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State/Territory Name: Kansas

State Plan Amendment (SPA) #: 21-0016

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS Form 179
- 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

October 22, 2021

Sarah Fertig, State Medicaid Director
Kansas Department of Health and Environment
Division of Health Care Finance
Landon State Office Building
900 SW Jackson, Suite 900 N
Topeka, KS 66612-1220

Re: Kansas State Plan Amendment (SPA) 21-0016


Dear Ms. Fertig:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0016. This amendment updates third party liability (TPL) language in the State plan and in the TPL Action Plan.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 42 CFR § 433.138(k). This letter is to inform you that Kansas Medicaid SPA 21-0016 was approved on October 22, 2021, with an effective date of August 20, 2021.

If you have any questions, please contact Michala Walker at 816-426-6503 or via email at michala.walker@cms.hhs.gov.

Sincerely,

igitally signed by James
. Scott -S
ate: 2021.10.22 16:10:55
05'00'

James G. Scott, Director
Division of Program Operations

Enclosures

cc: Bobbie Graff-Hendrixson

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

1. TRANSMITTAL NUMBER:
KS 21-0016

2. STATE
Kansas

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
August 20, 2021

5. TYPE OF PLAN MATERIAL (*Check One*)

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION
42 CFR §433.138(k)

7. FEDERAL BUDGET IMPACT
a. FFY 2020 \$0
b. FFY 2021 \$0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Attachment 4.17-A, Page 5
Attachment 4.22-A, Page 1
Attachment 4.22-B, Page 1, Page 2

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (*If Applicable*)
Attachment 4.17-A, Page 5
Attachment 4.22-A, Page 1
Attachment 4.22-B, Page 1, Page 2

10. SUBJECT OF AMENDMENT
Clarify Third Party Liability (TPL) language and TPL Action Plan

11. 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:
Sarah Fertig is the
Governor's Designee

12. SIGNATURE OF STATE AGENCY OFFICIAL

13. TYPED NAME
Sarah Fertig

14. TITLE
State Medicaid Director

15. DATE SUBMITTED
September 22, 2021

16. RETURN TO
Sarah Fertig, State Medicaid Director
KDHE, Division of Health Care Finance
Landon State Office Building
900 SW Jackson, Room 900-N
Topeka, KS 66612-1220

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED
September 22, 2021

18. DATE APPROVED
October 22, 2021

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL
August 20, 2021

20. SIGNATURE OF REGIONAL OFFICIAL
Digitally signed by James G. Scott -S
Date: 2021.10.22 12:54:01 -05'00'

21. TYPED NAME

James G. Scott

22. TITLE

Director, Division of Program Operations

23. REMARKS

KANSAS MEDICAID STATE PLAN

Attachment 4.17-A

Page 5

Estate Recovery recovers medical care costs from the assets or estates of certain Medicaid consumers. Under federal law, the Estate Recovery Unit (ERU) is allowed to establish a claim for Medicaid on a member who received assistance prior to their death, was 55 years of age or older at the time of receipt of services or was an inpatient in a long-term care institutional facility (and was determined permanently institutionalized) where Medicaid paid a portion of the cost (regardless of the age at the time of receipt of services).

The probate claim is normally filed against the member's estate; however, if there is a surviving spouse, no claim is filed. Upon the death of the surviving spouse, a claim is filed against that spouse's estate, with the exception of the existence of a surviving child that is under 21 years of age, blind or permanently disabled according to the criteria used by the Social Security Administration.

Pre – litigation:

If the State elects to initiate an action in court, a pre-filing letter will be sent to the recipient, if alive, or to the family or representative of the deceased recipient. This pre – filing letter is an accepted practice in collection matters in Kansas. The pre – filing letter contains the information from the general post – death letter noted above and the further advise to the impacted party of the nature of the litigation action (probate action, quiet title, etc.) and the date by which the state anticipates filing the action. Once filed, any subsequent notices will be governed by Kansas civil code and procedure, probate code and procedure and statutes and caselaw specific to the area of law.

Lien Notice:

If the State elects to initiate a lien recovery, a notice will be sent that complies with the procedure and criteria noted above.

Requirements for Third Party Liability –
Identifying Liable Resources

- (b) (1) Data exchanges pursuant to 42 CFR 433.138 (d)(1), (d)(3) and (d)(4) and (e) are conducted periodically as described below.

The Deficit Reductions Act of 1984 (DRA) required states to match Medicaid eligible individuals against the files of several agencies. Therefore, State Income and Eligibility Verification System was initiated. This is an unduplicated match of Medicaid-eligible individuals utilizing social security number and date of birth. The Kansas Department of Health and Environment (KDHE) Division of Health Care Finance (DHCF) matches its Medicaid-eligible files against the employment security crossmatch, Bendex and the IRS unearned income files. This data is then utilized to meet 42 CFR 433.138 (g)(1)(i) by furnishing monthly printouts to eligibility staff to investigate, to resolve 80 percent of all matches, to document in the case file, and to update the TPR data base within 30 calendar days of receipt. Pursuant to 42 CFR 433.138 (g)(2)(i), information about third party resources is also obtained during the application for eligibility and the redetermination processes. Information is loaded into the KMMIS TPR data base within 30 days by eligibility staff. Data matches are also performed monthly with Workers' Compensation files and routinely and timely with the Kansas Department of Revenues Drivers' License Accident file. Any new TPR information is loaded into the data base within 60 days by the fiscal agent staff. Data matches are also performed by the Department of Children and Families (DCF) and KDHE-DHCF staff for wage and employment information. Child Support Services (CSS) staff secures and verifies the health insurance information received from absent parents and employers in order to pursue medical support.

The State will exercise the flexibility to make payments without regard to potential TPL for up to 100 days for claims related to child support enforcement beneficiaries.

Pursuant to 42 CFR 433.138 (d)(4)(ii), a state motor vehicle accident report file date exchange is presently being performed routinely and timely.

Pursuant to 42 CFR 433 (e), diagnosis and trauma code edits are performed on codes 800 through 999, excepting 994.6 (per federal direction). During the weekly claims processing cycle, claims are identified relating to these diagnoses. For single claims in the amount of \$1,000.00, or more or for \$1,00.00 accumulations of smaller amounts for the multiple trauma diagnoses of 800 through 999, a questionnaire is mailed to the member. KDHE-DHCF then pursues TPR recovery through its legal staff to recover funds. Information discovered during this process is added to the TPR file if it is not already present. This process take place within 60 days.

Requirements for Third Party Liability –
Payment of Claims

The threshold amount used in determining whether to seek reimbursement from a liable third-party health insurer is \$5.00. No accumulation is performed.

The threshold amount used for trauma-related cases from the fiscal agent is presently \$1,000.00. Accumulation is performed on all claim types.

This threshold was determined by a study performed by the State. From a population of 1243 casualty cases closed in FY 89, a sample of 243 cases (19.5%) were reviewed. Of those cases reviewed, 116 had total medical expenditures between \$500 and \$1,000. Of these 116 cases, 112 had no recovery and the other 4 cases had a recovery amount totaling \$2,286.56. The agency estimates that the cost per case for the 116 cases of \$86.56, and subtracting the recovery amount of \$2,286.56, and then dividing that result by the 116 cases indicates that it costs \$66.85 more than is recovered on the average to process cases between \$500 and \$1000.

The liability of third parties is identified through the claim's adjudication process. Billers are required to indicate either TPL payment or a denial indicator on a claim submission. The Claims History file interfaces with the MMIS TPL file to determine whether other insurance coverage is applicable and primary to Medicaid payment.

Providers are not required to bill liable third parties when services covered under the Plan are furnished to an individual on whose behalf child support enforcement is being carried out by the Kansas Department of Children and Families (DCF). A mechanism has been devised to eliminate printing the TPL information on the medical identification card. The fiscal agent manually designates a post pay bill status upon notification from DCF for all services rendered to IV-D children in accordance with their TPL coverage.

Requirements for Third Party Liability –
Payment of Claims (cont.)

The process for the post-payment recovery of claims is that, monthly, the system searches the member third party liability file. Claims history is reviewed for these members and paid claims over \$5.00 that were paid within the last month generate a post-pay bill automatically. At the time post-pay bills are produced; an accounts receivable record is established in the system and the claims are sent monthly to the applicable insurance carriers as a request for payment up to the Medicaid payment amount. All replies (payments, denials and requests for more information) to these billings are delivered to the TPL Accounts Receivable Clerk. The Clerk determines the correct disposition action to the response received and reconciles the accounts receivable or provides additional information to the insurance carrier.

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.

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 90 days.