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State/Territory Name: SD

State Plan Amendment (SPA) #: 21-0011

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) 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

December 22, 2021

Sarah Aker, Medicaid Director
Department of Social Services
Richard F. Kneip Building
700 Governors Drive
Pierre, SD 57501-2291

RE: TN 21-0011


Dear Ms. Aker:

The Centers for Medicare and Medicaid Services (CMS) has completed its review of South Dakota's State Plan Amendment (SPA) Transmittal #21-0011, submitted on December 6, 2021. The SPA provides assurances that the State is in compliance with federal regulations regarding third party liability.

CMS approved SPA #21-0011 on December 22, 2021, with an effective date of November 1, 2021. Enclosed is a copy of the CMS-179 summary form, as well as the approved pages for incorporation into the South Dakota State Plan.

If you have any questions regarding this amendment, please contact Mandy Strom at mandy.strom@cms.hhs.gov or (303)844-7068.

Sincerely,

 Digitally signed by

James G. Scott, Director
Division of Program Operations

Enclosure

cc:

Matthew Ballard, South Dakota Medicaid
Renae Hericks, South Dakota Medicaid

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

1. TRANSMITTAL NUMBER <u>21</u> — <u>0011</u>	2. STATE <u>S</u> <u>D</u>
3. PROGRAM IDENTIFICATION: TITLE <u>XIX</u> OF THE SOCIAL SECURITY ACT	
4. PROPOSED EFFECTIVE DATE November 1, 2021	
5. FEDERAL STATUTE/REGULATION CITATION Section 1902(a)(25) of the SSA and 42 CFR 433.136	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a FFY 2022 \$ <u>0</u> b FFY 2023 \$ <u>0</u>
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 4.22-A, Page 2	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 4.22-A, Page 2 TN#15-006


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

9. SUBJECT OF AMENDMENT
This State Plan Amendment provides assurances that the State is in compliance with federal regulations regarding third party liability.

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


12. TYPED NAME
Laurie R. Gill

13. TITLE
Cabinet Secretary

14. DATE SUBMITTED
December 6, 2021

15. RETURN TO
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF MEDICAL SERVICES
700 GOVERNORS DRIVE
PIERRE, SD 57501-2291


FOR CMS USE ONLY

16. DATE RECEIVED December 6, 2021

17. DATE APPROVED December 22, 2021

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
November 1, 2021

19. SIGNATURE OF APPROVING OFFICIAL


20. TYPED NAME OF APPROVING OFFICIAL
James G. Scott

21. TITLE OF APPROVING OFFICIAL
Director, Division of Program Operations

22. REMARKS

Based on historical data, follow up will be excluded for the diagnoses listed below as there has never been a liable third party resource to recover from or the amount of expenditures was minor when a resource was identified:

Fractures: trunk, scapula, carpal, sternum, larynx, trachea, arms, legs, extremities;
 Dislocations;
 Sprains: arm, hip;
 Internal injury: GI tract, abs, kidney, pelvic;
 Open wound: finger, butt, eye, knee, ankle, toe;
 Amputation finger, thumb, toe when diabetic related code is also present;
 Vessel injury; Late effect injury;
 Superficial injuries, bug bites; Foreign body in ear, nose, throat; Nerve injury;
 Poisoning: antibiotics and other medications; Toxicity: alcohol, tobacco, and other agents; and
 Effects of radiation, heat, air pressure, replace pacemakers & other devices.

Cost-Effective Thresholds

The Medicaid Management Information System contains edits which deny payment for claims submitted by providers when the existence of private health insurance is known unless otherwise mandated by law, the claim indicates that a third party payment has been received by the provider, or that the third party has denied payment for the services.

The initiation of any third party recovery action is based on the accumulation of claims for services provided to an individual, which accumulation has resulted in paid claims which meet reimbursement criteria and meet or exceed the cost-effective threshold. Reimbursement criteria may include consideration of things such as coverage data, claims data, filing requirements, regulatory requirements, or procedures. The cost-effective threshold is calculated by combining the salary and benefit costs with the associated administrative expenses and dividing by hours worked to create an average hourly case cost. This average hourly case cost is multiplied by the estimated time necessary to conduct a recovery case and the anticipated recovery expense.

State Assurances and Policies

1. The State uses standard coordination of benefits cost avoidance when processing claims for prenatal care services, including labor and delivery and postpartum care. If the State has determined that a third party is likely liable for a claim, it will return the claim back to the provider noting the third party that Medicaid believes to be legally responsible for payment. If, after the provider bills the liable third party and a balance remains or the claim is denied payment for a substantive reason, the provider can submit a claim to the State for payment of the balance, up to the maximum Medicaid payment amount established for the service in the State Plan.
2. Certain claims are eligible to receive payment for the full amount allowed under the department's payment schedule while the department pursues reimbursement from third-party sources. These pay-and-chase methods include claims for pediatric preventative services unless the state has made a determination related to cost-effectiveness and access to care that warrants cost avoidance for 90 days.
3. State flexibility to make payments without regard to potential TPL for up to 100 days for claims related to child support enforcement beneficiaries.