

Table of Contents

State/Territory Name: Virginia

State Plan Amendment (SPA)#: 23-0006

This file contains the following documents in the order listed

- 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



Center for Medicaid and CHIP Services
Disabled and Elderly Health Programs Group

May 18, 2023

Cheryl Roberts
State Medicaid Director, Virginia Department of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Dear Cheryl Roberts,

The CMS Division of Pharmacy team has reviewed Virginia's State Plan Amendment (SPA) 23-0006 received in the CMS Medicaid & CHIP Operations Group on April 24, 2023. This SPA proposes to update coverage for selective non legend drugs and remove language related to home infusion therapy from the Pharmacy 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 VA-23-0006 is approved with an effective date of April 1, 2023. We are attaching a copy of the signed, revised CMS-179 form, as well as the pages approved for incorporation into Virginia's state plan.

If you have any questions regarding this request, please contact Michael Forman at 410-786-2666 or michael.forman@cms.hhs.gov.

Sincerely,



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

Cc: Meredith Lee, Virginia Department of Medical Assistance Services
Mary Ann McNeil, Virginia Department of Medical Assistance Services
Margaret H. Kosherzenko, CMS, Medicaid & 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 0 6

2. STATE

V A

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL

SECURITY ACT ☒ XIX ☐ XXI

4. PROPOSED EFFECTIVE DATE

4/1/2023

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. FEDERAL STATUTE/REGULATION CITATION

Section 1927 of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

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

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

3.1 A&B Supp 1, revised pages 20 and 26.1

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION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

Same as box #7.

9. SUBJECT OF AMENDMENT

Update OTC drug coverage and remove language related to home infusion therapy from the Pharmacy State Plan pages.

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:
Secretary of Health and Human Resources

11. SIGNATURE OF APPROVING OFFICIAL

12. TYPED NAME
Cheryl Roberts13. TITLE
Agency Director14. DATE SUBMITTED
April 24, 2023

15. RETURN TO

Department of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Policy, Regulations, and Manuals Supervisor

FOR CMS USE ONLY16. DATE RECEIVED
April 24, 202317. DATE APPROVED
May 18, 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
Cynthia R. Denemark, R.Ph.21. TITLE OF APPROVING OFFICIAL
Acting Director, Division of Pharmacy

22. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY and MEDICALLY NEEDY**

12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

A. Prescribed drugs.

1. Drugs for which Federal Financial Participation is not available, pursuant to the requirements of §1927 of the Social Security Act (OBRA '90 §4401), shall not be covered.
2.
 - a. Selective non legend drugs shall be covered by Virginia Medicaid and published in Chapter 4 of the Pharmacy Provider Manual.
 - b. Designated drugs prescribed by a licensed prescriber to be used as less expensive therapeutic alternatives to covered legend drugs. A list of specific covered drug categories is published in Chapter 4 of the Pharmacy Provider Manual.
3. Contraceptives may be covered for up to a 12-month supply.
4. Select maintenance legend and non-legend drugs may be covered for a maximum of a 90-day supply per prescription per patient after two 34-day or shorter duration fills. The drugs or classes of drugs identified in Supplement 5 to Attachment 3.1 A&B and all other covered drugs are covered for a maximum of a 34-day supply per prescription. FDA- approved drug therapies and agents for weight loss, when preauthorized, will be covered for recipients who meet the strict disability standards for obesity established by Social Security Administration in effect on April 7, 1999, and whose condition is certified as life threatening, consistent with the Department of Medical Assistance Services' medical necessity requirements, by the treating physician.
5. Prescriptions for Medicaid recipients for multiple source drugs subject to 42 CFR 447.332 shall be filled with generic drug products unless the physician or other practitioner so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written or unless the drug class is subject to the Preferred Drug List.

TN No. 23-0006

Supersedes

TN No. 21-014Approval Date 05-18-2023Effective Date 4-1-2023

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**AMOUNT, DURATION, AND SCOPE OF MEDICAL
AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY
and MEDICALLY NEEDY**

- e. State supplemental rebates. The Department has the authority to seek supplemental rebates from pharmaceutical manufacturers. In addition to collecting supplemental rebates for fee-for-service claims, the Department may, at its option, also collect supplemental rebates for Medicaid Member utilization through MCOs under an agreement. Supplemental rebate agreements shall be separate from the federal rebates and in compliance with federal law, §§ 1927(a)(1) and 1927(a)(4) of the *Social Security Act* (Act). All rebates collected on behalf of the Commonwealth shall be collected for the sole benefit of the state share of the costs.
- f. Pursuant to 42 U.S.C. § 1396r-8(b)(3)(D), information disclosed to the Department or to the Committee by a pharmaceutical manufacturer or wholesaler which discloses the identity of a specific manufacturer or wholesaler and the pricing information regarding the drugs by such manufacturer or wholesaler is confidential and shall not be subject to the disclosure requirements of the Virginia Freedom of Information Act (§[2.2-3700](#) *et seq.* of the Code of Virginia).
- g. Appeals for denials of prior authorization shall be addressed pursuant to 12VAC30-110, Part I, Client Appeals.

12b. Dentures.

- A. Provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

TN No. 23-0006Approval Date 05-18-2023Effective Date 4-1-2023

Supersedes

TN No. 19-015