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**STATE/TERRIORITY NAME:            NEBRASKA**

**STATE PLAN AMENDMENT (SPA)#: 21-0015**

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

- 1) Approval Letter**
- 2) CMS 179 Form**
- 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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January 20, 2022

Kevin Bagley, Director  
Nebraska Department of Health and Human Services  
Division of Medicaid and Long-Term Care  
301 Centennial Mall South  
Lincoln, NE 68509

Re: Nebraska State Plan Amendment (SPA) 21-0015

Dear Mr. Bagley:

We reviewed your proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0015. This amendment provides coverage of claim payments for third party liability coverage.

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 Nebraska Medicaid SPA Transmittal Number 21-0015 is approved effective December 31, 2021.

If you have any questions, please contact Sandra Porter at 312-353-8310 or via email at [Sandra.Porter@cms.hhs.gov](mailto:Sandra.Porter@cms.hhs.gov).

Sincerely

A black rectangular box redacting the signature of James G. Scott.

Digitally signed by James G.  
Scott -S  
Date: 2022.01.20 15:11:06 -06'00'

James G. Scott, Director  
Division of Program Operations

Enclosures

cc: Matthew Ahern  
Dawn Kastens

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>	1. TRANSMITTAL NUMBER 2 1 — 0 0 1 5	2. STATE N E
	3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="checkbox"/> XIX <input type="checkbox"/> XXI	

TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE December 31, 2021
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5. FEDERAL STATUTE/REGULATION CITATION SSA Section 1902(a)(25)(E) SSA Section 1902(a)(25)(F)	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>2022</u> \$ <u>0</u> b. FFY <u>2023</u> \$ <u>0</u>
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7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Section 4.22, Page 69a Att. 4.22-B, Page 1	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Section 4.22, Page 69a (MS 94-12) Att. 4.22-B, Page 1 (MS 91-20)
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9. SUBJECT OF AMENDMENT  
Third Party Liability

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:  
 Governor has waived review

[REDACTED] OF STATE AGENCY OFFICIAL  11. TYPED NAME Kevin Bagley  12. TITLE Director, Division of Medicaid & Long-Term Care  13. DATE SUBMITTED December 22, 2021	15. RETURN TO Dawn Kastens Division of Medicaid & Long-Term Care Nebraska Department of Health and Human Services 301 Centennial Mall South Lincoln, NE 68509
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<b>FOR CMS USE ONLY</b>	
16. DATE RECEIVED December 22, 2021	17. DATE APPROVED January 20, 2022

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL December 31, 2021	19. SIGNATURE OF APPROVING OFFICIAL [REDACTED] Digitally signed by James G. Scott -S Date: 2022.01.20 15:11:53 -06'00'
20. TYPED NAME OF APPROVING OFFICIAL James G. Scott	AL Director, Division of Program Operations

22. REMARKS

Revision: HCFA-PM-94-1  
February 1994

(MB)

State/Territory: Nebraska

Citation

- 42 CFR 433.139(a)(1) and (2) (5) Describes the basic provisions the agency uses for claims involving third party liability and the methods that are used for payment of claims (e.g., cost avoidance, pay and recover later) which include, but are not limited to, the requirement to apply cost avoidance procedures for claims for prenatal services, including labor, delivery, and postpartum care services.
- 42 CFR 433.139(b)(3) through (i) (6) Describes the requirement to make payments without regard to potential third party liability for pediatric preventative services, unless a determination has been made related to cost-effectiveness and access to care that warrants cost avoidance for up to 90 days.
- 42 CFR 433.139(b)(3)  
(ii) (A) and (B) (c) Providers are required to bill liable third parties when services covered under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency and the state is required to make payment for the claim without regard to third party liability 100 days after the provider submits the claim to the liable third party, which has not been paid, unless a determination has been made related to cost-effectiveness and access to care at which time the payment can be made within 30 days.
- (d) ATTACHMENT 4.22-B specifies the following:
- 42 CFR 433.139(b)(3)  
(ii)(C) (1) The method used in determining a provider's compliance with the third party billing requirements at §433.139(b)(3)(ii)(C).
- 42 CFR 433.139(f)(2) (2) The threshold amount or other guideline used in determining whether to seek recovery of reimbursement from a liable third party, or the process by which the agency determines that seeking recovery of reimbursement would not be cost effective.
- 42 CFR 433.139(f)(3) (3) The dollar amount or time period the State uses to accumulate billings from a particular liable third party in making the decision to seek recovery of reimbursement.
- 42 CFR 447.20 (e) The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 447.20.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Nebraska

REQUIREMENTS FOR THIRD PARTY LIABILITY - PAYMENT OF CLAIMS

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1. PROVIDER BILLING

Providers are required to bill liable third parties when services covered under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency. However, the provider must indicate on the claims form or by attachment whether or not the third party was billed. Compliance with billing requirements is monitored by manual review of documentation.

2. PAYMENT OF CLAIMS

The state is required to apply cost avoidance procedures to claims for prenatal services, including labor, delivery, and postpartum care services.

The state is required to make payments without regard to potential TPL 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.

When services under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency, the state is required to make payment for the claim without regard to third party liability within 100 days after the provider submits the claim to the liable third party, which has not been paid, unless a determination has been made related to cost-effectiveness and access to care at which time the payment can be made within 30 days.

3. THRESHOLD FOR SEEKING RECOVERY

Health Insurance - Most recovery activity for health insurance is for services covered under the cost avoidance waiver. The Department uses a \$250 accumulated threshold as the waived services, if covered, are generally subject to deductibles/coinsurance under the health insurance plan. These reductions to anticipated recoveries do not make it cost effective to pursue amounts under this threshold.

Casualty Coverage - The Department uses a \$250 threshold in determining whether to pursue recovery after a liable third party has been identified.

4. CLAIM ACCUMULATIONS

Health Insurance - Claims generally accumulate for one year for purposes of determining whether to pursue recovery. However, the Department has the capability to continue to accumulate claims for the two calendar years prior to the current year and file for reimbursement of paid claims over one year old when appropriate.

Casualty Coverage - For purposes of the paid claim trauma code follow-up only, claims accumulate for a quarter.

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TN #. NE 21-0015

Supersedes

TN #. MS 91-20

Approval Date January 20, 2022

Effective Date December 31, 2021