

Table of Contents

State/Territory Name: New York

State Plan Amendment (SPA)#: 24-0073

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

- 1) Approval Letter
- 2) CMS 179 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



Medicaid Benefits and Health Programs Group

November 20, 2024

Amir Bassiri
New York State Department of Health
Division of Finance and Rate Setting
99 Washington Ave- One Commerce Plaza
Suite 1432
Albany, NY 12210

Dear Director Bassiri,

We have reviewed New York's State Plan Amendment (SPA) 24-0073 received in the Centers for Medicare and Medicaid Services (CMS) OneMAC application on September 18, 2024. This SPA amends the State Plan for coverage of drugs authorized for import by the Food and Drug Administration when medically necessary during drug shortages.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that NY-24-0073 is approved with an effective date of August 1, 2024.

We are attaching a copy of the signed CMS-179 form, as well as the pages approved for incorporation into New York's state plan. If you have any questions regarding this amendment, please contact Whitney Swears at 410-786-6543 or via email at Whitney.Swears@cms.hhs.gov.

Sincerely,

A solid black rectangular box used to redact the signature of Cynthia R. Denemark.

Cynthia R. Denemark
Director
Division of Pharmacy

cc: Regina Deyette, New York State Department of Health
Kimberly Leonard, New York State Department of Health
Michelle Levesque, New York State Department of Health
Bonny DeCastro, New York State Department of Health
Melvina Harrison, CMS, Medicaid and CHIP Operations Group

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

1. TRANSMITTAL NUMBER

2 4 — 0 0 7 3

2. STATE

N Y3. 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

August 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION

§ 1905(a)(12) Prescribed Drugs, Dentures, Prosthetic Devices; and
Eyeglasses

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 08/01/24-09/30/24 \$ 0b. FFY 10/01/24-09/30/25 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1-A Supplement: Page 2(c.1)

Attachment 3.1-B Supplement: Page 2(c.1)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION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

Attachment 3.1-A Supplement: Page 2(c.1)

Attachment 3.1-B Supplement: Page 2(c.1)

9. SUBJECT OF AMENDMENT

Coverage of Prescribed Drugs in Cases of a Drug Shortage

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

Amir Bassiri

13. TITLE

Medicaid Director

14. DATE SUBMITTED September 18, 2024

15. RETURN TO

New York State Department of Health
Division of Finance and Rate Setting
99 Washington Ave – One Commerce Plaza
Suite 1432
Albany, NY 12210**FOR CMS USE ONLY**16. DATE RECEIVED
September 18, 202417. DATE APPROVED
November 20, 2024**PLAN APPROVED - ONE COPY ATTACHED**18. EFFECTIVE DATE OF APPROVED MATERIAL
August 1, 202419.  TIAL

20. TYPED NAME OF APPROVING OFFICIAL

Cynthia R. Denemark

21. TITLE OF APPROVING OFFICIAL

Director, Division of Pharmacy

22. REMARKS

**New York
2(c.1)**

1905(a)(12) Prescribed Drugs, Dentures, and Prosthetic Devices; and Eyeglasses

8. The State will cover APIs that are included in extemporaneously compounded prescriptions when the API serves as the active drug component in the compounded formulation. A current list of covered APIs can be found at the following at:

<https://www.emedny.org/info/formfile.aspx>

9. Drug Shortages: Prescribed drugs that are not covered outpatient drugs (including drugs authorized for import by the Food and Drug Administration) are covered when medically necessary during drug shortages identified by the Food and Drug Administration.

13c. Preventive Services

New York State Medicaid covers and reimburses all United States Preventive Services Task Force (USPSTF) grade A and B preventive services and approved vaccines recommended by the Advisory Committee on Immunization Practices (ACIP), and their administration, without cost-sharing, when provided in a practitioner's office.

Preventive Services specified in section 4106 of the Affordable Care Act are all available under the State Plan and are covered under the physician, other practitioner, nurse-midwife and nurse practitioner service benefits and are reimbursed according to the methodologies provided in Attachment 4.19-B.

The State will maintain documentation supporting expenditures claimed for these Preventive Services and ensure that coverage and billing codes comply with any changes made to the USPSTF or ACIP recommendations.

Lactation Consultant Services

Effective April 1, 2021, evidence-based breastfeeding education and lactation counseling consistent with the United States Preventive Services Task Force (USPSTF) recommendation will be covered as a preventive service to prevent adverse outcomes and promote health of infants. Qualified providers include licensed physicians, licensed physician assistants, licensed pediatric or family nurse practitioners, licensed midwives, and licensed registered nurses. All practitioners must be certified as lactation educators/counselors by a nationally recognized accrediting agency.

Breastfeeding education and lactation counseling services must be recommended by a physician or other licensed practitioner of the healing arts acting within his or her scope of practice under state law.

TN **#24-0073** **Approval Date** **November 20, 2024**
Supersedes TN **#21-0014** **Effective Date** **August 1, 2024**

**New York
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1905(a)(12) Prescribed Drugs, Dentures, and Prosthetic Devices; and Eyeglasses

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