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State/Territory Name: New Hampshire

State Plan Amendment (SPA) #: 23-0013

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
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

August 30, 2023

Lori A. Weaver
Commissioner
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301

Re: New Hampshire State Plan Amendment (SPA) 23-0013

Dear Commissioner Weaver:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 23-0013, entitled "*Clinic Services*." This amendment addresses the compliance concerns raised in the February 24, 2023 companion letter, for an April 1, 2023 effective date.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 42 C.F.R. §440.90; 1905(a)(7); 1905(a)(8); 1905(a)(10); 1905(a)(11); 1905(a)(90); and 1905(a)(13)(A) of the Social Security Act. This letter is to inform you that New Hampshire's Medicaid SPA Transmittal Number 23-0013 is approved on August 30, 2023, with an effective date of April 1, 2023.

If you have any questions, please contact Joyce Butterworth at 857-357-6375 or via email at Joyce.Butterworth@cms.hhs.gov.

Sincerely,



James G. Scott, Director
Division of Program Operations

Enclosures

cc: Henry Lipman, State Medicaid Director
Dawn Tierney, Medicaid Business and Policy

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| TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES | 1. TRANSMITTAL NUMBER <u>2</u> <u>3</u> — <u>0</u> <u>0</u> <u>1</u> <u>3</u> | 2. STATE <u>NH</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 <p style="text-align:center;">April 1, 2023</p> | |
| 5. FEDERAL STATUTE/REGULATION CITATION • 42 C.F.R. §440.90; 1905(a)(7); 1905(a)(8); 1905(a)(10); 1905(a)(11); 1905(a)(90); and 1905(a)(13)(A) of the Social Security Act | 6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>2023</u> \$ <u>0</u> b. FFY <u>2024</u> \$ <u>0</u> | |
| 7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 3.1-A, page 4a Attachment 3.1-B, page 4a Attachment 3.1-A page 3C Attachment 3.1-A page 3-b.1 Attachment 3.1-B page 4b Attachment 3.1-B page 3-b.1 | 8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 3.1-A, page 4a (TN 22-0051) Attachment 3.1-B, page 4a (TN 22-0051) Attachment 3.1-A page 3C (07-010) Attachment 3.1-A page 3-b.1 (20-0025) Attachment 3.1-B page 4b (19-0002) Attachment 3.1-B page 3-b.1 (20-0025) | |

9. SUBJECT OF AMENDMENT
Clinic Services

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

| | |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 11. [REDACTED] OFFICIAL | 15. RETURN TO Dawn I. Tierney Division of Medicaid Services - Brown Building 129 Pleasant Street Concord, NH 03301 |
| 12. TYPED NAME Ann H. Landry | |
| 13. TITLE Associate Commissioner | |
| 14. DATE SUBMITTED June 16, 2023 | |

FOR CMS USE ONLY

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|------------------------------------|--------------------------------------|
| 16. DATE RECEIVED June 16, 2023 | 17. DATE APPROVED August 30, 2023 |
|------------------------------------|--------------------------------------|

PLAN APPROVED - ONE COPY ATTACHED

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|----------------------------------------------------------|-----------------------------------------------------------------------------|
| 18. EFFECTIVE DATE OF APPROVED MATERIAL April 1, 2023 | 19. SIGNATURE OF APPROVING OFFICIAL [REDACTED] |
| 20. TYPED NAME OF APPROVING OFFICIAL James G. Scott | 21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations |

22. REMARKS
Comments, if any, will follow.

Pen & Ink change to boxes 5, 7 and 8 adding federal regulations and additional 3.1-A and 3.1-B pages along with superseded pages.

Pharmacist Services

Pharmacists who are licensed by the NH Board of Pharmacy shall be recognized as other licensed practitioners under 42 CFR 440.60 and shall be permitted to provide services in accordance with state scope of practice law for pharmacists. However, NH Medicaid covered services by pharmacists will be limited to (a) determining the need for COVID testing, (b) conducting the testing, and (c) administering COVID vaccines once a vaccine is available.

7. Home Health Services

Home health services are provided in accordance with 42 CFR 440.70 and include nursing services home health aide services, and the services specified in 7c and 7d. Home health services are provided to a recipient orders written by a physician, nurse practitioner, clinical nurse specialist or physician assistant, in accordance with state law, as part of a written plan of care that the ordering practitioner reviews every 60 days, except as specified in 42 CFR 440.70(b)(3). A face to face encounter, in accordance with 42 CFR 440.70(f), is required. Medicaid recipients do not have to be homebound in order to receive home health services. Home health services can be provided in any non-institutional setting in which normal life activities take place. Medical supplies, equipment and appliances suitable for use in any setting in which normal life activities take place are provided in accordance with physician review and other requirements as specified in 42 CFR 440.70(b)(3).

Home health agencies must meet the Medicare conditions of participation in 42 CFR Part 484.

Services cannot be provided in a hospital, nursing facility, or ICF-MR, except as allowed at 42 CFR 470.70(c).

7. Home Health Services (continued)

7c. Medical Supplies, Equipment and Appliances

Prior authorization is required for the purchase of most durable medical equipment. Repairs to power wheelchairs require prior authorization if the repairs total \$800 or more.

Prior authorization is required for disposable diapers and related incontinence supplies for recipients 21 years of age and older. Other medical supplies do not require prior authorization.

7d. Physical and Occupational Therapy, Speech Pathology and Audiology Services

When provided by a home health agency, visiting nurse association, or independent therapist, these services are limited to eighty (80), fifteen minute units per recipient per state fiscal year. The 80 units may be used for one type of therapy or in any combination of therapies. Services provided by a rehabilitation center are limited to twelve (12) visits per recipient per state fiscal year for all types of service, except therapies which are subject to the above limits.

The limits may be exceeded if prior authorization is granted from the Department based on medical necessity.

Physical, Occupational and Speech Pathology/Audiology Services are provided in accordance with the service and practitioner requirements of 42 CFR 440.110 and 42 CFR 440.70(b)(4).

8. Private Duty Nursing Services

Private duty nursing services which are covered are those provided by a registered or licensed practical nurse under the order and general direction of the patient's physician to a patient in his place of residence, not a long term care facility; or in locations other than the recipient's home when routine life activities take the patient outside of the home if the services would have otherwise been provided in the recipient's home. Prior authorization is required every sixty (60) days from the Department.

AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED

Title XIX – NH
Attachment 3.1-A
Page 4a

9. Clinic Services

Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that are provided to outpatients by a facility that is not a hospital but is organized and operated to provide medical care to outpatients. Out-of-state clinic services require a prior authorization when the following conditions are not met:

- Medical services are needed because of a medical emergency
- Medical services are needed and the beneficiary's health would be endangered if he were required to travel to his State of residence;
- The State determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other State;
- It is general practice for beneficiaries in a particular locality to use medical resources in another State

Such authorization may be given if substantiated by the attending physician's statement of medical necessity.

10. Dental Services

Recipients under age 21

Treatment covered for recipients under 21 includes: (a) prophylaxis every 150 days, (b) restorative treatment, (c) periodic examinations, no more frequently than every 150 days, unless they are medically necessary to diagnose an illness or condition, (d) vital pulpotomy, (e) extractions of symptomatic teeth associated with diagnosed pathology as documented in the provider's treatment record, (f) extractions of asymptomatic teeth subject to prior authorization, with the exception of third molars, (g) extractions of third molars associated with diagnosed pathology as documented in the provider's treatment record, and subject to prior authorization, (h) general anesthesia and nitrous oxide analgesia (i) orthodontic therapy subject to prior authorization, (j) x-rays including complete or panoramic every 5 years, bitewings every 12 months if medically necessary, and all types regardless of limits if required to complete a differential diagnosis, (k) palliative treatment, (l) topical fluoride treatment two times/year, (m) endodontia, including root canal therapy, (n) crowns, (o) periodontic treatment limited to prophylaxis, scaling, and root planing, (p) sealants for permanent and deciduous molars every 5 years, (q) surgical periodontal treatment subject to prior authorization, and (r) any other services that meet EPSDT medical necessity criteria as determined by the Department. Any limits to services do not apply to EPSDT recipients as long as medical necessity criteria as determined by the Department have been met.

Prior authorization from the Department is also required for (a) orthodontic therapy considered under the EPSDT medical necessity provisions, and (b) services not listed but identified in an EPSDT screening. Prior authorization for all orthodontic therapy is granted based upon substantiation of the meeting of conditions specified by the Department. Orthodontic therapy is covered only until the recipient reaches the age of 21.

Recipients age 21 and older

Treatment covered for recipients 21 and older includes: (a) diagnostic and preventive dental services, including an annual comprehensive oral examination, necessary X-rays or other imaging, prophylaxis, topical fluoride, oral hygiene instruction, behavior management and smoking cessation counseling; (b) comprehensive restorative treatment; (c) oral surgery and treatment necessary to relieve pain, eliminate infection, or prevent imminent tooth loss. The individual benefit shall be capped at \$1,500 per year, excluding preventive services.

11. Physical Therapy and Related Services (Occupational and Speech Therapy)

Services are provided in accordance with 42 CFR 440.110 and are limited to eighty (80) 15-minute units per recipient per state fiscal year. The eighty (80) units may be used for one type of therapy or in any combination of therapies in an outpatient setting. The limits may be exceeded if prior authorization is granted from the Department based on medical necessity.

Pharmacist Services

Pharmacists who are licensed by the NH Board of Pharmacy shall be recognized as other licensed practitioners under 42 CFR 440.60 and shall be permitted to provide services in accordance with state scope of practice law for pharmacists. However, NH Medicaid covered services by pharmacists will be limited to (a) determining the need for COVID testing, (b) conducting the testing, and (c) administering COVID vaccines once a vaccine is available.

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Limits may be exceeded if prior authorization is granted by the Department based on medical necessity.

Physical, Occupational and Speech Pathology/Audiology Services are provided in accordance with the service and practitioner requirements of 42 CFR 440.110 and 42 CFR 440.70(b)(4).

AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED

Title XIX – NH
Attachment 3.1-B
Page 4a

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Title XIX – NH
Attachment 3.1-B
Page 4b

11. **Physical Therapy and Related Services** (Occupational and Speech Therapy)

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12a. **Prescribed Drugs**

Co-payments for prescribed drugs are described in Section G, “Medicaid Premiums and Cost Sharing” of the state plan.

Maintenance medication, which is defined as legend or non-legend medication to be used for routine, continuous therapy for at least 120 days, shall be dispensed as follows:

- Solid oral drugs shall be dispensed as a minimum supply of 30 days and maximum supply of 90 days with the exception of oral contraceptives as described below; and
- Solid oral contraceptive drugs shall be dispensed as a minimum supply of 28 days and a maximum supply of 12 months.

Prior authorization is required for certain drugs appearing on a list maintained by the New Hampshire Department of Health and Human Services and update as necessary.

Per Section 1927(d)(5) of the Act, the prior authorization program provides a response by telephone or other telecommunication device within 24 hours of a request. In an emergency situation, the prior authorization program provides for the dispensing of at least a 72-hour supply of a covered drug.

TN No: 23-0013
Supersedes
TN No: 19-0002

Approval Date: 08/30/2023

Effective Date: 04/01/2023