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State/Territory Name: South Dakota

State Plan Amendment (SPA) #: SD-23-0010

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 25, 2023

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

Dear Sarah Aker:

The CMS Division of Pharmacy team has reviewed South Dakota's State Plan Amendment (SPA) 23-0010, received in the CMS Division of Program Operations on May 1, 2023. This SPA proposes to update the coverage language for over-the-counter drugs.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SD-23-0010 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 South Dakota's state plan.

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

Sincerely,

A black rectangular redaction box covers the signature of Cynthia R. Denemark.

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

cc: Laurie R. Gill, SD Department of Social Services
Matthew Ballard, Deputy Director, SD Division of Medical Services
Renaee Hicks, Policy and Programs Manager, SD Department of Social Services
Mike Jockheck, Pharmacist, SD Pharmacy Program
Mandy Strom, CMS, Medicaid and CHIP Operations Group


TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>2 3 — 0 0 1 0</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 April 1, 2023	
5. FEDERAL STATUTE/REGULATION CITATION Sec. 1927(d) 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 Supplement to Attachment 3.1-A	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Supplement to Attachment 3.1-A, Page 20 (TN 22-0012)	

9. SUBJECT OF AMENDMENT
The proposed State Plan Amendment revises the over-the-counter (OTC) drug coverage language as recommended by Centers for Medicare and Medicaid Services (CMS)

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  Sarah Aker	15. RETURN TO DEPARTMENT OF SOCIAL SERVICES DIVISION OF MEDICAL SERVICES 700 GOVERNORS DRIVE PIERRE, SD 57501-2291
13. TITLE Medicaid Director	
14. DATE SUBMITTED May 1, 2023	

FOR CMS USE ONLY

16. DATE RECEIVED May 1, 2023	17. DATE APPROVED May 25, 2023
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL April 1, 2023	19. SIGNATURE OF APPROVING OFF 
20. TYPED NAME OF APPROVING OFFICIAL Cynthia R. Denemark, R.Ph.	21. TITLE OF APPROVING OFFICIAL Acting Director, Division of Pharmacy

22. REMARKS

Instructions on Back

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.

Over-the-Counter Drugs

Select over-the-counter (OTC) drugs are covered. The list of covered OTC drugs can be found in the Pharmacy Provider Manual.

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.

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.)