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State/Territory Name: South Dakota

State Plan Amendment (SPA) #: 22-0012

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

December 5, 2022

Sarah Aker
Director
South Dakota Department of Social Services
Division of Medical Services
700 Governors Drive
Pierre, South Dakota 57501-2291

Dear Sarah Aker:

The CMS Division of Pharmacy team has reviewed South Dakota's State Plan Amendment (SPA) 22-0012 received in the CMS Medicaid & CHIP Operations Group on October 11, 2022. This SPA proposes to allow the state to participate in the Sovereign States Drug Consortium supplemental drug rebate program.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 22-0012 is approved with an effective date of October 1, 2022. We are attaching a copy of the signed CMS-179 form, as well as the page approved for incorporation into South Dakota's state plan.

If you have any questions regarding this amendment, please contact Lisa Shochet at (410) 786-5445 or lisa.shochet@cms.hhs.gov.

Sincerely,



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

cc: Laurie R. Gill, Cabinet Secretary, SD Department of Social Services
Matthew Ballard, Deputy Director, SD Division of Medical Services
Renaee Hericks, Policy and Programs Manager, SD Department of Social Services
Mandy Strom, CMS

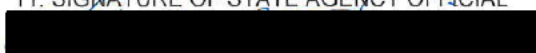
TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>2 2 — 0 0 1 2</u>	2. STATE <u>SD</u>
	3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE <u>October 1, 2022</u>	
5. FEDERAL STATUTE/REGULATION CITATION <u>Section 1927(a)(1) and 1927(a)(4) of the Social Security Act</u>	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 <u>Supplement to Attachment 3.1-A, Page 20</u>	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) <u>Supplement to Attachment 3.1-A, Page 20 (TN 12-14)</u>	

9. SUBJECT OF AMENDMENT
Allows the Department to participate in the Sovereign States Drug Consortium for supplemental drug rebate negotiations.

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

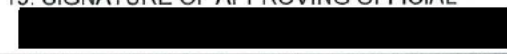
OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL 	15. RETURN TO DEPARTMENT OF SOCIAL SERVICES DIVISION OF MEDICAL SERVICES 700 GOVERNORS DRIVE PIERRE, SD 57501-2291
12. TYPED NAME <u>Laurie R. Gill</u>	
13. TITLE <u>Cabinet Secretary</u>	
14. DATE SUBMITTED <u>October 11, 2022</u>	

FOR CMS USE ONLY

16. DATE RECEIVED	17. DATE APPROVED
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL	19. SIGNATURE OF APPROVING OFFICIAL 
20. TYPED NAME OF APPROVING OFFICIAL	21. TITLE OF APPROVING OFFICIAL

22. REMARKS

SUPPLEMENT TO ATTACHMENT 3.1-A

12a. Prescribed Drugs

Any covered outpatient drug may be subject to prior authorization, and the agency maintains a list of drugs requiring prior authorization. Prescribing physicians, pharmacists, and/or designated representatives may contact the Medicaid Prior Authorization Unit via 1-800 phone or fax lines, mail or encrypted e-mail to request prior authorization. The program will issue responses within 24 hours of the request. Pharmacies may dispense a 72-hour supply of a prior authorized product in the event of an emergency. The program complies with requirements set forth in OBRA 1990 and 1993 pertaining to prior authorization programs.

Supplemental Rebates

Pursuant to Section 1927 of the Act, the State has the following policies for Medicaid supplemental rebates:

South Dakota participates in the Sovereign States Drug Consortium (SSDC) Medicaid multi-State purchasing pool. SSDC will negotiate supplemental rebates for South Dakota. The state retains all options to accept or reject offers. Drugs of manufacturers who do not participate in the supplemental rebate program will still be available to Medicaid recipients.

A model rebate agreement between the state and a drug manufacturer for drugs provided to the Medicaid population, submitted to the Centers for Medicare & Medicaid Services (CMS) with SPA TN # 22-0012, and entitled "SSDC South Dakota Medicaid Supplemental Drug Rebate Agreement" has been authorized by CMS. Any substantive modification to the agreement will be submitted to CMS for authorization.

Per Section 1927 (b)(3)(D) of the Social Security Act the unit rebate amount is confidential and cannot be disclosed. Funds received from supplemental rebate agreements will be reported to CMS. The state will remit the federal portion of any supplemental rebates collected.

Excluded Items

The program does not cover the following items:

1. Delivery charges;
2. Agents when used for the treatment of sexual or erectile dysfunction;
3. Items manufactured by a firm that has not signed a rebate agreement with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services;
4. Drugs and biologicals which the federal government has determined to be less than effective;
5. Experimental items;
6. Over-the-counter items limited to non-sedating anti-histamines and smoking cessation drugs for pregnant women.

The program does not cover any Medicare Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B. (See **Attachment 3.1-A.1** for specific coverage.)