Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) shall be reasonable allowable costs or charges, whichever is less. This level shall be the amount that the state reasonably expects to be adequate to reimburse in full such reasonable allowable costs of a facility that is economically and efficiently operated. The principles of cost determination for ICFs/MR will be the same as regular Level I nursing facilities, except that the Medicaid portion of mandated salary increases for state employees in state operated ICFs/MR shall be considered a pass-through payment for per diem rate and inflation factor computations. Such computations may be made effective with the annual per diem rate change based on the previous year cost report. Private for-profit and private not-for-profit ICFs/MR shall be reimbursed using the same prospective payment methodology as level I nursing facilities except that reimbursement shall be at 100% of allowable Medicaid costs with no cost-containment incentive. Effective January 1, 2012, the reimbursement rate calculated for private for-profit and private not-for profit ICFs/MR will be reduced by a factor of 2.5%. Effective July 1, 1995, public ICFs/MR that are owned by government, shall be reimbursed 100% of allowable Medicaid costs with no cost-containment incentive. Reimbursement shall be based on Medicare principles of retrospective cost reimbursement with year-end cost report settlements. Interim per diem rates for the fiscal year beginning July 1, 1995 and ending June 30, 1996 shall be established from budgeted cost and patient day information submitted by the public ICFs/MR. Thereafter, interim rates shall be based on the providers' cost reports. There will be a tentative year end cost settlement within 30 days of submission of the cost reports and a final settlement within 12 months of submission of the cost reports.

3. The maximum per diem payment made to each facility is per diem cost, charges or the maximum program-wide per diem rate, whichever is less.

4. If the resident has no resources to apply toward payment, the payment made by the state will be per diem cost, charges or the maximum program-wide per diem payment rate, whichever is less.

5. If the resident has resources to apply toward payment, the payment made by the state will be per diem costs less the available patient resources, charges less the available patient resources, or the maximum program-wide per diem payment rate less the available patient resources, whichever is less