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State/Territory Name: Colorado

State Plan Amendment (SPA) #: 22-0001

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- 3) Approved SPA Pages

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



Medicaid & CHIP Operations Group

June 16, 2022

Kim Bimestefer, Executive Director
Department of Health Care Policy & Financing
1570 Grant Street
Denver, CO 80203

RE: Colorado State Plan Amendment (SPA) 22-0001

Dear Ms. Bimestefer:

We have reviewed the State Plan Amendment (SPA) submitted under transmittal number 22-0001. This Amendment applies a prudent layperson standard for cost-sharing imposed for non-emergency use of a hospital's emergency department. For cost sharing to be imposed for non-emergency services in a hospital emergency department, the hospital must first provide the appropriate medical screening examination required by the Emergency Medical Treatment & Labor Act (EMTALA).

Please be informed that this SPA was approved on June 16, 2022, with an effective date of January 1, 2022. Enclosed are the CMS-179 and the amended plan pages.

Should you have any questions about this amendment, please contact Curtis Volesky at (303) 844-7033.

Sincerely,

Ruth A. Hughes, Acting Director
Division of Program Operations

Enclosures

cc: Dr. Tracy Johnson, Tracy.Johnson@state.co.us
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Medicaid Premiums and Cost Sharing: Summary Page (CMS 179)

State/Territory name: **Colorado**

Transmittal Number:

Please enter the Transmittal Number (TN) in the format ST-YY-0000 where ST= the state abbreviation, YY= the last two digits of the submission year, and 0000 = a four digit number with leading zeros. The dashes must also be entered.

CO-22-0001

Proposed Effective Date

01/01/2022 (mm/dd/yyyy)

Federal Statute/Regulation Citation

SSA, Section 1916A / 42 CFR 447.52 and 489.24, subpart G

Federal Budget Impact

	Federal Fiscal Year	Amount
First Year	2022	\$ 0.00
Second Year	2023	\$ 0.00

Subject of Amendment

Applies a prudent layperson standard for cost-sharing imposed for non-emergency use of a hospital's emergency department, effective January 1, 2022. For cost sharing to be imposed for non-emergency services in a hospital

Governor's Office Review

- Governor's office reported no comment
 Comments of Governor's office received

Describe:

- No reply received within 45 days of submittal
 Other, as specified

Describe:

Governor's letter dated 14 July 2021

Signature of State Agency Official

Submitted By:

Russell Zigler

Last Revision Date:

Apr 20, 2022

Submit Date:

Mar 29, 2022



Medicaid Premiums and Cost Sharing

State Name:

OMB Control Number: 09381148

Transmittal Number: CO - 22 - 0001

Cost Sharing Requirements G1

1916
1916A
42 CFR 447.50 through 447.57 (excluding 447.55)

The state charges cost sharing (deductibles, co-insurance or co-payments) to individuals covered under Medicaid.

- The state assures that it administers cost sharing in accordance with sections 1916 and 1916A of the Social Security Act and 42 CFR 447.50 through 447.57.

General Provisions

- The cost sharing amounts established by the state for services are always less than the amount the agency pays for the service.
- No provider may deny services to an eligible individual on account of the individual's inability to pay cost sharing, except as elected by the state in accordance with 42 CFR 447.52(e)(1).
- The process used by the state to inform providers whether cost sharing for a specific item or service may be imposed on a beneficiary and whether the provider may require the beneficiary to pay the cost sharing charge, as a condition for receiving the item or service, is (check all that apply):
- The state includes an indicator in the Medicaid Management Information System (MMIS)
 - The state includes an indicator in the Eligibility and Enrollment System
 - The state includes an indicator in the Eligibility Verification System
 - The state includes an indicator on the Medicaid card, which the beneficiary presents to the provider
 - Other process
- Contracts with managed care organizations (MCOs) provide that any cost-sharing charges the MCO imposes on Medicaid enrollees are in accordance with the cost sharing specified in the state plan and the requirements set forth in 42 CFR 447.50 through 447.57.

Cost Sharing for Non-Emergency Services Provided in a Hospital Emergency Department

The state imposes cost sharing for non-emergency services provided in a hospital emergency department.

- The state ensures that before providing non-emergency services and imposing cost sharing for such services, that the hospitals providing care:
- Conduct an appropriate medical screening under 42 CFR 489.24, subpart G to determine that the individual does not need emergency services;
 - Inform the individual of the amount of his or her cost sharing obligation for non-emergency services provided in the emergency department;
 - Provide the individual with the name and location of an available and accessible alternative non-emergency services provider;



Medicaid Premiums and Cost Sharing

- Determine that the alternative provider can provide services to the individual in a timely manner with the imposition of a lesser cost sharing amount or no cost sharing if the individual is otherwise exempt from cost sharing; and
- Provide a referral to coordinate scheduling for treatment by the alternative provider.
- The state assures that it has a process in place to identify hospital emergency department services as non-emergency for purposes of imposing cost sharing. This process does not limit a hospital's obligations for screening and stabilizing treatment of an emergency medical condition under section 1867 of the Act; or modify any obligations under either state or federal standards relating to the application of a prudent-layperson standard for payment or coverage of emergency medical services by any managed care organization.

The process for identifying emergency department services as non-emergency for purposes of imposing cost sharing is:

For cost sharing to be imposed on a client seeking Non-Emergency Services in a Hospital Emergency Department the hospital must first provide the appropriate medical screening examination as required by EMTALA and ancillary services such as laboratory and radiology, in accordance with 42 CFR 489.24 subpart G, to determine that the medical condition does not meet the Emergency Care Services definition found in 10 CCR 2505-10 8.300.1. The definition is as follows:

“Emergency Care Services, for the purposes of this rule, means services for a medical condition, including active labor and delivery, manifested by acute symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: (1) placing the client’s health in serious jeopardy, (2) serious impairment to bodily functions or (3) serious dysfunction of any bodily organ or part.”

If the provider determines that the condition does not meet the Emergency Care Services definition, the hospital staff is instructed to inform the client that the condition does not require emergency care services. The hospital staff is instructed to assist the client in finding an appropriate provider by using the following tools:

Find a Doctor <https://www.colorado.gov/hcpf/find-doctor>,
PEAK Health app colorado.gov/PEAK,

and/or their Care Coordinator within the assigned Regional Accountable Entity

Prior to imposing a Non-Emergency Services cost share, the provider must adhere to the following requirements of 42 CFR 447.54(d)(2):

- Inform the client of the amount of his or her cost sharing obligation for Non-Emergency Services provided in the emergency department;
- Provide the client with the name and location of an available and accessible alternative Non-Emergency Services provider;
- Determine that the alternative provider can provide services to the client in a timely manner with the imposition of a lesser cost sharing amount or no cost sharing if the individual is otherwise exempt from cost sharing; and
- Provide a referral to coordinate scheduling for treatment by the alternative provider.

If the client chooses to receive Non-Emergency Services in the Hospital Emergency Department after being informed of their options, they may be responsible for a \$6 cost share.

If the hospital provides Non-Emergency Services for a client in the Hospital Emergency Department without following the above protocol, they may not assess a \$6 cost share on the client.

Cost Sharing for Drugs

The state charges cost sharing for drugs.

Yes

The state has established differential cost sharing for preferred and non-preferred drugs.

No



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- All drugs will be considered preferred drugs.

Beneficiary and Public Notice Requirements

- Consistent with 42 CFR 447.57, the state makes available a public schedule describing current cost sharing requirements in a manner that ensures that affected applicants, beneficiaries and providers are likely to have access to the notice. Prior to submitting a SPA which establishes or substantially modifies existing cost sharing amounts or policies, the state provides the public with advance notice of the SPA, specifying the amount of cost sharing and who is subject to the charges, and provides reasonable opportunity for stakeholder comment. Documentation demonstrating that the notice requirements have been met are submitted with the SPA. The state also provides opportunity for additional public notice if cost sharing is substantially modified during the SPA approval process.

Other Relevant Information

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 09381148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C42605, Baltimore, Maryland 212441850.

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