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State/Territory Name: **Delaware**

State Plan Amendment (SPA) #: **22-0009**

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-22-0009

Dear Mr. Mermigos:

The Centers for Medicare & Medicaid Services (CMS) reviewed the proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) #DE-22-0009. 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 Testing at 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 22-0009 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.

Sincerely,

Courtney L.
Miller -S

Digitally signed by
Courtney L. Miller -S
Date: 2023.03.03
08:09:53 -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 9

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, 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 \$ 7,976,000
b. FFY 2023 \$ 7,372,000

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

7.7 - B Page 1
7.7 - B Page 2
7.7 - B Page 3

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

New
New
New

9. SUBJECT OF AMENDMENT

COVID-19 Testing

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:

STATE AGENCY OFFICIAL

15. RETURN TO

12. TYPED NAME
Stephen M. Groff

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

13. TITLE
Director

14. DATE SUBMITTED
10/18/2022 4:09 PM EDT

FOR CMS USE ONLY

16. DATE RECEIVED
10/18/2022

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 08:10:14 -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 a pen and ink change to Box 5- statute/regulation citation to reflect Title XIX 1905 (a)(4)(F)

COVID-19 Testing 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

The state assures coverage of COVID-19 testing consistent with the Centers for Disease Control and Prevention (CDC) definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19.

The state assures that such coverage:

1. Includes all types of FDA authorized COVID-19 tests;
2. Is provided to all categorically needy eligibility groups covered by the state that receive full Medicaid benefits;
3. Is provided to the optional COVID-19 group if applicable; and
4. 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.

Please describe any limits on amount, duration or scope of COVID-19 testing consistent with 42 CFR 440.230(b).

Over-the-counter (OTC) EUA FDA-authorized self-administered COVID-19 antigen and PCR tests can be dispensed and reimbursed only as a pharmacy-billed benefit for use at home with or without a prescription.

A maximum of eight OTC tests are covered, per rolling 30 days per member, without prior authorization from a DMMA-enrolled provider. This is a soft limit and can be exceeded based on medical necessity.

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):

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Supersedes
TN No. SPA NEW

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Reimbursement

___ The state assures that it has established state plan rates for COVID-19 testing consistent with the CDC definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19.

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

X The state is establishing rates for COVID-19 testing pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

___ The state's rates for COVID-19 testing are consistent with Medicare rates for testing, including any future Medicare updates at the:

- ___ Medicare national average, OR
 ___ Associated geographically adjusted rate.

X The state is establishing a state specific fee schedule for COVID-19 testing pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

The state's rate is as follows and the state's fee schedule is published in the following location:

For non-OTC COVID-19 testing, Delaware's rates for COVID-19 testing are consistent with 98% of the Medicare national average rates for testing.

DMAP-covered COVID-19 OTC Tests for At-Home Use Billing and Dispensing

Guidance can be found here:

[covid19_vaccine_info_for_providers.pdf \(delaware.gov\)](#)

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The state's 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 testing is described under the benefit payment methodology applicable to the provider type:

FQHCs, School Based Wellness Centers

Additional Information (Optional):

The payment methodologies for COVID-19 testing for providers listed above are described below:

COVID-19 vaccine testing qualifies as an FQHC "visit" and is eligible for the Prospective Payment System (PPS) encounter rate. An FQHC visit that includes a medical component and a COVID-19 test is reimbursed as a single visit, eligible for a single PPS encounter rate.

COVID-19 vaccine testing qualifies as a SBWC "visit" and is eligible for the applicable visit rate. A SBWC visit that includes a medical component and a COVID-19 testing is reimbursed as a single visit, eligible for a single visit rate.

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.

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