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State/Territory Name: North Carolina

State Plan Amendment (SPA) #: 23-0050

This file contains the following documents in the order listed:

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

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

February 20, 2024

Jay Ludlam
Deputy Secretary of Medical Assistance
Division of Medical Assistance
2001 Mail Service Center
1985 Umstead Drive
Raleigh, NC 27699-20014

Re: North Carolina State Plan Amendment (SPA) 23-0050

Dear Deputy Secretary Ludlam:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under Transmittal Number 23-0050. This amendment proposes to alleviate the effects of the nursing shortage on eligible Private Duty Nursing beneficiaries. The near relative or legally responsible person must have a valid and current nursing license and must operate within their scope of practice to deliver the skilled nursing service.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act. This letter is to inform you that North Carolina's SPA 23-0050 was approved on February 20, 2024, with an effective date of December 1, 2023.

Enclosed are copies of the CMS-179 Summary Form and approved SPA page to be incorporated into the North Carolina State Plan.

If you have any questions, please contact Morlan Lannaman at (470) 890-4232 or via email at Morlan.Lannaman@cms.hhs.gov.

Sincerely,



James G. Scott, Director
Division of Program Operations

Enclosures

cc: Betty J. Staton, NC DHHS
Emma Sandoe, NC DHHS

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

1. TRANSMITTAL NUMBER
2 3 — 0 0 5 0

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
December 01, 2023

5. FEDERAL STATUTE/REGULATION CITATION
42 C.F.R. §440.80

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 24 \$ 0
b. FFY 25 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Attachment 3.1-A.1 Page 13b

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (if Applicable)
Attachment 3.1-A.1 Page 13b

9. SUBJECT OF AMENDMENT

Private Duty Nursing (PDN) - Addition of Near Relative

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**

11. NAME OF STATE AGENCY OFFICIAL

12. TYPED NAME
Jay Ludlam

13. TITLE
Deputy Secretary

14. DATE SUBMITTED **12/18/23 | 1:31 PM EST**

15. RETURN TO
Office of the Deputy Secretary
Department of Health and Human Services
2001 Mail Service Center
Raleigh, NC 27699-20014

FOR CMS USE ONLY

16. DATE RECEIVED
12/29/2023

17. DATE APPROVED
02/20/2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
12/01/2023

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL
James G. Scott

21. TITLE OF APPROVING OFFICIAL
Director, Division of Program Operations

22. REMARKS

8. Private Duty Nursing Services

Medically necessary private duty nursing (PDN) services are provided under the direction of the recipient's physician in accordance with 42 CFR 440.80 and prior approval by the Division of Medical Assistance, or its designee.

Residents who are in adult care homes are not eligible for this service. According to State regulations for adult care homes, people are not to be admitted for professional nursing care under continuous medical supervision and residents who develop a need for such care are to be placed elsewhere. In addition, recipients in hospitals, nursing facilities, intermediate care facilities for individuals with intellectual disabilities, rehabilitation centers, and other institutional settings are not eligible for this service. PDN services are not covered while an individual is being observed or treated in a hospital emergency room or similar environment.

This service is only approvable based on the need for PDN services in the patient's private residence. An individual may utilize the approved hours of coverage outside of his/her residence during those hours when the individual's normal life activities take the patient out of the home. The need for nursing care to participate in activities outside of the home is not a basis for authorizing PDN services or expanding the hours needed for PDN services.

Medicaid will not reimburse for Personal Care Services, Skilled Nursing Visits, or Home Health Aide Services provided during the same hours of the day as PDN services.

Agencies must be enrolled with the Division of Medical Assistance as providers for the service. An enrolled provider must be a State licensed home care agency within North Carolina that is approved in its license to provide nursing services within the State. PDN services shall be rendered by a licensed registered nurse (RN) or licensed practical nurse (LPN) who is licensed by the North Carolina Board of Nursing and employed by a licensed home care agency. NC Medicaid shall not cover PDN provided by a family member if the PDN Service provider is owned by the beneficiaries near relative (spouse, child, parent, grandparent, grandchild, or sibling, including corresponding step-and in-law relationships) or legally responsible person.

Service Limitations:

1. Up to 112 hours per week for adults. may be exceeded based on medical necessity.
2. Up to 112 hours per week for children. Pursuant to section 1905(r)(5) of the Social Security Act, the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit requires that states provide all medically necessary services listed in 1905(a) of the Social Security Act, for children who are covered under the Medicaid program and eligible for coverage under EPSDT. Hours above the 112 hours may be provided to children under the age of 21, through the EPSDT allowance, if they meet medical necessity criteria and all federal EPSDT guidelines.

TN No: ~~23-0050~~
Supersedes
TN No: ~~23-0044~~

Approval Date: 02/20/2024

Effective Date: 12/01/2023