

## **Table of Contents**

**State/Territory Name:** **Delaware**

**State Plan Amendment (SPA) #:** **22-0007**

This file contains the following documents in the order listed:

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

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



March 3, 2023

Mr. Theodore G. Mermigos, Jr.  
Acting Division Director  
Division of Medicaid Medical Assistance  
P.O. Box 906  
New Castle, DE 19720

Re: Delaware State Plan Amendment (SPA) #DE-22-0007

Dear Mr. Mermigos:

The Centers for Medicare & Medicaid Services (CMS) reviewed the proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) #DE-22-0007. This plan amendment has a requested effective date of March 11, 2021 and was submitted in order to ensure the coverage of and reimbursement for COVID-19 treatment and prevention services in accordance with section 1905(a)(4)(F) of the Social Security Act.

Pursuant to section 1135(b)(5) of the Social Security Act (Act), for the period of the public health emergency, CMS is modifying the requirement at 42 C.F.R. §430.20 that the state submit SPAs related to the COVID-19 public health emergency by the final day of the quarter, to obtain a SPA effective date during the quarter, enabling SPAs submitted after the last day of the quarter to have an effective date in a previous quarter, but no earlier than the effective date of the public health emergency.

The State of Delaware requested a waiver to modify the public notice requirements applicable to the SPA submission process. Pursuant to section 1135(b)(5) of the Act, CMS is modifying public notice requirements applicable to the SPA submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for changes to Alternative Benefit Plans (ABPs). Pursuant to section 1135(b)(5) of the Act, CMS is approving the state's request to modify these notice requirements otherwise applicable to SPA submissions.

CMS conducted our review of your submittal according to statutory requirements in Title XIX of the Act and implementing regulations. This letter is to inform you that Delaware's Medicaid SPA Transmittal Number 22-0007 is approved effective March 11, 2021.

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,

Courtney L.  
Miller -S

Digitally signed by  
Courtney L. Miller -S  
Date: 2023.03.03  
08 05:37 -06'00'

Courtney Miller  
On Behalf of Anne Marie Costello, Deputy Director  
Center for Medicaid and CHIP Services

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

1. TRANSMITTAL NUMBER

2 2 — 0 0 0 7

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

March 11, ~~2022~~ 2021

5. FEDERAL STATUTE/REGULATION CITATION

Title XIX 1905 (a)(4)(F) Section 1135 SSA, Title 19 of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2022 \$ 0  
b. FFY 2023 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

7.7-C Page 1  
7.7-C Page 2  
7.7-C Page 3

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

New  
New  
New

9. SUBJECT OF AMENDMENT

COVID 19 Treatment

10. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

11. AGENCY OFFICIAL

12. Stephen M. Groff

13. TITLE  
Director

14. DATE SUBMITTED 7/22/2022 | 2:13 PM EDT

15. RETURN TO

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

**FOR CMS USE ONLY**

16. DATE RECEIVED  
08/10/2022

17. DATE APPROVED  
03/03/2023

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
03/11/2021

19. SIGNATURE OF APPROVING OFFICIAL  
Courtney L. Miller  
Digitally signed by Courtney L. Miller -S  
Date: 2023.03.03 08:06:01 -0600

20. TYPED NAME OF APPROVING OFFICIAL  
Courtney Miller On Behalf of Anne Marie Costello

21. TITLE OF APPROVING OFFICIAL  
Deputy Director, Center for Medicaid and CHIP Services

22. REMARKS

- 10/31/22 State requested the following pen and ink changes:
- Box 4 to reflect Proposed effective date March 11, 2021
  - Box 5- statute/regulation citation to reflect Title XIX 1905 (a)(4)(F)

**COVID-19 Treatment at section 1905(a)(4)(F) of the Social Security Act**

During the period starting March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (the Act):

**Coverage for the Treatment and Prevention of COVID**

The states assures coverage of COVID-19 treatment, including specialized equipment and therapies (including preventive therapies).

The state assures that such coverage:

1. Includes any non-pharmacological item or service described in section 1905(a) of the Act, that is medically necessary for treatment of COVID-19;
2. Includes any drug or biological that is approved (or licensed) by the U.S. Food & Drug Administration (FDA) or authorized by the FDA under an Emergency Use Authorization (EUA) to treat or prevent COVID-19, consistent with the applicable authorizations;
3. Is provided without amount, duration or scope limitations that would otherwise apply when covered for purposes other than treatment or prevention of COVID-19;
4. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
5. Is provided to the optional COVID-19 group, if applicable; and
6. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):

TN No. SPA 22-0007  
Supersedes  
TN No. SPA NEW

Approval Date: **03/03/2023**

Effective Date: March 11, 2021

**Coverage for a Condition that May Seriously Complicate the Treatment of COVID**

The state assures coverage of treatment for a condition that may seriously complicate the treatment of COVID-19 during the period when a beneficiary is diagnosed with or is presumed to have COVID-19.

The state assures that such coverage:

1. Includes items and services, including drugs, that were covered by the state as of March 11, 2021;
2. Is provided without amount, duration or scope limitations that would otherwise apply when covered for other purposes;
3. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
4. Is provided to the optional COVID-19 group, if applicable; and
5. Is provided to beneficiaries without cost sharing pursuant to section 1916(a)(2)(I) and 1916A(b)(3)(B)(xiii) of the Act; reimbursement to qualified providers for such coverage is not reduced by any cost sharing that would otherwise be applicable under the state plan.

Applies to the state's approved Alternative Benefit Plans, without any deduction, cost sharing, or similar charge, pursuant to section 1937(b)(8)(B) of the Act.

The state assures compliance with the HHS COVID-19 PREP Act declarations and authorizations, including all of the amendments to the declaration.

Additional Information (Optional):

**Reimbursement**

The state assures that it has established state plan rates for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies).

List references to Medicaid state plan payment methodologies that describe the rates for COVID-19 treatment for each applicable Medicaid benefit:

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Supersedes	
TN No. SPA NEW	Effective Date: March 11, 2021

Delaware's approved state plan payments rates apply for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies). No separate state plan rates have been established for COVID-19 treatment.

\_\_\_ The state is establishing rates or fee schedule for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies) pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

\_\_\_ The state's rates or fee schedule is the same for all governmental and private providers.

\_\_\_ The below listed providers are paid differently from the above rate schedules and payment to these providers for COVID-19 vaccines and the administration of the vaccines are described under the benefit payment methodology applicable to the provider type:

Additional Information (Optional):

**PRA Disclosure Statement** Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 75). Public burden for all of the collection of information requirements under this control number is estimated to take up to 1 hour per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

TN No. SPA 22-0007  
Supersedes  
TN No. SPA NEW

Approval Date: **03/03/2023**

Effective Date: March 11, 2021