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State/Territory Name: North Carolina

State Plan Amendment (SPA) #: 22-0011

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 S3-14-28
Baltimore, Maryland 21244-1850



Financial Management Group

December 2, 2022

Kody H. Kinsley
Office of the Secretary
Department of Health and Human Services
2001 Mail Service Center
Raleigh, NC 27699-20014

Reference: State Plan Amendment (SPA) NC-22-0011

Dear Mr. Kinsley:

We have reviewed the proposed amendment to Attachment 4.19-C of your Medicaid State Plan submitted under transmittal number (TN) 22-0011. This amendment proposes to increase the number of days of therapeutic leave for Medicaid-eligible beneficiaries occupying beds in Nursing Facilities or Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID) from 60 to 90 in any calendar year.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C.

This is to inform you that Medicaid State Plan Amendment NC-22-0011 is approved with an effective date one day after the end of the Public Health Emergency (PHE). The CMS-179 and the plan pages are attached.

If you have any additional questions or need further assistance, please contact James Francis at 857-357-6378 or james.francis@cms.hhs.gov.

Sincerely,



Rory Howe
Director

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

1. TRANSMITTAL NUMBER

2 2 — 0 0 1 1

2. STATE

NC

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

~~January 1, 2022~~ one day after the end of the PHE

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR 440.167

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY ~~22~~ 23 \$ 0
b. FFY ~~23~~ 24 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-C, Page 1

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-C, Page 1

9. SUBJECT OF AMENDMENT

Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IIDs) Therapeutic Leave

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: Secretary

DocuSigned by:
11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME

Kody H. Kinsley

13. TITLE

Secretary

14. DATE SUBMITTED

March 29, 2022

15. RETURN TO

Office of the Secretary
Department of Health and Human Services
2001 Mail Service Center
Raleigh, NC 27699-20014

FOR CMS USE ONLY

16. DATE RECEIVED

March 29, 2022

17. DATE APPROVED

December 2, 2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

One day after the end of the PHE

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

Rory Howe

21. TITLE OF APPROVING OFFICIAL

Director, Financial Management Group

22. REMARKS

11/16/22: North Carolina authorized pen-and-ink changes to block 4 to change "January 1, 2022" to "one day after the end of the PHE" and block 14 to add "March 29, 2022" (JGF)

11/18/22: North Carolina authorized a pen-and-ink change to correct the fiscal years in block 6 to read 6a. FFY 23 and 6b. FFY 24. (JGF)

MEDICAL ASSISTANCE
STATE North Carolina

THERAPEUTIC LEAVE

- I. Therapeutic Leave for Nursing Facilities and Intermediate Care for Individuals with Intellectual Disabilities (ICF-IID)
- (a) Each Medicaid eligible beneficiary who is occupying a Nursing Facility (NF) bed or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID) bed for which the North Carolina Medicaid Program is then paying reimbursement shall be entitled to take up to 90 days of therapeutic leave in any calendar year from any such bed without the facility in which the bed is located suffering any loss of reimbursement during the period of leave.
 - (b) The taking of such leave must be for therapeutic purposes only and must be ordered by the patient's attending physician. The necessity for such leave shall be documented in the patient's plan of care and therapeutic justification for each instance of such leave entered into the patient's medical record.
 - (c) Facilities must reserve a therapeutically absent patient's bed for him and are prohibited from deriving any Medicaid revenue for that patient other than the reimbursement for that bed during the period of absence. Facilities shall be reimbursed at their full current Medicaid bed rate for a bed reserved due to therapeutic leave. Facilities shall not be reimbursed for therapeutic leave days taken which exceed the legal limit.
 - (d) No more than 15 consecutive therapeutic leave days may be taken without approval of the Division of Health Benefits or the appropriate vendor.
 - (e) The therapeutic justification for such absence shall be subject to review by the State or its agent during scheduled on-site medical reviews.
 - (f) Facilities must keep a cumulative record of therapeutic leave days taken by each patient for reference and audit purposes. In addition, patients on therapeutic leave must be noted as such on the facility's midnight census. Facilities shall bill Medicaid for approved therapeutic leave days as regular residence days.
 - (g) The official record of therapeutic leave days taken for each patient shall be maintained by the State or its agent.
 - (h) Entitlement to therapeutic leave is not applicable in cases when the therapeutic leave is for the purpose of receiving either inpatient or nursing services provided either elsewhere or at a different level of care in the facility of current residence when such services are or will be paid for by Medicaid.
 - (i) Transportation from a facility to the site of therapeutic leave is not considered to be an emergency; therefore, ambulance service for this purpose shall not be reimbursed by Medicaid.
 - (j) Effective July 1, 2005, entitlement to Therapeutic Leave is not applicable in the case of Medicaid Adult Care Home Personal Care Services (ACH-PCS).

TN. No. 22-0011

Supersedes Approval Date: December 2, 2022 Eff. Date: one day after the end of the PHE

TN. No. 05-009