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**State/Territory Name: Massachusetts**

**State Plan Amendment (SPA) #: 21-0043**

**This file contains the following documents in the order listed:**

- 1) Approval Letter
- 2) CMS-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

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March 8, 2022

MaryLou Sudders, Secretary  
The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
One Ashburton Place, Room 1109  
Boston, MA 02108

Re: Massachusetts State Plan Amendment (SPA) 21-0043


Dear Secretary Sudders:

We reviewed your proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0043. This amendment updates the state plan to amend Third-Party Liability Requirements under the Bipartisan Budget Act (BBA) of 2018 and Medicaid Services Investment and Accountability Act (MSIAA) of 2019.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 42 CFR 447. This letter is to inform you that Massachusetts Medicaid SPA Transmittal Number 21-0043 was approved March 1, 2022, with an effective date of October 1, 2021.

If you have any questions, please contact Marie DiMartino at 617-565-9157 or via email at [Marie.DiMartino@cms.hhs.gov](mailto:Marie.DiMartino@cms.hhs.gov).

Sincerely,

 Digitally signed by James  
G. Scott -S  
Date: 2022.03.08 16:26:42  
-06'00'

James G. Scott, Director  
Division of Program Operations

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

1. TRANSMITTAL NUMBER <u>2 1 - 0 0 4 3</u>	2. STATE <u>MA</u>
3. PROGRAM IDENTIFICATION: TITLE <del>XIX</del> OF THE SOCIAL SECURITY ACT	
4. PROPOSED EFFECTIVE DATE 10/01/2021	
5. FEDERAL STATUTE/REGULATION CITATION 42 CFR Part 447	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY 22 <u>\$ 0</u> b. FFY 23 <u>\$ 0</u>
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  Attachment 4.22-B p. 1-2	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  Attachment 4.22-B pp. 1-2

9. SUBJECT OF AMENDMENT  
  
An amendment to confirm compliance with third party liability in Medicaid

10. GOVERNOR'S REVIEW (Check One)

<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT	<input checked="" type="checkbox"/> OTHER, ASSPECIFIED:  Not required under 42 CFR 430.12(b)(2)(i)
<input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	
<input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	

11. SIGNATURE OF STATE AGENCY OFFICIAL 	15. RETURN TO Commonwealth of Massachusetts Executive Office of Health and Human Services Office of Medicaid One Ashburton Place, Room 1109 Boston, MA 02108
12. TYPED NAME Marylou Sudders	
13. TITLE Secretary	
14. DATE SUBMITTED 12/30/2021	

**FOR CMS USE ONLY**

16. DATE RECEIVED 12/30/2021	17. DATE APPROVED 03/01/2022
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**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL 10/01/2021	19. SIGNATURE OF APPROVING OFFICIAL Digitally signed by James G. Scott -S Date: 2022.03.08 16:27:51 -06'00'
20. TYPED NAME OF APPROVING OFFICIAL James G. Scott	21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations

22. REMARKS

**State Plan under Title XIX of the Social Security Act  
State: Massachusetts**

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**Requirements for Third Party Liability Payment of Claims**

MassHealth's TPL program is designed to function primarily as a cost avoidance system. Claims for medical services, unless excluded by federal law, are cost-avoided when a third party liability policy exist within MassHealth's MMIS system. Claims paid prior to the third party coverage being entered into the claims system are pursued by a vendor for post-payment recovery as described in this attachment.

(d)

1. Monitoring provider compliance (42 CFR 433.139(b)(3)(ii)(C)):

The State Plan as referenced herein requires providers to bill third parties. When the probable liability of a third party is established, MassHealth notifies the provider that the claim was cost avoided due to the existence of TPL.

Exceptions to this procedure are those claims as specified in 42 CFR 433.139(b)(3)(i) and (ii) and any approved cost avoided waiver.

MassHealth complies with the following requirements:

- SSA Section 1902 (a)(25)(E): The Requirement for states to apply cost avoidance procedures to claims for prenatal services, including labor, delivery, and postpartum care services.
- SSA Section 1902(a)(25)(E): The requirement for states to make payments without regard to potential third party liability for pediatric preventative 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.
- SSA Section 1902(a)(25)(F): State Flexibility to make payments without regard to potential third party liability for up to 100 days for claims related to child support enforcement beneficiaries.

In a case where medical support is being enforced by the state Title IV-D Agency, the provider will be required to submit documentation that the provider has billed the third party and has not received payment from the third party.

State laws are in effect that require third parties to comply with the provisions of 1902(a)(25)(I) of the Social Security Act, including those which require third parties to provide the state with coverage, eligibility, and claims data.

2. Recovery from Health Insurers

The State Medicaid Agency will seek reimbursement from a liable health insurer when the State Medicaid Agency determines that the potential accumulated recovery will amount to at least \$250, or will otherwise be cost effective.

3. Recovery from Liability Insurers or Other Third Parties for Benefits Provided for Accidents, Injuries, Illnesses and Other Losses. See 42 CFR 433.139(f)(2) and (3).

**State Plan under Title XIX of the Social Security Act  
State: Massachusetts**

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**Threshold Amount:** The State Medicaid Agency will seek reimbursement from a liable third party for benefits provided on account of accidents, injuries, illnesses or other losses suffered by recipients when the State Medicaid Agency determines that the potential recovery, as evidenced by accumulated billings, will amount to at least \$250, or otherwise will be cost-effective.

**Cost-Effectiveness:** At times the State Medicaid Agency may determine that it is more cost-effective to pursue a lesser amount than the full cost of care in order to avoid litigation. Cost-effectiveness must be determined on a case-by-case basis. For example, the State Medicaid Agency may reduce the amount of its claim, which becomes the amount of reimbursement that the State Medicaid Agency can reasonably expect to recover. The State Medicaid Agency will use cost-effective criteria such as the following:

1. Factual and legal issues of liability that may exist concerning the MassHealth recipient and the liable party; and
2. Total funds, e.g. policy limits available for settlement; and
3. An estimate of the cost to the MassHealth program to pursue the claim including attorney fees and costs.

After considering the above factors, the State Medicaid Agency may pursue a lesser recovery amount to the extent that the MassHealth agency determines it to be cost-effective. Total funds available for settlement of a casualty/tort claim are the funds designated for payment of medical expenses only.