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State/Territory Name: Ohio

State Plan Amendment (SPA) #: OH-23-0008

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Page

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 19, 2023

Maureen M. Corcoran, Director
Ohio Department of Medicaid
P.O. Box 182709
50 West Town Street, Suite 400
Columbus, OH 43215

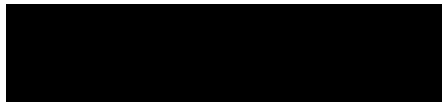
Dear Maureen Corcoran:

The CMS Division of Pharmacy team has reviewed Ohio's State Plan Amendment (SPA) 23-0008, received in the CMS Division of Program Operations on March 23, 2023. This SPA proposes to update the coverage language for nonprescription drugs.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that OH-23-0008 is approved with an effective date of April 1, 2023. We are attaching a copy of the signed CMS-179 form, as well as the page approved for incorporation into Ohio's state plan.

If you have any questions regarding this state plan amendment, please contact Patti Nussle at Patricia.Nussle@cms.hhs.gov.

Sincerely,



Mickey Morgan
Acting Deputy Director
Division of Pharmacy

cc: Rebecca Jackson, Ohio Department of Medicaid
Gregory Niehoff, Ohio Department of Medicaid
Tiffany Williams, Ohio Department of Medicaid
Sean Eckard, Ohio Department of Medicaid
Christine Davidson, 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 3 — 0 0 8

2. STATE
OH

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
04/01/2023

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 440, 441, and 447; 42 U.S.C. 1396r-8

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
Attachment 3.1-A, Item 12-a, Page 2

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
Attachment 3.1-A, Item 12-a, Page 2 (TN 21-033)

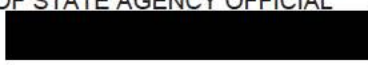
9. SUBJECT OF AMENDMENT

Prescribed Drugs: Clarifying location of current listing of covered nonprescription 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:
The State Medicaid Director is the Governor's designee

11. SIGNATURE OF STATE AGENCY OFFICIAL


12. TYPED NAME MAUREEN M. CORCORAN

13. TITLE STATE MEDICAID DIRECTOR

14. DATE SUBMITTED March 23, 2023

15. RETURN TO

Tiffany Williams
Ohio Department of Medicaid
P.O. BOX 182709
Columbus, Ohio 43218


FOR CMS USE ONLY

16. DATE RECEIVED
March 23, 2023

17. DATE APPROVED
May 19, 2023

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
April 1, 2023

19. SIGNATURE OF APPROVING OFFICIAL


20. TYPED NAME OF APPROVING OFFICIAL
Mickey Morgan

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

22. REMARKS

The state may negotiate value-based supplemental drug rebates in addition to the federal rebates provided for in Title XIX and the supplemental rebates described in Item 12-a above. Rebate agreements between the state and a pharmaceutical manufacturer will be separate from federal rebates.

CMS has authorized the state of Ohio to enter into value-based supplemental rebate agreements with drug manufacturers for drugs provided to Medicaid beneficiaries. The “Ohio Department of Medicaid Value-Based Supplemental Rebate Agreement” submitted to CMS on November 29, 2021, has been authorized for pharmaceutical manufacturers’ new agreements and renewals.

Savings recognized from value-based supplemental rebate agreements in excess of those required under the national drug rebate agreement will be shared with the federal government on the percentage basis required by law.

Provisions related to Medicare Part D Prescription Drug Coverage

Pursuant to Section 1935(d)(1) of the Social Security Act, effective January 1, 2006, the Medicaid agency will not cover any Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B.

Pursuant to Sections 1927(d)(2) and 1935(d)(2) of the Social Security Act, the Medicaid agency provides coverage for the following Medicare-excluded or otherwise restricted drugs or classes of drugs, or their medical uses to all Medicaid recipients, including full benefit dual eligible beneficiaries under the Medicare Prescription Drug Benefit –Part D.

The following drugs, which are subject to restriction under Section 1927(d)(2) of the Social Security Act, are covered:

- (a) agents when used for anorexia, weight loss, or weight gain
- (b) agents when used to promote fertility
- (c) agents when used for the symptomatic relief of cough and colds
- (d) prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations
- (e) nonprescription drugs (selected nonprescription drugs for all eligible beneficiaries are covered as listed in the “Covered OTC List” that can be found on the Ohio Department of Medicaid Pharmacy Program website.)
- (f) covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee
- (g) Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.