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State/Territory: New Jersey

State Plan Amendment (SPA) #: 23-0007

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Center for Medicaid and CHIP Services

Disabled and Elderly Health Programs Group

May 23, 2023

Jennifer Langer Jacobs
Assistant Commissioner
NJ Department of Human Services
Division of Medical Assistance and Health Services
P.O. Box 712, Mail Code#26
Trenton, NJ 08625-0712

Dear Jennifer Langer Jacobs,

The CMS Division of Pharmacy team has reviewed New Jersey's State Plan Amendment (SPA) 23-0007 received in the CMS Medicaid & CHIP Operations Group on March 20, 2023. This SPA proposes to amend the language provisions for coverage of selective non-legend outpatient drugs. This SPA also updates additional Pharmacy coverage items on the State Plan pages.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 23-0007 is approved with an effective date of January 1, 2023. Our review was limited to the materials necessary to evaluate the SPA under applicable federal laws and regulations.

We are attaching a copy of the updated, signed CMS-179 form, as well as the pages approved for incorporation into New Jersey's state plan. If you have any questions regarding this amendment, please contact Terry Simananda at (410) 786-8144 or terry.simananda@cms.hhs.gov.

Sincerely,



Cynthia R. Denemark, R.Ph.
Acting Director
Division of Pharmacy

cc: Julie Hubbs, NJ Department of Human Services
Terri Fraser, CMS, NJ Medicaid State Lead

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

1. TRANSMITTAL NUMBER

2 3 — 0 0 0 7

2. STATE

NJ

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, 2023

5. FEDERAL STATUTE/REGULATION CITATION

42 C.F.R. 447

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2023 \$ 0
b. FFY 2024 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Addendum to Attachment 3.1-A Page 12(a).2
Addendum to Attachment 3.1-A Page 12(a).1
Addendum to Attachment 3.1-A Page 12(a).3

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

same

9. SUBJECT OF AMENDMENT

Medicaid coverage of non-legend outpatient drugs

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

12. TYPED NAME
Sarah Adelman

13. TITLE
Commissioner, Department of Human Services

14. DATE SUBMITTED
3/20/23

15. RETURN TO

Jennifer Langer Jacobs, Assistant Commissioner
Division of Medical Assistance and Health Services
P.O. Box 712, Mail Code #26
Trenton, NJ 08625-0712

FOR CMS USE ONLY

16. DATE RECEIVED
March 20, 2023

17. DATE APPROVED
May 23, 2023

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
January 1, 2023

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL
Cynthia R. Denemark, R.Ph.

21. TITLE OF APPROVING OFFICIAL
Acting Director, Division of Pharmacy

22. REMARKS

5/15/2023 - State authorized P&I change to Box 7 to add: Addendum to Attachment 3.1-A Page 12(a).1 and Page 12(a).3.

INSTRUCTIONS FOR COMPLETING FORM CMS-179

Use Form CMS-179 to transmit State plan material to the Center for Medicaid & CHIP Services for approval. Submit a separate typed transmittal form with each plan/amendment.

Block 1 - Transmittal Number - Enter the State Plan Amendment transmittal number. Assign consecutive numbers on a calendar year basis with the first two digits being the two-digit year (e.g., 21-0001, 21-0002, etc.). Because states have different state fiscal years, a calendar year is required for consistency.

Block 2 - State - Enter the two-letter abbreviation code of the State/District/Territory submitting the plan material.

Block 3 - Program Identification - Enter the applicable Title of the Social Security Act (Title XIX Medicaid or Title XXI CHIP).

Block 4 - Proposed Effective Date - Enter the proposed effective date of material. The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted. With respect to expenditures for assistance under such plan, the effective date may not be earlier than the first day on which the plan is in operation on a statewide basis or earlier than the day following publication of notice of changes.

Block 5 - Federal Statute/Regulation Citation - Enter the appropriate statutory/regulatory citation.

Block 6 - Federal Budget Impact - 6(a) - IN WHOLE DOLLARS, NOT IN THOUSANDS, Enter 1st Federal Fiscal Year (FFY) impacted by the SPA & estimated Federal share of the cost of the SPA for 1st FFY. The first FFY should be the FFY inclusive of the earliest effective date of any amended payment language; **6 (b)** - Enter 2nd FFY impacted by the SPA & estimated Federal share of the cost for 2nd FFY. In general, the estimates should include any amount not currently approved in the state's plan for assistance.

Block 7 - Page No.(s) of Plan Section or Attachment - Enter the page number(s) of plan material amended and transmitted. If additional space is needed, use bond paper. **New pages** should be included in Block 7, but not in Block 8.

Block 8 - Page No.(s) of the Superseded Plan Section or Attachment (if Applicable) - Enter the page number(s) (including the transmittal number) that is being superseded. If additional space is needed, use bond paper. **Deleted pages** should be included in Block 8, but not in Block 7.

Block 9 - Subject of Amendment - Briefly describe plan material being transmitted.

Block 10 - Governor's Review - Check the appropriate box. See SMM section 13026 A.

Block 11 - Signature of State Agency Official - Authorized State official signs this block.

Block 12 - Typed Name - Type name of State official who signed block 11.

Block 13 - Title - Type title of State official who signed block 11.

Block 14 - Date Submitted - Enter the date that the state transmits plan material to CMCS. Unless the state officially withdraws this SPA and then resubmits it, this date should not be revised. Documentation of version revisions will be maintained in the CMCS administrative record.

Block 15 - Return To - Type the name and address of State official to whom this form should be returned.

Block 16–22 (FOR CMS USE ONLY).

Block 16 - Date Received - Enter the date plan material is received by CMCS. This is the date that the submission is received by CMCS via the subscribed submission process.

Block 17 - Date Approved - Enter the date CMCS approved the plan material.

Block 18 - Effective Date of Approved Material - Enter the date the plan material becomes effective. If more than one effective date, list each provision and its effective date in Block 22 or attach a sheet.

Block 19 - Signature of Approving Official - Approving official signs this block.

Block 20 - Typed Name of Approving Official - Type approving official's name.

Block 21 - Title of Approving Official - Type approving official's title.

Block 22 - Remarks - Use this block to reference and explain agreed to changes and strike-throughs to the original CMS-179 as submitted, a partial approval, more than one effective date, etc. If additional space is needed, use bond paper.

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE OF NEW JERSEY
LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY**

For other drugs, an initial 30-days supply of medication may be dispensed by the pharmacy without prior authorization. During this 30-day period, the prescriber is contacted by the MEP Unit to request written justification for continuing drug therapy exceeding a PDUR standard. No payment shall be made beyond thirty (30) days without prior authorization. In emergencies, up to six (6) days supply of medication may be dispensed without prior approval.

In addition to the Mandatory Generic Drug Substitution and PDUR Programs, prior authorization is also required for anti-obesics or anorexics that may also be used for the treatment of Attention Deficit Hyperactivity Disorders (ADHD); methadone for pain management; and weight gain drugs.

The Medicaid agency does not provide coverage for the following covered outpatient drugs:

- (a) prescriptions not for medically accepted indications as defined in Section 1927(k)(6) of the Social Security Act;
- (b) experimental drugs;
- (c) Drug Efficacy Study Implementation (DESI) drugs found to be less than effective for all labeled indications
- (d) drugs for the treatment of erectile dysfunction, as set forth in 42 U.S.C. § 1396r-8(d)(2)(K), on and after January 1, 2006, unless such drugs are used to treat conditions other than sexual or erectile dysfunction and these uses have been approved by the Food and Drug Administration;
- (e) any bundled drug service, unless authorized by the Commissioner;

23-0007-MA (NJ)

TN: 23-0007

Approval Date: May 23, 2023

Supersedes: 11-03

Effective Date: January 1, 2023

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE OF NEW JERSEY
LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY**

- (f) Pharmaceuticals or prescription drugs whose use is to promote or enhance fertility;
- (g) agents when used for anorexia or weight loss ;
- (h) legend drugs that have an over-the-counter equivalent for beneficiaries 21 years of age or older without prior authorization.

Selective non-legend outpatient drugs for all eligible beneficiaries will be covered as listed on the state's website.

23-0007-MA (NJ)

TN: 23-0007
Supersedes: 14-01

Approval Date: May 23, 2023
Effective Date: January 1, 2023

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE OF NEW JERSEY

**LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF SERVICES PROVIDED
TO THE CATEGORICALLY NEEDY**

Covered outpatient drugs are limited to those drug products manufactured by drug companies that have entered into and comply with the federal Medicaid Drug Rebate Agreement, as provided under Section 1927(a) through (c) of the Act, which are prescribed for a medically accepted diagnostic indication (as provided by Section 1927(d) of the Act.

With the exception of the Mandatory Generic Drug Substitution Program, the Medicaid agency shall provide coverage for up to six (6) days emergency supply of medications without prior authorization when authorization is required.

Effective January 1, 2006, the Medicaid agency does not cover any Part D-covered drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B.

The Medicaid agency provides outpatient drug coverage for the following Medicare Part D excluded or otherwise restricted drugs or classes of drugs, or their medical uses, for all full benefit dual eligibles:

- (a) legend vitamins and mineral products

23-0007-MA (NJ)

TN: 23-0007-MA

Approval Date: May 23, 2023

Supersedes: 14-01-MA

Effective Date: January 1, 2023