

## **Table of Contents**

**State/Territory Name: DE**

**State Plan Amendment (SPA) #: 22-0006**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Summary Form (with 179-like data)
- 3) Approved SPA Pages

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Centers for Medicare & Medicaid Services  
601 E. 12th St., Room 355  
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

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November 7, 2022

Stephen Groff, Director  
Division of Medicaid Medical Assistance  
P.O. Box 906  
New Castle, DE 19720

Re: Delaware State Plan Amendment (SPA) 22-0006

Dear Director Groff:

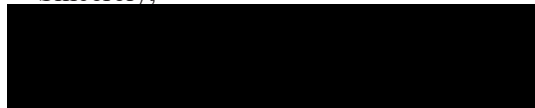
The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 22-0006. This amendment proposes to update Delaware State Plan to bring the state in compliance with the Third-Party Liability Requirements under the Bipartisan Budget Act (BBA) of 2018 and Medicaid Services Investment and Accountability Act (MSIAA) of 2019 practices.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act. This letter is to inform you that Delaware Medicaid SPA Transmittal Number 22-0006 was approved on November 1, 2022, with an effective date of September 1, 2022.

Enclosed are copies of the approved CMS-179 and SPA Pages to be incorporated into the Delaware State Plan.

If you have any questions, please contact Talbatha Myatt at (215) 861-4259 or via email at [Talbatha.Myatt@cms.hhs.gov](mailto:Talbatha.Myatt@cms.hhs.gov)

Sincerely,



James G. Scott, Director  
Division of Program Operations

Enclosures

cc: Kimberly Xavier, Chief, Policy & Planning  
Melissa Dohring, State Plan Coordinator

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 2 — 0 0 0 6

2. STATE

DE

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT



XIX



XXI

TO: CENTER DIRECTOR  
CENTERS FOR MEDICAID & CHIP SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

September 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION Bipartisan Budget Act  
(BBA) of 2018 (Pub. L. 115-123) Medicaid Se Federal Budget Legislation  
Bipartisan Budget Act of 2018 - Third Party Liability 42 CFR 433.136

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2023 \$ 0  
b. FFY 2024 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.22-A Page 1  
Attachment 4.22-B Page 1

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.22-A Page 1 (TN# 08-002)  
Attachment 4.22-B Page 1 (TN# 345)

9. SUBJECT OF AMENDMENT

Third Party Liability

10. 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

11. SIGNATURE OF STATE AGENCY OFFICIAL

*Stephen M. Groff*

15. RETURN TO

Stephen M. Groff, Director, DMMA, P.O. Box 906 New Castle, DE19720

12. TYPED NAME  
Stephen M. Groff

13. TITLE  
Director

14. DATE SUBMITTED  
9/29/2022 7:57 AM EDT

**FOR CMS USE ONLY**

16. DATE RECEIVED  
09/30/2022

17. DATE APPROVED  
11/01/2022

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
09/01/2022

19. SIGNATURE

20. TYPED NAME OF APPROVING OFFICIAL  
James G. Scott

21. TITLE

Director, Division of Program Operations

22. REMARKS

10-31-22-State requested pen & ink change to update Box 8: 4.22-A page 1 (TN# 08-002) & 4.22-B page 1 (TN# 345)  
10-31-22 State requested pen & ink change to Box 5 to update Federal Statute/Regulation-Federal Budget Legislation Bipartisan Budget Act of 2018 -Third Party Liability 42 CFR 433.136.

STATE PLAN UNDER TITLE XIX OF THE  
SOCIAL SECURITY ACT STATE/TERRITORY: DELAWARE

Requirements for Third Party Liability (TPL) -  
Identifying Liable Resources

1. Data exchanges 42 CFR 433.138 (d)(1), (d)(3) and (d)(4) and (e)
  - a. SSA wage - quarterly
  - b. IV-A agency - in Delaware is the same as the Title XIX agency and updates are available, daily
  - c. State Workmen's - not Compensation files - weekly
  - d. Motor vehicle - not computerized - no match available
  - e. SWICA - quarterly
  - f. Health Insurance Carriers - no less than once every two (2) months, unless written permission is given in advance by the agency

2. Follow-up requirements of 42 CFR 433.138 (g)(1)(i) and (g)(2)(i):

As soon as any matches on employers are received by the Delaware Client Information System (DCIS), the system will automatically generate a letter to verify health insurance coverage. This action will be taken within 30 days of the receipt of the match data.

3. State motor vehicle match is unavailable because of the information needed for TPL is not carried in the State's motor vehicle automated system. 42 CFR 433.138(g)(3)
4. Trauma code reports are produced weekly by the fiscal agent pursuant to 42 CFR 433(e). The TPL unit sends an accident inquiry form to the client/provider within two weeks regarding potential TPL. Positive responses result in a request for claims history and subsequent bills generated to applicable insurance company or attorney. Any information on ongoing legally liable third party resources is immediately entered into the third party database, which is part of the Medicaid Management Information System (MMIS). 42 CFR 433(e)

TN No. SPA 22-0006

Approval Date November 1, 2022

Supersedes

TN No. SPA 08-002

Effective Date September 1, 2022

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
STATE/TERRITORY: **DELAWARE**

Requirements for Third Party Liability -  
Payment of Claims

The State's MMIS identifies liable third parties and all claims submitted for payments are processed through this system. If the provider has not complied with TPL requirements, the claim suspends for manual review and appropriate action is taken.

The State of Delaware Title XIX Program seeks reimbursement from liable third in the following instances:

	Cost Avoidance	Post Payment Recoveries	
	Pre-payment Pended Claims	Third Party Claims for Accidental Injury	Non-Accident-Related Claims
Amount of money below which it is not effective to pursue a claim.	All claims where probable existence of TPL is established are cost avoided except as provided for in the TPL Action Plan.	\$500.00	\$100.00
Time limit for which reimbursement is sought.		Date of accident forward.	As accumulated over the two-year period to the start of recovery proceedings.

Cost Avoidance Prenatal Services

The state will use standard coordination of benefits cost avoidance process when adjudicating claims for prenatal services which includes labor, delivery and postpartum care claims. If it is determined that a third party is likely liable for a prenatal claim, the claim will be rejected, but not denied and the claim will be returned back to the provider noting the third party that Medicaid believes to be legally responsible for payment. If, after the provider bills the liable third party and a balance remains or the claim is denied payment for a substantive reason, the provider can submit a claim to the state for payment of the balance, up to the maximum Medicaid payment amount established for the service.

Per 1902(a)(25)(E) the state will make payments without regard to third party liability for pediatric preventive services unless the state has made a determination related to cost-effectiveness and access to care that warrants cost avoidance for up to 90 days.

1902(a)(25)(F) permits the state to make payment for a child support enforcement beneficiary's claim if the third party has not paid the provider's claim within a 100-day wait-and-see period. The state may instead choose, if the state determines doing so is cost-effective and necessary to ensure access to care, to make payment within 30 days.

TN No. SPA 22-0006

Approval Date November 1, 2022

Supersedes

TN No. SPA 345

Effective Date September 1, 2022