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State/Territory Name: ND

State Plan Amendment (SPA) #: 23-0028

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
Center for Medicaid & CHIP Services
233 North Michigan Ave., Suite 600
Chicago, Illinois 60601



Financial Management Group/ Division of Reimbursement Review

January 10, 2024

Sarah Aker, Director
Medical Services Division
North Dakota Department of Human Services
600 E. Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

RE: North Dakota State Plan Amendment TN: 23-0028

Dear Director Aker:

We have reviewed the proposed North Dakota State Plan Amendment (SPA) 23-0028, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on November 6, 2023. This state plan amendment will supersede SPA ND-23-0020 and updates reimbursement for in-state PPS outpatient hospital services to the Enhanced Ambulatory Patient Group (EAPG) payment system.

Based upon the information provided by the State, we have approved the amendment with an effective date of October 1, 2023. We are enclosing the approved CMS-179 and a copy of the plan pages.

If you have any additional questions or need further assistance, please contact Matthew Klein at 214-767-4625 or matthew.klein@cms.hhs.gov

Sincerely,



Todd McMillion
Director
Division of Reimbursement Review

Enclosures

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

1. TRANSMITTAL NUMBER <u>2 3</u> — <u>0 0 2 8</u>	2. STATE <u>ND</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE October 1, 2023
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5. FEDERAL STATUTE/REGULATION CITATION 42 CFR 447 Part C	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>2024</u> \$ <u>0</u> b. FFY <u>2025</u> \$ <u>0</u>
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7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 4.19-B, pages 1, 1a and 1b	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 4.19-B, pages 1, 1a and 1b (TN 23-0020)
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9. SUBJECT OF AMENDMENT
Amends the State Plan to update reimbursement for in-state PPS outpatient hospital services to EAPG payment system.

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 STATE AGENCY OFFICIAL 	15. RETURN TO Sarah Aker, Director Medical Services Division ND Department of Health and Human Services 600 East Boulevard Avenue Dept 325 Bismarck ND 58505-0250
12. TYPED NAME Sarah Aker	
13. TITLE Medical Services Director	
14. DATE SUBMITTED November 6, 2023	

FOR CMS USE ONLY

16. DATE RECEIVED 11/06/2023	17. DATE APPROVED January 10, 2024
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL 10/01/2023	19. SIGNATURE OF APPROVING OFFICIAL 
20. TYPED NAME OF APPROVING OFFICIAL Todd McMillion	21. TITLE OF APPROVING OFFICIAL Director, Division of Reimbursement Review

22. REMARKS

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

The following is a description of the policies that apply to rates and fees established for services other than inpatient hospital care, nursing facility care, and intermediate care facilities.

Out-of-state providers are paid the same rates and fees applicable to providers in North Dakota.

All rates are published on the agency's website at:

<https://www.hhs.nd.gov/healthcare/medicaid/provider/fee-schedules>. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

1) Outpatient services.

- a. Outpatient hospital services are paid using a fixed percentage of charges established by the state agency, except for laboratory procedures paid according to item 3 below, dietitian services paid at the lower of the actual charge or maximum allowable charge established by the state agency, partial hospitalization paid a per diem fee schedule rate established by the state agency effective for dates of service on or after July 1, 2023, and in-state prospective payment system hospitals. The fixed percentage of charges for in-state hospitals designated as Critical Access Hospitals will be established using the hospital's most recent audited Medicare cost report. Cost settlement to reasonable cost for outpatient services at in-state hospitals designated as Critical Access Hospitals for Title XIX services will be based on the Medicare cost report and will occur after the hospital's Medicare cost report has been audited and finalized by the Medicare fiscal intermediary. The fixed percentage of charges for all other in-state hospitals will be established using the hospital's most recent Medicare cost report available as of June 1 of each year. The fixed percentage of charges for out-of-state hospitals shall be 57.4 percent except for laboratory procedures paid according to item 3 below. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023 as authorized and appropriated by the 2023 Legislative Assembly.
- b. Effective October 1, 2023, in-state prospective payment system hospitals will be reimbursed based on Enhanced Ambulatory Patient Group (EAPG) payment system version 3.17. Partial hospitalization is paid a per diem fee schedule rate as outlined in item a above.

2) Clinic services payment is based on the cost of delivery of the services on a prospective basis as determined by the single state agency from cost data submitted annually by the clinic. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Clinic rates are set as of July 1, 2023 and are effective for services provided on or after that date. Providers will be notified of the rates, via letter and/or email correspondence.

- a. Payment to dental clinics, including mobile dental clinics, is based on the cost of delivery of the service as determined by the single state agency from cost data submitted annually by the clinic. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Individual provider rates will be effective October 1, 2023. Providers will be notified of the rates, via letter and/or email correspondence. Except as otherwise noted in the Plan, State developed fee schedule rates are the same for both governmental and private providers.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE
- (continued)

- 3) For laboratory services, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers will receive a three inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
 - a. For laboratory services subject to Section 1903(i)(7) of the Social Security Act, Medicaid will pay the lower of billed charges or the Medicare maximum allowable charge. Medicaid payment for lab services may not exceed the Medicare rate on a per test basis.
- 4) Effective July 1, 2019, for x-ray services, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 5) For prosthetic devices, medical equipment, supplies and appliances, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
 - a. For DMEPOS items associated with Section 1903(i)(27) of the Social Security Act, amended by Section 5002 of the 21st Century Cures Act, and identified by the Centers for Medicare and Medicaid Services (CMS) as covered by Medicare, Medicaid will pay the lower of the following: (1)The Medicare DMEPOS fee schedule rate for North Dakota geographic, non-rural areas, set as of January 1 of each year which will be reviewed on a quarterly basis and updated as needed; or (2)The provider's billed charges.
- 6) For services, including optometric and chiropractic services, paid from the North Dakota Professional Services Fee Schedule, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers paid from the North Dakota Professional Services Fee Schedule will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly. For rates developed using the resource-based relative value scale methodology, the posted fee schedule accounts for annual cost neutral adjustments to the North Dakota Medicaid conversion factor made to reflect updates to the Medicare RVUs and utilization changes.
 - a. For services, other than those reimbursed using resource-based relative value scale methodology, North Dakota Medicaid providers paid from the North Dakota Professional Services Fee Schedule will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
 - b. For services rendered by licensed or registered pharmacists, the lower of billed charges or the fee schedule established by the state agency.
- 7) For dental services and dentures, Medicaid will pay the lower of billed charges or Medicaid fee established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
 - a. Effective for dates of service on or after October 10, 2017, reimbursement for dental sealants and fluoride varnish provided in a school setting by dental hygienists employed by the North Dakota Department of Health (Department) are based on the cost of delivery of services on a prospective basis as determined by the single state Medicaid agency from cost data submitted annually by the Department. The rate components include dental hygienist and administrative salaries, supplies, and overhead. The Department will be notified of the rate via letter and/or email correspondence.
- 8) Effective July 1, 2019, for private duty nursing services, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.

- 9) Effective July 1, 2019, for physical, occupational and speech therapy, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standard for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 10) Effective July 1, 2019, for services rendered by enrolled providers via telemedicine; payment for the telemedicine connectivity code will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standard for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 11) For eyeglasses, Medicaid will pay the lower of billed charges or the rate established by the state agency competitive bidding process. North Dakota meets the certification requirements of Section 1902(a)(23) of the Social Security Act to permit the selection of one or more providers, through a competitive bidding process, to deliver eyeglasses on a statewide basis under the authority of Section 1915(a)(1)(B) of the Social Security Act and 42 CFR 431.54(d).