

## **Table of Contents**

**State/Territory Name: ND**

**State Plan Amendment (SPA) #: 23-0020**

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  
Center for Medicaid & CHIP Services  
233 North Michigan Ave., Suite 600  
Chicago, Illinois 60601



---

**Financial Management Group/ Division of Reimbursement Review**

August 7, 2023

Krista Fremming, Interim Director  
Medical Services Division  
North Dakota Department of Human Services  
600 E. Boulevard Avenue, Dept. 325  
Bismarck, ND 58505-0250

RE: North Dakota State Plan Amendment TN: 23-0020

Dear Director Fremming:

We have reviewed the proposed North Dakota State Plan Amendment (SPA) 23-0020, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on July 19, 2023. This state plan amendment implements a 3% inflationary increase for North Dakota Medicaid Providers.

Based upon the information provided by the State, we have approved the amendment with an effective date of July 1, 2023. We are enclosing the approved CMS-179 and a copy of the plan pages.



If you have any additional questions or need further assistance, please contact Matthew Klein at 214-767-4625 or [matthew.klein@cms.hhs.gov](mailto:matthew.klein@cms.hhs.gov)

Sincerely,

A solid black rectangular box redacting the signature of Todd McMillion.

Todd McMillion  
Director

Enclosures

<p><b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b></p>		<p>1. TRANSMITTAL NUMBER <u>2 3</u> — <u>0 0 2 0</u></p>	<p>2. STATE <u>ND</u></p>
<p>TO: CENTER DIRECTOR CENTERS FOR MEDICAID &amp; CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES</p>		<p>3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX    <input type="radio"/> XXI</p>	
<p>5. FEDERAL STATUTE/REGULATION CITATION <u>42 CFR 447.204</u></p>		<p>4. PROPOSED EFFECTIVE DATE <u>July 1, 2023</u></p>	
<p>7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT <u>Attachment 4.19-B pages 1, 1a, 1b, 2, 3b</u></p>		<p>6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>2023</u>                      \$ <u>785,367</u> b. FFY <u>2024</u>                      \$ <u>2,459,847</u></p>	
<p>9. SUBJECT OF AMENDMENT <u>Amends the State Plan to implement an increase of three percent for services rendered by Medicaid Providers.</u></p>		<p>8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) <u>Attachment 4.19-B pages 1, 1a, 1b, 2, 3b (TN 22-0014)</u></p>	
<p>10. GOVERNOR'S REVIEW (Check One)</p> <p><input type="radio"/> GOVERNOR'S OFFICE REPORTED NO COMMENT                      <input checked="" type="radio"/> OTHER, AS SPECIFIED:</p> <p><input type="radio"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED</p> <p><input type="radio"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL</p>			
<p>11. SIGNATURE OF STATE AGENCY OFFICIAL </p>	<p>15. RETURN TO Krista Fremming, Interim Director Medical Services Division ND Department of Health and Human Services 600 East Boulevard Avenue Dept 325 Bismarck ND 58505-0250</p>		
<p>12. TYPED NAME Krista Fremming</p>	<p>14. DATE SUBMITTED July 19, 2023</p>		
<p>13. TITLE Interim Medical Services Director</p>	<p><b>FOR CMS USE ONLY</b></p>		
<p>16. DATE RECEIVED 07/19/2023</p>	<p>17. DATE APPROVED August 7, 2023</p>		
<p><b>PLAN APPROVED - ONE COPY ATTACHED</b></p>			
<p>18. EFFECTIVE DATE OF APPROVED MATERIAL 07/01/2023</p>	<p>19. SIGNATURE OF APPROVING OFFICIAL </p>		
<p>20. TYPED NAME OF APPROVING OFFICIAL Todd McMillion</p>	<p>21. TITLE OF APPROVING OFFICIAL Director, Division of Reimbursement and Review</p>		
<p>22. REMARKS</p>			

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

The following is a description of the policies that apply to rates and fees established for services other than inpatient hospital care, nursing facility care, and intermediate care facilities.

Out-of-state providers are paid the same rates and fees applicable to providers in North Dakota.

All rates are published on the agency's website at:

<http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-fee-schedules.html>. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

- 1) Outpatient services are paid using a fixed percentage of charges established by the state agency, except for laboratory procedures paid according to item 3 below, dietitian services paid at the lower of the actual charge or maximum allowable charge established by the state agency, ambulatory behavioral healthcare (partial hospitalization) are paid a per diem fee schedule rate established by the state agency effective for dates of service on or after July 1, 2023, and in-state prospective payment system hospitals reimbursed based on ambulatory payment classifications. The fixed percentage of charges for in-state hospitals designated as Critical Access Hospitals will be established using the hospital's most recent audited Medicare cost report. Cost settlement to reasonable cost for outpatient services at in-state hospitals designated as Critical Access Hospitals for Title XIX services will be based on the Medicare cost report and will occur after the hospital's Medicare cost report has been audited and finalized by the Medicare fiscal intermediary. The fixed percentage of charges for all other in-state hospitals will be established using the hospital's most recent Medicare cost report available as of June 1 of each year. The fixed percentage of charges for out-of-state hospitals shall be 57.4 percent except for laboratory procedures paid according to item 3 below. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023 as authorized and appropriated by the 2023 Legislative Assembly.
- 2) Clinic services payment is based on the cost of delivery of the services on a prospective basis as determined by the single state agency from cost data submitted annually by the clinic. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Clinic rates are set as of July 1, 2023 and are effective for services provided on or after that date. Providers will be notified of the rates, via letter and/or email correspondence.
  - a) Payment to dental clinics, including mobile dental clinics, is based on the cost of delivery of the service as determined by the single state agency from cost data submitted annually by the clinic. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Individual provider rates will be effective October 1, 2023. Providers will be notified of the rates, via letter and/or email correspondence. Except as otherwise noted in the Plan, State developed fee schedule rates are the same for both governmental and private providers.
- 3) For laboratory services, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers will receive a three inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
  - a) For laboratory services subject to Section 1903(i)(7) of the Social Security Act, Medicaid will pay the lower of billed charges or the Medicare maximum allowable charge. Medicaid payment for lab services may not exceed the Medicare rate on a per test basis.

---

TN No.: 23-0020

Supersedes

TN No.: 22-0014

Approval Date: August 7, 2023

Effective Date: 07-01-2023

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE  
- (continued)

- 4) Effective July 1, 2019, for x-ray services, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 5) For prosthetic devices, medical equipment, supplies and appliances, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
  - a. For DMEPOS items associated with Section 1903(i)(27) of the Social Security Act, amended by Section 5002 of the 21st Century Cures Act, and identified by the Centers for Medicare and Medicaid Services (CMS) as covered by Medicare, Medicaid will pay the lower of the following: (1)The Medicare DMEPOS fee schedule rate for North Dakota geographic, non-rural areas, set as of January 1 of each year which will be reviewed on a quarterly basis and updated as needed; or (2)The provider's billed charges.
- 6) For services, including optometric and chiropractic services, paid from the North Dakota Professional Services Fee Schedule, Medicaid will pay the lower of billed charges or fee schedule established by the state agency. North Dakota Medicaid providers paid from the North Dakota Professional Services Fee Schedule will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly. For rates developed using the resource-based relative value scale methodology, the posted fee schedule accounts for annual cost neutral adjustments to the North Dakota Medicaid conversion factor made to reflect updates to the Medicare RVUs and utilization changes.
  - a. For services, other than those reimbursed using resource-based relative value scale methodology, North Dakota Medicaid providers paid from the North Dakota Professional Services Fee Schedule will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
  - b. For services rendered by licensed or registered pharmacists, the lower of billed charges or the fee schedule established by the state agency.
- 7) For dental services and dentures, Medicaid will pay the lower of billed charges or Medicaid fee established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
  - a. Effective for dates of service on or after October 10, 2017, reimbursement for dental sealants and fluoride varnish provided in a school setting by dental hygienists employed by the North Dakota Department of Health (Department) are based on the cost of delivery of services on a prospective basis as determined by the single state Medicaid agency from cost data submitted annually by the Department. The rate components include dental hygienist and administrative salaries, supplies, and overhead. The Department will be notified of the rate via letter and/or email correspondence.
- 8) Effective July 1, 2019, for private duty nursing services, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 9) Effective July 1, 2019, for physical, occupational and speech therapy, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standard for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.

- 10) Effective July 1, 2019, for services rendered by enrolled providers via telemedicine; payment for the telemedicine connectivity code will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standard for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 11) For eyeglasses, Medicaid will pay the lower of billed charges or the rate established by the state agency competitive bidding process. North Dakota meets the certification requirements of Section 1902(a)(23) of the Social Security Act to permit the selection of one or more providers, through a competitive bidding process, to deliver eyeglasses on a statewide basis under the authority of Section 1915(a)(1)(B) of the Social Security Act and 42 CFR 431.54(d).

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES - OTHER TYPES OF CARE

- 12) Unless otherwise noted, non-emergency medical transportation providers will be paid the lower of billed charges or the Medicaid fee schedule established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
- (a) Transportation by common carrier will be reimbursed at the going rate or fare established for the general public.
- (b) Transportation providers as defined in Attachment 3.1-D, Transportation (transportation providers), when utilized by a third party to provide transportation to a Medicaid recipient, will be paid the lower of billed charges or the Medicaid fee schedule established by the state agency, not to exceed the mileage rate established by the state legislature.
- (c) The payment for meals necessary for recipients and attendants, and individual transportation providers cannot exceed the amount allowed for state employees while traveling in the state of North Dakota.
- (d) Reimbursement for necessary lodging is available to enrolled Medicaid providers who provide lodging services to recipients, attendants, and transportation providers will be limited to the maximum established for lodging as of January 1 of each calendar year by the General Services Administration for the primary destination. The reimbursement rate will be set for dates of service on or after November 1, 2018, based on the January 2018 rate and will subsequently be updated as of January of each calendar year.

Payment for meals and lodging will be made to providers specifically enrolled to provide meals and lodging.

- 13) Ambulance services will be paid at the lower of actual billed charges or the fee schedule established by the state agency. The agency's fee schedule was set as of July 1, 2023 and is effective for services provided on or after that date. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
- 14) Effective July 1, 2019, for family planning services, payment will be the lower of billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b.
- 15) Home Health Agency services include the following services: nursing care, home health aide services, physical therapy, occupational therapy, speech pathology or audiology services, and supplies. Reimbursement will be on a per visit basis and will be at the lowest of the billed charge or maximum allowable charge established by the State. North Dakota Medicaid providers will receive a one-fourth percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
- 16) North Dakota reimburses for all Hospice services specified by Medicare in regulation using the Medicaid rates and geographic formula published on an annual basis by CMS. Medicaid Hospice providers that fail to comply with quality data submission requirements during each fiscal year will not have their market basket update reduced by two percentage points.
- 17) Effective July 1, 2019, for Nurse-Midwife Services, payment will be the lower of billed charges or 85% of the reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), item 6, 6a and 6b for covered pre-natal, delivery and postpartum services provided by physicians.

26. For diagnostic, screening and preventive services, Medicaid will pay the lower of actual billed charges or the maximum allowable fee established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
27. Emergency hospital services provided by hospitals not otherwise participating in the Medicaid program are paid at the fixed percentage of charges for out-of-state hospitals as established in paragraph 1.
28. For ambulatory surgical center services, payment will be the lower of the provider's billed charges or the fee schedule established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.
29. For rehabilitative services, each qualified Medicaid service practitioner will be reimbursed a rate from the Medicaid fee schedule for defined units of service.

For services provided by non-governmental providers, payment will be the lower of the provider's actual billed charges or the fee schedule established by the state agency. North Dakota Medicaid providers will receive a three percent inflationary increase in reimbursement effective for dates of service on or after July 1, 2023, as authorized and appropriated by the 2023 Legislative Assembly.

For the governmental providers, payment is established based on the cost of delivering the services on a prospective basis as determined by the single state agency from cost data submitted annually. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Governmental provider rates are set as of July 1, 2023 and are effective for services provided on or after that date. Providers will be notified of the rates via letter or email correspondence.

30. For non-ASAM services rendered by licensed addiction counselors within their scope of practice, each qualified Medicaid service practitioner will be reimbursed a rate from the Medicaid fee schedule for defined units of service.

Effective November 1, 2018, for services provided by non-governmental providers, payment will be the lower of the provider's actual billed charges or reimbursement under Attachment 4.19-B, Methods and Standards for Establishing Payment Rates – Other Types of Care (continued), Item 6, 6a and 6b.

For the governmental providers, payment is established based on the cost of delivering the services on a prospective basis as determined by the single state agency from cost data submitted annually. Allowable costs will be determined in accordance with the Medicare Provider Reimbursement Manual. Governmental provider rates are set as of July 1, 2023 and are effective for services provided on or after that date. Providers will be notified of the rates via letter or email correspondence.