

## **Table of Contents**

**State/Territory Name: North Dakota**

**State Plan Amendment (SPA)#: 23-0032**

This file contains the following documents in the order listed below:

- 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**  
**Medical Benefits and Health Programs Group**

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January 23, 2024

Sarah Aker, Director  
Medical Services Division  
ND Department of Health and Human Services  
600 East Boulevard Avenue Dept 325  
Bismarck, ND 58505-0250

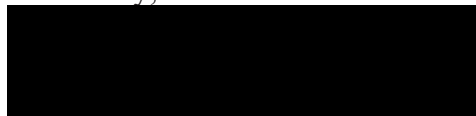
Dear Sarah Aker:

We have reviewed North Dakota's State Plan Amendment (SPA) 23-0032 received in the Centers for Medicare and Medicaid Services (CMS) OneMAC application on November 6, 2023. This SPA proposes to amend the State Plan to add coverage of select weight loss medications.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that ND-23-0032 is approved with an effective date of October 1, 2023.

We are attaching a copy of the signed CMS-179 form, as well as the pages approved for incorporation into North Dakota's state plan. If you have any questions regarding this amendment, please contact Whitney Swears at [Whitney.Swears@cms.hhs.gov](mailto:Whitney.Swears@cms.hhs.gov).

Sincerely,



Mickey Morgan  
Deputy Director  
Division of Pharmacy

cc: Brendan Joyce, PharmD, ND Department of Health and Human Services  
LeeAnn Thiel, ND Department of Health and Human Services  
Tyson Christensen, CMS, Medicaid and CHIP Operations Group  
Whitney Swears, CMS, Medical Benefits and Health Programs Group

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

1. TRANSMITTAL NUMBER  
2 3 — 0 0 3 2

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, 2023**

5. FEDERAL STATUTE/REGULATION CITATION  
**Section 1927 of the Social Security Act**

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)  
a. FFY 2024 \$ 0  
b. FFY 2025 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  
  
**Attachment to Page 5 of Attachment 3.1-A  
Attachment to Page 4 of Attachment 3.1-B**

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  
  
**Attachment to Page 5 of Attachment 3.1-A (TN 23-0006)  
Attachment to Page 4 of Attachment 3.1-B (TN 23-0006)**

9. SUBJECT OF AMENDMENT

**Amends the State Plan to add coverage of of select weight loss medications.**

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:  
Sarah Aker, Director  
Medical Services Division

12. TYPED NAME  
Sarah Aker

13. TITLE  
Medical Services Director

14. DATE SUBMITTED  
November 6, 2023

15. RETURN TO  
Sarah Aker, Director  
Medical Services Division  
ND Department of Health and Human Services  
600 East Boulevard Avenue Dept 325  
Bismarck ND 58505-0250

**FOR CMS USE ONLY**

16. DATE RECEIVED  
November 6, 2023

17. DATE APPROVED  
January 23, 2024

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
October 1, 2023

19. [REDACTED]

20. TYPED NAME OF APPROVING OFFICIAL  
Mickey Morgan

21. TITLE OF APPROVING OFFICIAL  
Deputy Director, Division of Pharmacy

22. REMARKS

## 12.a Drugs (continued)

The Medicaid agency provides coverage (as specified below) for the following excluded or otherwise restricted drugs or classes of drugs, or their medical uses to all Medicaid recipients, including full benefit dual eligible beneficiaries under the Medicare Prescription Drug Benefit – Part D.

- a. Select agents when used for anorexia, weight loss, weight gain are covered as outlined in the pharmacy provider manual.
  - b. Agents when used to promote fertility are not covered.
  - c. Agents when used for the symptomatic relief of cough and colds are covered.
  - d. Select vitamins and mineral products are covered as outlined in the pharmacy provider manual.
  - e. Select Over-The-Counter drugs are covered as outlined in the pharmacy provider manual. The drugs are covered for full benefit dual eligible beneficiaries through prior authorization if a therapeutically equivalent Part D prescription drug is determined not effective by the physician (e.g. ibuprofen prescription versus non-prescription ibuprofen).
  - f. Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee are not covered.
9. Active Pharmaceutical Ingredients (APIs) will not be allowed for payment except select APIs used in extemporaneously compounded prescriptions when dispensed by a participating pharmacy provider pursuant to a prescription issued by a licensed prescriber following all state and federal laws. The select APIs will only include those that are determined by the State to be cost effective compared to other covered alternatives. APIs that have been identified as being cost effective are identified at <http://www.nd.gov/dhs/services/medicalserv/medicaid/docs/covered-APIs.pdf>
10. The State may enter into value-based contracts with manufacturers on a voluntary basis. These contracts will be executed on the model agreement entitled “Value-Based Supplemental Rebate Agreement” submitted to CMS on March 7, 2023 and authorized for use beginning January 1, 2023.

## 12.a Drugs (continued)

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