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State Name: Virginia

State Plan Amendment (SPA) #: 17-013

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
150 S. Independence Mall West
Suite 216, The Public Ledger Building
Philadelphia, Pennsylvania 19106-3499

Region III/Division of Medicaid and Children's Health Operations

SWIFT #071720174091

August 30, 2017

Cynthia B. Jones, Director
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, VA 23219

Dear Ms. Jones:

The Centers for Medicare & Medicaid Services (CMS) has reviewed Virginia's State Plan Amendment (SPA) 17-013, Face-to-Face Encounter Requirement for Home Health. This SPA proposes to require a face-to-face encounter be performed by an approved practitioner with the Medicaid beneficiary in order for payment and delivery of Home Health Services under Medicaid. The face-to-face encounters with Medicaid beneficiaries are required to be conducted within specific timeframes and with required documentation components.

This SPA is acceptable. Therefore, we are approving SPA 17-013 with an effective date of July 1, 2017. Enclosed are the approved SPA pages and signed CMS-179 form.

If you have further questions about this SPA, please contact Margaret Kosherzenko of my staff at 215-861-4288.

Sincerely,

/S/

Francis McCullough
Associate Regional Administrator

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 17 — 013

2. STATE: Virginia

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE: July 1, 2017

5. TYPE OF PLAN MATERIAL *(Check One)*

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☑ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR Part 440

7. FEDERAL BUDGET IMPACT
a. FFY 2017 $ -0-
b. FFY 2018 $ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1-C, pages 13, 14, 15; new page, 14.1

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: Same Pages

10. SUBJECT OF AMENDMENT: Face-to-Face Encounter Requirement for Home Health

11. 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

12. SIGNATURE OF STATE AGENCY OFFICIAL: /S/ [redacted]

13. TYPED NAME: Cynthia B. Jones

14. TITLE: Director

15. DATE SUBMITTED: 6/30/17

16. RETURN TO

Dept. of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Regulatory Coordinator

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: July 17, 2017

18. DATE APPROVED: August 30, 2017

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: July 1, 2017

20. SIGNATURE OF REGIONAL OFFICIAL: /S/

21. TYPED NAME: Francis McCullough

22. TITLE: Associate Regional Administrator

23. REMARKS

Instructions on Back

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

STANDARDS ESTABLISHED AND METHODS USED TO ASSURE HIGH QUALITY OF CARE

12VAC30-60-70
I. Home Health Services.

1. Home health services shall be provided by a home health agency that is licensed by the Virginia Department of Health (VDH); or that is certified by the VDH under provisions of Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act; or that is accredited either by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or by the Community Health Accreditation Program (CHAP) established by the National League of Nursing. Services shall be provided on a part-time or intermittent basis to a recipient in any setting in which normal life activities take place. Home health services shall not be furnished to individuals residing in a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities or any setting in which payment is or could be made under Medicaid for inpatient services that include room and board. Home health services must be ordered or prescribed by a physician and be part of a written plan of care which the physician shall review at least every 60 days. Home health services shall not be limited to services furnished to individuals who are homebound.

2. Covered services. Any one of the following services may be offered as the sole home health service and shall not be contingent upon the provision of another service.

a. Nursing services;

b. Home health aide services;

c. Physical therapy services;

d. Occupational therapy services;

e. Speech-language pathology services; or

f. Medical supplies and equipment.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

STANDARDS ESTABLISHED AND METHODS USED TO ASSURE HIGH QUALITY OF CARE

3. General conditions. The following general conditions apply to skilled nursing, home health aide, and physical therapy, occupational therapy, and speech-language pathology services provided by home health agencies.

a. The patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of their license. The physician may be the patient's private physician or a physician on the staff of the home health agency or a physician working under an arrangement with the institution which is the patient's residence or, if the agency is hospital-based, a physician on the hospital or agency staff.

b. No payment shall be made for home health services unless a face-to-face encounter has been performed by an approved practitioner, as outlined in this subsection, with the Medicaid individual within the 90 days prior to the start of the services or within the 30 days after the start of the services. The face-to-face encounter shall be related to the primary reason the Medicaid individual requires home health services.

1. The face-to-face encounter shall be conducted by one of the following approved practitioners:

i. A physician licensed to practice medicine;

ii. A nurse practitioner or clinical nurse specialist within the scope of their practice under state law and working in collaboration with the physician who orders the Medicaid individual's services;

iii. A certified nurse midwife within the scope of their practice under state law;

iv. A physician assistant within the scope of their practice under state law and working under the supervision of the physician who orders the Medicaid individual's services; or

v. For Medicaid individuals admitted to home health immediately after an acute or post-acute stay, the attending acute or post-acute physician.

2. The practitioner performing the face-to-face encounter shall document the clinical findings of the encounter in the Medicaid individual's record and communicate the clinical findings of the encounter to the ordering physician. The physician responsible for ordering home health services must document the face-to-face encounter, which is related to the primary reason the individual requires home health services, occurred within the required timeframe prior to the start of home health services.

c. Face-to-face encounters may occur through telehealth, which shall not include by phone or e-mail.

d. When an individual is admitted to home health services a start-of-care comprehensive assessment must be completed no later than five calendar days after the start of care date.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

STANDARDS ESTABLISHED AND METHODS USED TO ASSURE HIGH QUALITY OF CARE

e. Services shall be furnished under a written plan of care and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of care and must be related to the patient's condition. The initial plan of care must be reviewed, signed, and dated by the attending physician, or physician designee, no later than 21 days after the implementation of the plan of care.

f. A physician re-certification shall be required at intervals of at least once every 60 days, must be signed and dated by the physician who reviews the plan of care, and should be obtained when the plan of care is reviewed. The physician re-certification statement must indicate the continuing need for services and should estimate how long home health services will be needed.

g. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

h. A written physician's statement located in the medical record must certify that:

(1) the patient needs licensed nursing care, home health aide services, physical or occupational therapy, or speech-language pathology services;

(2) A plan for furnishing such services to the individual has been established and is periodically reviewed by a physician; and

(3) These services were furnished while the individual was under the care of a physician.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

STANDARDS ESTABLISHED AND METHODS USED TO ASSURE HIGH QUALITY OF CARE

i. The plan of care shall contain at least the following information:

(1) Diagnosis and prognosis

(2) Functional limitations

(3) Orders for nursing or other therapeutic services

(4) Orders for home health aide services, when applicable

(5) Orders for medications and treatments, when applicable

(6) Orders for special dietary or nutritional needs, when applicable, and

(7) Orders for medical tests, when applicable including laboratory tests and x-rays.

4. Utilization review shall be performed by DMAS to determine if services are appropriately provided and to ensure that the services provided to Medicaid individuals are medically necessary and appropriate. Such post payment review audits may be unannounced. Services not specifically documented in an individual's medical records as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

5. All services furnished by a home health agency, whether provided directly by the agency or under arrangements with others, must be performed by appropriately qualified personnel. The following criteria shall apply to the provision of home health services:

a. Nursing services. Nursing services must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

b. Home health aide services. Home health aides must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aide services may include assisting with personal hygiene, meal preparation and feeding, walking, and taking and recording blood pressure, pulse, and respiration. Home health aide services must be provided under the general supervision of a registered nurse. A recipient may not receive duplicative home health aide and personal care aide services.