

**Medicaid Benefits and Health Programs Group**

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November 1, 2023

Brenda Tidball-Zeltinger  
Medicaid Director  
South Dakota Department of Social Services  
Division of Medical Services  
700 Governors Drive  
Pierre, SD 57501

Dear Director Tidball-Zeltinger:

The Centers for Medicare & Medicaid Services (CMS) received South Dakota's final American Rescue Plan Act of 2021 (ARP) section 9817 spending plan and narrative on September 20, 2023. We appreciate and thank South Dakota for its commitment to enhancing, expanding, and strengthening Medicaid home and community-based services (HCBS) and for compliance with the requirements of ARP section 9817 that are set forth in State Medicaid Director Letter (SMDL) # [21-003](#) and SMDL # [22-002](#). The state's final HCBS spending plan and narrative affirms that the state has fully expended the state funds equivalent to the amount of federal funds attributable to the increased federal medical assistance percentage (FMAP) on activities to enhance, expand, or strengthen HCBS under Medicaid. This letter serves as CMS's official acknowledgement and acceptance of the state's affirmation and receipt of the state's signed attestation received on October 2, 2023.

CMS confirms that the state has satisfied the quarterly spending plan and semi-annual spending narrative reporting requirements, and that the state no longer needs to comply with the requirement not to supplant existing state funds expended for Medicaid HCBS by:

- Not imposing stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021;
- Preserving covered HCBS, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021; and
- Maintaining HCBS provider payments at a rate no less than those in place as of April 1, 2021.

Please note that lifting these requirements does not supersede other statutory or regulatory requirements that apply to section 1915(c) waivers, or other requirements under other provisions authorizing HCBS, including requirements set forth in Special Terms and Conditions under section 1115 demonstrations and managed care authorities under which states are delivering HCBS. Further, CMS reminds the state that it must continue to comply with all existing federal requirements for allowable claims and timely filing procedures, including documenting expenditures and draws to ensure a clear audit trail for the use of federal funds reported on the Form CMS-37, Medicaid Program Budget Report and the Form CMS-64, Quarterly Medicaid Statement of Expenditures.

Please note that, if your state subsequently identifies additional expenditures eligible for the increased FMAP under ARP section 9817, the state may be allowed to claim the increased FMAP on those expenditures if it can demonstrate that it either:

1. Has not reduced benefits, eligibility, or provider payment rates compared to those in place as of April 1, 2021; or
2. Can restore benefits, eligibility, or provider payment rates to those in place as of April 1, 2021.

Further, the state would be expected to comply with the requirements of ARP section 9817 that are set forth in SMDL # [21-003](#) and SMDL # [22-002](#) until the state has fully expended state funds equivalent to the amount of federal funds attributable to the increased FMAP.

We extend our congratulations on your state's implementation of ARP section 9817. We remain committed to supporting states with expanding, enhancing and strengthening their HCBS systems, accelerating long-term services and supports reform, and addressing other state-specific HCBS needs and priorities. If you have any questions regarding ARP section 9817, please contact [HCBSincreasedFMAP@cms.hhs.gov](mailto:HCBSincreasedFMAP@cms.hhs.gov).

Sincerely,



Jennifer Bowdoin  
Director, Division of Community Systems Transformation

cc: Matthew Ballard