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State/Territory Name: Kentucky

State Plan Amendment (SPA)#:KY-24-0007

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Center for Medicaid and CHIP Services

Medical Benefits Health Programs Group

November 05, 2024

Lisa Lee
Commissioner
Commonwealth of Kentucky
Department for Medicaid Services
275 E. Main St
Frankfort, KY 40601

Dear Lisa Lee:

The CMS Division of Pharmacy team has reviewed Kentucky's State Plan Amendment (SPA) 24-0007 received in the CMS Medicaid Services OneMAC application on August 22, 2024. This SPA proposes to update the state's supplemental rebate agreement.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 24-0007 is approved with an effective date of July 1, 2024. Our review was limited to the materials necessary to evaluate the SPA under applicable federal laws and regulations.

We are attaching a copy of the signed CMS-179 form, as well as the page approved for incorporation into Kentucky's state plan. If you have any questions regarding this amendment, please contact Charlotte Hammond at (410) 786-1092 or charlotte.hammond@cms.hhs.gov.

Sincerely,

A black rectangular redaction box covers the signature of Mickey D. Morgan.

Mickey D. Morgan
Deputy Director
Division of Pharmacy

cc: Erin Bickers, Kentucky Medicaid, Federal Program Specialist
Keri Toback, CMS, Medicaid and CHIP Operations Group

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

1. TRANSMITTAL NUMBER 2 4 — 0 0 0 7 2. STATE KY

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
July 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION
Section 1927 of the SSA


6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2024 \$ 0
b. FFY 2025 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Att. 3.1-A Pg. 7.5.2(a)
Att. 3.1-B Pg. 31.1(a)

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
Att. 3.1-A Pg. 7.5.2(a)
Att. 3.1-B Pg. 31.1(a)

9. SUBJECT OF AMENDMENT
Update state plan to current supplemental rebate agreement process.

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. SIGNATURE OF AGENCY OFFICIAL

12. TYPE OF OFFICIAL
Lisa Lee
13. TITLE
Commissioner
14. DATE SUBMITTED
8/22/2024

15. RETURN TO
Lisa Lee
275 E. Main St.
Frankfort, KY 40601

FOR CMS USE ONLY

16. DATE RECEIVED
08/22/24

17. DATE APPROVED
11/05/24

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
07/01/24

19. SIGNATURE OF APPROVING OFFICIAL


20. TYPED NAME OF APPROVING OFFICIAL
Mickey D. Morgan

21. TITLE OF APPROVING OFFICIAL
Deputy Director, Division of Pharmacy

22. REMARKS

- (6) A refill of a prescription shall not be covered unless at least 90 percent of the prescription time period has elapsed. However, a refill may be covered before 90 percent of the prescription time period has elapsed if the prescribing provider or dispensing pharmacy submits a prior authorization request by phone, fax, or web submission. Medicaid recipients residing in a long-term care facility or personal care home will be exempt from the 90 percent requirement and remain at the current 80 percent.

(7) Supplemental Rebate Program:

The state is in compliance with Section 1927 of the Social Security Act. The state has the following policies for the Supplemental Rebate Program for the Medicaid population:

- (a) CMS has authorized the Commonwealth of Kentucky to enter into supplemental agreements with drug manufacturers for drugs provided to fee-for-service and managed care Medicaid beneficiaries, which are covered by a unified preferred drug list (UPDL). The Supplemental Rebate Agreement (SRA), titled "Commonwealth of Kentucky Supplemental Rebate Agreement", has been submitted to the Centers for Medicare & Medicaid Services (CMS) on August 22, 2024 and has been authorized to cover supplemental rebates. The Commonwealth of Kentucky will begin using the SRA on January 1, 2025. The pharmaceutical manufacturer agreements and renewals for supplemental rebates may be negotiated by the Sovereign States Drug Consortium (SSDC) multi-state purchasing pool or individually by the Commonwealth of Kentucky.
- (b) CMS has authorized Kentucky's collection of supplemental rebates through the SSDC or through state-negotiated contracts.
- (c) Supplemental rebates received by the State in excess of those required under the national drug rebate agreement will be shared with the Federal Government on the same percentage basis as applied under the national drug rebate agreement.
- (d) All drugs covered by the program, irrespective of a supplemental rebate agreement, will comply with the provision of the national drug rebate agreement.
- (e) Any contracts not authorized by CMS will be submitted for CMS approval in the future.
- (f) As specified in Section 1927(b)(3)(D) of the Act, notwithstanding any other provisions of law, rebate information disclosed by a manufacturer shall not be disclosed by the state for purposes other than rebate invoicing and verification.

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