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State Name: Virginia

State Plan Amendment (SPA) #: 23-0009

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS-179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

September 22, 2023

Cheryl J. Roberts, Director
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, VA 23219

Re: Virginia State Plan Amendment 23-0009

Dear Ms. Roberts:

The Centers for Medicare & Medicaid Services (CMS) has reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 23-0009. This amendment removes the federal requirement that practitioners obtain a DATA-Waiver or X-Waiver to prescribe medications, like buprenorphine, to treat patients with opioid use disorder, in accordance with Section 1262 of the Consolidated Appropriations Act, 2023. Providers who have a current license to practice and a Drug Enforcement Administration (DEA) registration authorizing the prescribing of Schedule III drugs may prescribe buprenorphine for the treatment of opioid use disorder or pain management.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations Section 1262 of the Consolidated Appropriations Act, 2023. This letter is to inform you that Virginia Medicaid SPA 23-0009 was approved on September 21, 2023, with an effective date of April 1, 2023.

If you have any questions, please contact Margaret Kosherzenko at 215-861-4288 or via email at Margaret.Kosherzenko@cms.hhs.gov.

Sincerely,

Ruth A. Hughes, Acting Director
Division of Program Operations

cc: Emily McClellan

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

1. TRANSMITTAL NUMBER <u>2</u> <u>3</u> — <u>0</u> <u>0</u> <u>0</u> <u>9</u>	2. STATE <u>V</u> <u>A</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
4/1/2023

5. FEDERAL STATUTE/REGULATION CITATION
Section 1262 of the Consolidated Appropriations Act, 2023

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
Attachment 3.1- A&B, Supplement 1, revised pages 43, 45, 47, 48, 51 & 53

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
Same as box #7.

9. SUBJECT OF AMENDMENT
Removal of DATA Waiver (X-Waiver)

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 STATE AGENCY OFFICIAL

12. TYPED NAME
Cheryl Roberts

13. TITLE
Director

14. DATE SUBMITTED
May 30, 2023

15. RETURN TO
Department of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn:

FOR CMS USE ONLY

16. DATE RECEIVED <u>June 30, 2023</u>	17. DATE APPROVED <u>09/21/2023</u>
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL <u>April 1, 2023</u>	19. SIGNATURE OF APPROVING OFFICIAL
20. TYPED NAME OF APPROVING OFFICIAL <u>Ruth A. Hughes</u>	21. TITLE OF APPROVING OFFICIAL <u>Acting Director, Division of Program Operations</u>

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**

"Clinical Supervision" for CSACs means the ongoing process performed by a clinical supervisor who is credentialed as defined in regulations of the Virginia Board of Counseling.

"Physician extenders" means licensed nurse practitioners and licensed physician assistants as defined in state law.

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**AMOUNT, DURATION, AND SCOPE OF MEDICAL
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2. Opioid Treatment Programs (OTP)

<i>Service Component Definitions – Opioid Treatment Programs</i>	<i>Staff That Provide Service Components</i>
Conduct or arrange for appropriate laboratory and toxicology tests including urine drug screenings.	Physicians and physician extenders; Credentialed addiction professional trained in the treatment of opioid use disorder
Assess, order, administer, reassess, and regulate medication and dose levels appropriate to the member; supervise withdrawal management from opioid analgesics, including methadone, buprenorphine products or naltrexone products; and oversee and facilitate access to appropriate treatment for opioid use disorder.	Physicians and physician extenders; Credentialed addiction professional trained in the treatment of opioid use disorder
Provide cognitive, behavioral psychotherapy and other substance use disorder-focused counseling provided to the member on an individual, group, or family basis.	Credentialed addiction treatment professional, CSAC, CSAC-supervisee
Provision of onsite screening or ability to refer for screening for infectious diseases such as HIV, Hepatitis B and C, and tuberculosis at treatment initiation and then at least annually or more often based on risk factors. Ability to provide or refer for treatment for infectious diseases as necessary.	Physicians and physician extenders, credentialed addiction professional, Registered Nurse, or Licensed Practical Nurse
Medication administration on site during the induction phase must be provided by a Registered Nurse. Medication administration during the maintenance phase may be provided either by a RN or Licensed Practical Nurse.	Physician, Pharmacist, Nurse Practitioner, Physician Assistant, Registered Nurse, or Licensed Practical Nurse
<p>OTP risk management shall include the following activities which must be clearly and adequately documented in each member's record:</p> <ul style="list-style-type: none"> • Random urine drug screening for all members, conducted at least eight times during a 12 month period. Urine drug testing (UDT) is used as part of a comprehensive treatment program to assist with recovery and to restore an individual to health. UDT is used in SUD treatment to determine if the patient is taking medication as prescribed and to assess if the patient is taking other medications which may have a higher risk of overdose when taken with medications for opioid use disorder. • Opioid overdose prevention counseling including the prescribing of naloxone. 	Physician, Physician Extender, Pharmacist, Registered Nurse or Licensed Practical Nurse

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2. Preferred Office-Based Addiction Treatment (OBAT)

Service Definition: a service provided under 42 CFR 440.130(d) Rehabilitative Services Benefit for individuals with a primary diagnosis from the most current Diagnostic and Statistical Manual of Mental Disorders for substance-related and addictive disorders, with the exception of tobacco-related disorders and non-substance-related addictive disorders, marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use, is seeking treatment for the use of, or is in active recovery from the use of alcohol or other drugs despite significant related problems. Services are provided by physicians or physician extenders working in collaboration with credentialed addiction treatment practitioners providing psychosocial counseling in public and private practice settings that encompasses pharmacological and nonpharmacological treatment modalities.

From October 1, 2020, through September 30, 2025, the state assures that Medication Assisted Treatment (MAT) to treat Opioid Use Disorder (OUD) as defined at section 1905(ee)(1) of the Social Security Act (the Act) is covered exclusively under section 1905(a)(29) of the Act.

<i>Service Component Definitions—Preferred Office-Based Addiction Treatment</i>	<i>Staff That Provide Service Components</i>
Assessing, ordering, administering, reassessing, and regulating medication and dose levels appropriate to the individual who is withdrawing from alcohol; supervising withdrawal management from alcohol and other non-opioid substances; and overseeing and facilitating access to appropriate treatment for alcohol use disorder and other substance use disorders (SUD) other than OUD. The medications approved by the U.S. Food and Drug Administration to treat alcohol use disorder: acamprosate, disulfiram, and naltrexone.	Physicians and physician extenders; and Credentialed addiction treatment professional
Provide cognitive, behavioral psychotherapies, and other substance use disorder-focused counseling shall be provided to the individual on an individual, group, or family basis and shall be provided in collaboration with the physician or physician extender. This does not apply to opioid counseling as part of the MAT benefit. Family counseling service that involves the participation of a non-Medicaid eligible is for the direct benefit of the beneficiary. The service must actively involve the beneficiary in the sense of being tailored to the beneficiary’s individual needs. There may be times when, based on clinical judgment, the beneficiary is not present during the delivery of the service, but remains the focus of the service.	Credentialed Addiction Treatment Professional, CSAC, CSAC-supervisee.

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<p>Provision of onsite screening or the ability to refer for screening for infectious diseases such as HIV, Hepatitis B and C, and tuberculosis at treatment initiation and then at least annually or more often based on risk factors for individuals with SUD other than OUD. Ability to provide or refer for treatment for infectious diseases as necessary.</p>	<p>Physicians and physician extenders, credentialed addiction treatment professional, Pharmacist, Registered Nurse, or Licensed Practical Nurse.</p>
<p>OBAT risk management shall be documented in each individual's record and shall include:</p> <ul style="list-style-type: none">• Random presumptive urine drug testing for non-opioid SUD treatment for all individuals, conducted at a minimum of eight times per 12 month period. Urine drug testing (UDT) is used as part of a comprehensive treatment program to assist with recovery and to restore an individual to health. UDT is used in SUD treatment to determine if the patient is taking medication as prescribed and to assess if the patient is taking other medications which may have a higher risk of overdose.• Overdose prevention counseling including the prescribing of naloxone.	<p>Physician, Physician Extender, Pharmacist, Registered Nurse, or Licensed Practical Nurse licensed by the state</p>

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<p>Psychoeducational substance use disorder counseling means: (i) a specific form of counseling aimed at helping individuals who have a substance use disorder or mental illness and their family members or caregivers to access clear and concise information about substance use disorders or co-occurring substance use disorder and mental illness and (ii) a way of accessing and learning strategies to deal with substance use disorders or co-occurring substance use and mental illness and its effects in order to design effective treatment plans and strategies.</p>	<p>Credentialed addiction treatment professional, CSAC, CSAC-supervisee</p>
<p>Medication Management means counseling on the role of prescription medications and their effects including side effects; the importance of compliance and adherence; and monitoring the use and effects of medications. Assistance with medication management is only available to parents and guardians when it is for the direct benefit of the child and if the child is present.</p>	<p>Credentialed addiction treatment professional A registered nurse or a practical nurse who is licensed by the Commonwealth with experience involving medication management.</p>
<p>24-hour crisis services means immediate behavioral health care, available 24-hours per day, seven days per week, to provide immediate assistance to individuals experiencing acute behavioral health problems that require immediate intervention to prevent harm and higher levels of acuity.</p>	<p>Credentialed addiction treatment professional</p>
<p>Withdrawal Management services as necessary; the extent to which withdrawal management is needed for specific classes of drugs is determined. Additionally, medical decision-making by the addiction specialist physician includes determining whether, for a patient in acute withdrawal, the indicated intervention is acute management of the withdrawal syndrome or induction into agonist, partial agonist, or antagonist maintenance therapy. Thus, if the patient is to be placed on ongoing treatment with an agonist or partial agonist, then he or she should not be placed on a withdrawal regimen for that class of drugs, though other withdrawal management interventions may be indicated for other classes of drugs.</p>	<p>Physicians and Physician extenders</p>
<p>Medication for Opioid Use Disorder (MOUD) and Alcohol Use Disorder shall be provided onsite or through referral.</p>	<p>Physicians and physician extenders</p>

Limits on amount, duration, and scope: Intensive outpatient services require service authorization.

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<p>Medication Management means counseling on the role of prescription medications and their effects including side effects; the importance of compliance and adherence; and monitoring the use and effects of medications. Assistance with medication management is only available to parents and guardians when it is for the direct benefit of the child and if the child is present.</p>	<p><u>Physicians and physician extenders</u> Credentialed addiction treatment professional</p>
<p>Withdrawal management services as necessary; the extent to which withdrawal management is needed for specific classes of drugs is determined. Additionally, medical decision-making by the addiction specialist physician includes determining whether, for a patient in acute withdrawal, the indicated intervention is acute management of the withdrawal syndrome or induction into agonist, partial agonist, or antagonist maintenance therapy. Thus, if the patient is to be placed on ongoing treatment with an agonist or partial agonist, then he or she should not be placed on a withdrawal regimen for that class of drugs, though other withdrawal management interventions may be indicated for other classes of drugs.</p>	<p>Physicians and Physician extenders</p>
<p>Medication for Opioid Use Disorder (MOUD) and Alcohol Use Disorder shall be provided onsite or through referral.</p>	<p>Physicians and physician extenders</p>
<p>24-hour crisis services means immediate behavioral health care, available 24-hours per day, seven days per week, to provide immediate assistance to individuals experiencing acute behavioral health problems that require immediate intervention to prevent harm and higher levels of acuity.</p>	<p>Physician and physician extenders Credentialed addiction treatment professional</p>

Limits on amount, duration, and scope: Service authorization is required. There are no maximum annual limits.