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STATE/TERRIORITY NAME: North Dakota

STATE PLAN AMENDMENT (SPA)#: 21-0021

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
601 E. 12th Street, Suite 355
Kansas City, MO 64106



Medicaid & CHIP Operations Group

February 16, 2022

Caprice Knapp, Medicaid Director
Division of Medical Services
North Dakota Department of Human Services
600 East Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

RE: North Dakota State Plan Amendment (SPA) 21-0021

Dear Ms. Knapp:

We have reviewed the State Plan Amendment (SPA) submitted under transmittal number 21-0021. This SPA amends the State Plan to make updates to Third Party Liability activities to comply with federal regulations.

Please be informed that this SPA was approved on February 16, 2022, with an effective date of October 1, 2021. Enclosed are the CMS-179 and SPA pages.

Should you have any questions about this amendment, please contact Curtis Volesky at (303) 844-7033.

Sincerely,

A black rectangular box redacts the signature of James G. Scott.

Digitally signed by
James G. Scott -S
Date: 2022.02.16
16:07:05 -06'00'

James G. Scott, Director
Division of Program Operations

Enclosures

cc: Krista Fremming, krfremming@nd.gov
Stacey Koehly, skoehly@nd.gov
LeeAnn Thiel, lthiel@nd.gov

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

1. TRANSMITTAL NUMBER

2 1 — 0 0 2 1

2. STATE

ND

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

October 1, 2021

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR 433.138

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 2022 \$ 0
b. FFY 2023 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.22-A pages 1-2,
Attachment 4.22-B page 1,
Section 4.22 pages 69-70

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.22-A pages 1-2 (TN 15-0019), Attachment 4.22-B page 1 (TN 90-07)
Section 4.22 pages 69-70 (TN 95-011)

9. SUBJECT OF AMENDMENT

Amends the State Plan to make updates to Third Party Liability activities to comply with federal regulations.

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:
Caprice Knapp, Director
Medical Services Division

11. SIGNATURE OF STATE AGENCY OFFICIAL

Caprice Knapp

12. TYPED NAME

Caprice Knapp

13. TITLE

Medical Services Director

14. DATE SUBMITTED

December 27, 2021 Resubmitted: February 3, 2022

15. RETURN TO

Caprice Knapp, Director
Medical Services Division
ND Department of Human Services
600 East Boulevard Avenue Dept 325
Bismarck ND 58505-0250

FOR CMS USE ONLY

16. DATE RECEIVED

December 27, 2021

17. DATE APPROVED

February 16, 2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

October 1, 2021

19. SIGNING OFFICIAL

Digitally signed by James G. Scott -S
Date: 2022.02.16 16:07:57 -06'00'

20. TYPED NAME OF APPROVING OFFICIAL

James G. Scott

21. TITLE OF APPROVING OFFICIAL

Director, Division of Program Operations

22. REMARKS

State approved change to identify date resubmitted (box 14).

INSTRUCTIONS FOR COMPLETING FORM CMS-179

Use Form CMS-179 to transmit State plan material to the Center for Medicaid & CHIP Services for approval. Submit a separate typed transmittal form with each plan/amendment.

Block 1 - Transmittal Number - Enter the State Plan Amendment transmittal number. Assign consecutive numbers on a **calendar year** basis with the first two digits being the two-digit year (e.g., 21-0001, 21-0002, etc.). Because states have different state fiscal years, a calendar year is required for consistency.

Block 2 - State - Enter the two-letter abbreviation code of the State/District/Territory submitting the plan material.

Block 3 - Program Identification - Enter the applicable Title of the Social Security Act (Title XIX Medicaid or Title XXI CHIP).

Block 4 - Proposed Effective Date - Enter the proposed effective date of material. The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted. With respect to expenditures for assistance under such plan, the effective date may not be earlier than the first day on which the plan is in operation on a statewide basis or earlier than the day following publication of notice of changes.

Block 5 - Federal Statute/Regulation Citation - Enter the appropriate statutory/regulatory citation.

Block 6 - Federal Budget Impact - 6(a) - IN WHOLE DOLLARS, NOT IN THOUSANDS, Enter 1st **Federal Fiscal Year** (FFY) impacted by the SPA & estimated Federal share of the cost of the SPA for 1st FFY. The first FFY should be the FFY inclusive of the earliest effective date of any amended payment language; **6 (b)** - Enter 2nd FFY impacted by the SPA & estimated Federal share of the cost for 2nd FFY. In general, the estimates should include any amount not currently approved in the state's plan for assistance.

Block 7 - Page No.(s) of Plan Section or Attachment - Enter the page number(s) of plan material amended and transmitted. If additional space is needed, use bond paper. **New pages** should be included in Block 7, but not in Block 8.

Block 8 - Page No.(s) of the Superseded Plan Section or Attachment (if Applicable) - Enter the page number(s) (including the transmittal number) that is being superseded. If additional space is needed, use bond paper. **Deleted pages** should be included in Block 8, but not in Block 7.

Block 9 - Subject of Amendment - Briefly describe plan material being transmitted.

Block 10 - Governor's Review - Check the appropriate box. See SMM section 13026 A.

Block 11 - Signature of State Agency Official - Authorized State official signs this block.

Block 12 - Typed Name - Type name of State official who signed block 11.

Block 13 - Title - Type title of State official who signed block 11.

Block 14 - Date Submitted - Enter the date that the state transmits plan material to CMCS. Unless the state officially withdraws this SPA and then resubmits it, this date should not be revised. Documentation of version revisions will be maintained in the CMCS administrative record.

Block 15 - Return To - Type the name and address of State official to whom this form should be returned.

Block 16–22 (FOR CMS USE ONLY).

Block 16 - Date Received - Enter the date plan material is received by CMCS. This is the date that the submission is received by CMCS via the subscribed submission process.

Block 17 - Date Approved - Enter the date CMCS approved the plan material.

Block 18 - Effective Date of Approved Material - Enter the date the plan material becomes effective. If more than one effective date, list each provision and its effective date in Block 22 or attach a sheet.

Block 19 - Signature of Approving Official - Approving official signs this block.

Block 20 - Typed Name of Approving Official - Type approving official's name.

Block 21 - Title of Approving Official - Type approving official's title.

Block 22 - Remarks - Use this block to reference and explain agreed to changes and strike-throughs to the original CMS-179 as submitted, a partial approval, more than one effective date, etc. If additional space is needed, use bond paper.

1. Frequency of data exchanges with SWICA, SSA/ SOLQ, IV-A, Workforce Safety & Insurance and Department of Motor Vehicle through computer matches. Third Party Liability (TPL) is entered by both county and state staff when information is received. TPL information in the system is then a part of the eligibility file.
 - a. SWICA (Job Service Wage Map) exchanges will occur no less frequently than quarterly. Individuals newly eligible for Medical Assistance will be matched on the Friday nearest the 15th of the month and the last working day of the same month.
 - b. SSA/SOLQ (wage/earnings) identifies Medicare coverage. The file is prepared annually and the information can also be accessed in real time. Individuals applying for coverage will be matched to the Social Security files upon eligibility determination and during eligibility reviews.
 - c. State IV-A activities (eligibility reviews) will be conducted on an ongoing basis. The frequency of eligibility determinations and reviews is based on Federal Requirements. TPL resources will be entered into the MMIS as indicated in Attachment 4.22-A,2,d.
 - d. Department of Motor Vehicles accident files exchange will occur no less frequently than quarterly.
 - e. Workforce Safety & Insurance Medical Benefits file exchanges will occur no less frequently than quarterly.
 - f. Trauma/diagnosis indicators are reported to the TPL Unit for review on a monthly basis. This is a post-payment review of paid claims.
2.
 - a. SWICA exchanges occur no less frequently than quarterly. Data received is treated as accurate information and is recorded in the case files within thirty (30) days of receipt. Insurance benefits identified due to employment are entered into the MMIS within 30 days of identification.
 - b. SSA/SOLQ (wage/earnings) information is verified and processed in eighty (80) percent of the cases within thirty (30) days after receipt. Staff will record information in the case file and enter any Medicare benefit information into MMIS.
 - c. Workforce Safety & Insurance Medical Benefit information received will be entered into MMIS. Once TPL is entered into MMIS, the system will apply TPL toward any future claims.

- d. IV-A activities (eligibility reviews) occur on a daily basis. Information received on insurance coverage is entered within sixty (60) days of receipt. The TPL Unit will verify information and/or seek recoupment within the time frame indicated. (See Attachment 4.22-B for threshold amounts on different coverage types).
3. The state will exchange data with the North Dakota Department of Transportation no less frequently than quarterly. Accident records that match Medicaid eligible individuals will be entered into the MMIS. Information is processed within sixty (60) days of receipt.
4. Trauma/Diagnosis indicators are reported monthly for review for potential third party liability. A questionnaire is sent to the recipient requesting verification of the accident or injury. Upon receipt of the recipient response liable third-party information is entered into the system within thirty (30) days of receipt. Claims paid are accumulated for 180 days from accident or injury and recoupment efforts are made per cost effective thresholds. (See Attachment 4.22-B for threshold amounts)
Information is updated by county or State staff and entered into the MMIS where applicable.
5. Trauma codes on paid claims with the highest dollar amounts will carry the highest priority in each of the following place of service settings.
 1. Inpatient Hospital
 2. Outpatient Hospital
 3. Physician and other Practitioner Office
 4. Nursing Homes

1. The State will use standard coordination of benefits cost avoidance when processing claims for prenatal services, including labor and delivery and postpartum care services.
2. The State shall make payments without regard to third party liability for pediatric preventative services unless a determination related to cost-effectiveness and access to care that warrants cost avoidance for up to 90 days has been made.
3. Health insurance recoveries are pursued by the State's TPL contractor on a monthly basis when other health insurance has been identified and the State has paid claims for the recipient. A threshold for health insurance claims of \$50 is required to seek reimbursement. The cost-effective threshold is accumulated per recipient, therefore multiple claims can be added together to meet this threshold.
4. The threshold for trauma related codes will be determined to be met if the claims total \$500 individually or accumulative after 180 days from the initial accident or injury.
5. The state agency required that providers bill third party payers prior to submitting claims for payment to the Medicaid program. Compliance with third party liability (TPL) billing requirements is determined through generic claim edits for TPL in the MMIS. Any TPL indication within the system, child support related or otherwise, suspends a claim. It is then placed in suspect status until third part performance of the provider is evaluated along with any collection procedures that may be appropriate.
6. State flexibility to make payments without regard to potential TPL for up to 100 days for claims related to child support enforcement beneficiaries.

Revision: HCFA-PM-94-1 (MB)
FEBRUARY 1994

State/Territory: North Dakota

Citation

4.22 Third Party Liability

- 42 CFR 433.137 (a) The Medicaid agency meets all requirements of:
- (1) 42 CFR 433.138 and 433.139.
 - (2) 42 CFR 433.145 through 433.148.
 - (3) 42 CFR 433.151 through 433.154.
 - (4) Sections 1902(a)(25)(H) and (I) of the Act.
- 1902(a)(25)(H) and (I)
of the Act
- 42 CFR 433.138(f) (b) ATTACHMENT 4.22-A
- (1) Specifies the frequency with which the data exchanges required in §433.138(d)(1), (d)(3) and (d)(4) and the diagnosis and trauma code edits required in §433.138(e) are conducted;
 - (2) Describes the methods the agency uses for meeting the followup requirements contained in §433.138(g)(1)(i) and (g)(2)(i);
 - (3) Describes the methods the agency uses for following up on information obtained through the State motor vehicle accident report file data exchange required under §433.138(d)(4)(ii) and specifies the time frames for incorporation into the eligibility case file and into its third party data base and third party recovery unit of all information obtained through the followup that identifies legally liable third party resources; and
 - (4) Describes the methods the agency uses for following up on paid claims identified under §433.138(e) (methods include a procedure for periodically identifying those trauma codes that yield the highest third party collections and giving priority to following up on those codes) and specifies the time frames for incorporation into the eligibility case file and into its third party data base and third party recovery unit of all information obtained through the followup that identifies legal liable third party resources.
- 42 CFR 433.138(g)(1)(ii)
and (2)(ii)
- 42 CFR 433.138(g)(3)(i)
and (iii)
- 42 CFR 433.138(g)(4)(i)
through (iii)

TN No: 21-0021
Supersedes
TN No: 95-011

Approval Date 2-16-2022

Effective Date: 10-01-2021

Revision: HCFA-PM-94-1 (MB)
FEBRUARY 1994

State/Territory: North Dakota

Citation

- 42 CFR 433.139(b) (3) (ii) (A) X (c) Providers are required to bill liable third parties when services covered under the plan are furnished to an individual on whose behalf child support enforcement is being carried out by the State IV-D agency.
- (d) ATTACHMENT 4.22-B specifies the following:
- 42 CFR 433.139(b) (3) (ii) (C) (1) The method used in determining a provider's compliance with the third party billing requirements at §433.139(b) (3) (ii) (C).
- 42 CFR 433.139(f) (2) (2) The threshold amount or other guideline used in determining whether to seek recovery of reimbursement from a liable third party, or the process by which the agency determines that seeking recovery of reimbursement would not be cost effective.
- 42 CFR 433.139(f) (3) (3) The dollar amount or time period the State uses to accumulate billings from a particular liable third party in making the decision to seek recovery of reimbursement.
- 42 CFR 447.20 (e) The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 447.20.

TN No: 21-0021
Supersedes
TN No: 95-011

Approval Date 2-16-2022

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Revision: HCFA-PM-94-1 (MB)
FEBRUARY 1994

State/Territory: North Dakota

Citation

4.22 (continued)

42 CFR 433.151(a)

(f) The Medicaid agency has written cooperative agreements for the enforcement of rights to and collection of third party benefits assigned to the State as a condition of eligibility for medical assistance with the following: (Check as appropriate.)

State title IV-D agency. The requirements of 42 CFR 433.152(b) are met.

Other appropriate State agency(s)

Other appropriate agency(s) of another State

Courts and law enforcement officials.

1902(a) (60) of the Act

(g) The Medicaid agency assures that the State has in effect the laws relating to medical child support under section 1908 of the Act.

1906 of the Act

(h) The Medicaid agency specifies the guidelines used in determining the cost effectiveness of an employer-based group health plan by selecting one of the following.

The Secretary's method as provided in the State Medicaid Manual, Section 3910.

The State provides methods for determining cost effectiveness on ATTACHMENT 4.22-C.

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TN No: 95-011

Approval Date 2-16-2022

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