

DEPARTMENT OF SOCIAL SERVICES  
DIVISION OF MEDICAL SERVICES  
700 GOVERNORS DRIVE  
PIERRE, SD 57501-2291  
PHONE: 605-773-3495  
FAX: 605-773-5246  
WEB: [dss.sd.gov](http://dss.sd.gov)



August 3, 2017

Richard Allen  
Associate Regional Administrator  
Centers for Medicare and Medicaid Services  
1961 Stout Street, Room 08-148  
Denver, CO 80294

Re: South Dakota Medicaid State Plan Amendment SD-17-006

Dear Mr. Allen:

Please find enclosed South Dakota's Medicaid State Plan Amendment (SPA) SD-17-006. The SPA amends pages 8, 12, and 17 of Attachment 4.19-D of the South Dakota Medicaid State Plan. The proposed SPA clarifies payment methodology for Access Critical nursing facilities and nursing facilities operated under Public Law 93-638.

South Dakota requests an effective date of July 1, 2017. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018.

The State conducted Tribal Consultation beginning with notification on June 26, 2017. We have attached a copy of the notification sent to the Tribes. Public notice was published in the South Dakota REGISTER, <http://sdlegislature.gov/docs/rules/Register/06262017.pdf>, on June 26, 2017. We received no comments.

If you have any questions regarding this package, please contact Sarah Aker, Deputy Director of the Division of Medical Services, 700 Governors Drive, Pierre, SD 57501-2291, e-mail [sarah.aker@state.sd.us](mailto:sarah.aker@state.sd.us), or telephone (605) 773-3495.

Sincerely,

A handwritten signature in blue ink that reads 'Lynne A. Valenti'.

Lynne A. Valenti  
Cabinet Secretary

CC: Brenda Tidball-Zeltinger, Deputy Secretary  
Bill Snyder, Director  
Sarah Aker, Deputy Director

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>	<b>1. TRANSMITTAL NUMBER:</b> SD-17-006	<b>2. STATE:</b> South Dakota
	<b>3. PROGRAM IDENTIFICATION:</b> TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
<b>TO:</b> REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	<b>4. PROPOSED EFFECTIVE DATE</b> 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)**


<b>6. FEDERAL STATUTE/REGULATION CITATION:</b>  42 CFR 447.201 and 42 CFR 447 Subpart C	<b>7. FEDERAL BUDGET IMPACT:</b> a. FFY 2017: \$ 0.00 b. FFY 2018: \$ 0.00
<b>8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:</b>  Pages 8, 12, and 17 of Attachment 4.19-D	<b>9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):</b>  Pages 8, 12, and 17 of Attachment 4.19-D

**10. SUBJECT OF AMENDMENT:**

The State Plan Amendment clarifies payment methodology for Access Critical nursing facilities and nursing facilities operated under Public Law 93-638.

**11. GOVERNOR'S REVIEW (Check One):**

GOVERNOR'S OFFICE REPORTED NO COMMENT       OTHER, AS SPECIFIED:  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

<b>12. SIGNATURE OF STATE AGENCY OFFICIAL:</b> 	<b>16. RETURN TO:</b>  DEPARTMENT OF SOCIAL SERVICES DIVISION OF MEDICAL SERVICES 700 GOVERNORS DRIVE PIERRE, SD 57501-2291
<b>13. TYPED NAME:</b>  Lynne A. Valenti	
<b>14. TITLE:</b> Cabinet Secretary	
<b>15. DATE SUBMITTED:</b> August 3, 2017	

**FOR REGIONAL OFFICE USE ONLY**

<b>17. DATE RECEIVED:</b>	<b>18. DATE APPROVED:</b>
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**PLAN APPROVED - ONE COPY ATTACHED**

<b>19. EFFECTIVE DATE OF APPROVED MATERIAL:</b>	<b>20. SIGNATURE OF REGIONAL OFFICIAL:</b>
<b>21. TYPED NAME:</b>	<b>22. TITLE:</b>

**23. REMARKS:**

School, 900 Washington St. Written comments may be sent to South Dakota Board of Social Work Examiners, 810 N. Main Street #298, Spearfish, South Dakota 57783 or via email to [proflic@rushmore.com](mailto:proflic@rushmore.com). Copies of the proposed rule may be obtained from Teresa Schulte, Department of Social Services, 700 Governors Dr., Pierre, SD 57501 or at <http://rules.sd.gov>. Written comments must be received by July 25, 2017, to be considered. Persons who have special needs for which the board can make arrangements are asked to call (605) 642-1600 at least 48 hours before the hearing.

***Department of Social Services: Division of Child Care Services:*** (June 20, 2017) intends to amend rules to update the definition of full-time student, align language with current practice and federal requirements, correct a citation, and move the co-payment rates for child care assistance to the department's website and modifies the sliding fee scale. The general authority for these rules, as cited by the department, is SDCL § 28-1-61.

A public hearing will be held in Kneip Conference Room 1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on July 27, 2017, at 3:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to Teresa Schulte, Department of Social Services, 700 Governors Dr., Pierre, SD 57501. Copies of the proposed rules are also available at: <http://rules.sd.gov>. Written comments must be received by August 7, 2017, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3165 at least 48 hours before the hearing.

## NOTICE:

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning outpatient hospital payment methodology effective July 1, 2017. The proposed State Plan Amendment (SPA) removes duplicative language from the outpatient hospital payment methodology section. The SPA amends page 1b of Attachment 4.19-B of the South Dakota Medicaid State Plan. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018. The SPA is available on the department's website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to: Department of Social Services, Division of Medical Services, 700 Governors Dr., Pierre, SD 57501-2291.

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning nursing facility payment methodology effective July 1, 2017. The proposed State Plan Amendment (SPA) clarifies payment methodology for Access Critical nursing facilities and nursing facilities operating under Indian Health Service, Public Law 93-638 authority. The SPA amends pages 8, 12, and 17 of Attachment 4.19-D of the South Dakota Medicaid State Plan. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018. The SPA is available on the department's website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to: Department of Social Services, Division of Medical Services,

700 Governors Dr., Pierre, SD 57501-2291.

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning disproportionate share payments effective July 1, 2017. The proposed State Plan Amendment (SPA) clarifies the criteria for qualifying for disproportionate share payments. The SPA amends pages 6, 7, and 8 of Attachment 4.19-A of the South Dakota Medicaid State Plan. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018. The SPA is available on the department's website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to: Department of Social Services, Division of Medical Services, 700 Governors Dr., Pierre, SD 57501-2291.

#### **FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**DEPARTMENT OF LABOR AND REGULATION: DIVISION OF INSURANCE:** 20:06:12:07; 20:06:13 Appendix D; 20:06:18:05, 20:06:18:05:03; 20:06:19:04; 20:06:25:01, 20:06:25:02; 20:06:26:01; and 20:06:36:01.

History-Notice: 43 SDR 141, May 1, 2017  
 Hearing: May 15, 2017  
 Filed: June 16, 2017  
 Effective: July 7, 2017

**DEPARTMENT OF LABOR AND REGULATION: DIVISION OF LABOR AND MANAGEMENT:** 47:03:05:01, 47:03:05:02, and 47:03:05:05.

History-Notice: 43 SDR 141, May 1, 2017  
 Hearing: May 15, 2017  
 Filed: June 16, 2017

Effective: July 7, 2017

**DEPARTMENT OF HEALTH: BOARD OF MASSAGE THERAPY:** 20:76:01:01 to 20:76:01:04, inclusive, 20:76:01:06; 20:76:02:01; 20:76:03:01, 20:76:03:03, 20:76:03:04, 20:76:03:05, 20:76:03:07, 20:76:03:08; 20:76:05:01, 20:76:05:02; 20:76:06:01; and 20:76:08:01 to 20:76:08:03, inclusive.

History-Notice: 43 SDR 109, February 6, 2017  
 Hearing: April 10, 2017  
 Filed: June 20, 2017  
 Effective: July 10, 2017

**DEPARTMENT OF LABOR AND REGULATION: SD ELECTRICAL COMMISSION:** 20:44:14:01; 20:44:16:08, 20:44:16:09, 20:44:16:24; 20:44:19:01, 20:44:19:03, 20:44:19:05, 20:44:19:07; 20:44:20:10; 20:44:22:02 to 20:44:22:05, inclusive, 20:44:22:07, 20:44:22:12, 20:44:22:24, 20:44:22:27, 20:44:22:28; 20:44:24:01, and 20:44:24:04 to 20:44:24:06, inclusive.

History-Notice: 43 SDR 135, April 17, 2017  
 Hearing: May 4, 2017  
 Filed: June 20, 2017  
 Effective: July 10, 2017

#### **Executive Appointments:**

**Wendy Figland**, Mitchell, was appointed on June 7, 2017, to the **Behavioral Health Advisory Council**, to replace Sara Weishaar, effective immediately and shall continue until October 30, 2018.

**Jane Grant**, Mission Hill, was appointed on June 7, 2017, to the **Behavioral Health Advisory Council**, to replace Patricia R. Johnson-Riibe, effective immediately and shall continue until October 30, 2017.

## Ballard, Matthew

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**From:** Ballard, Matthew  
**Sent:** Monday, June 26, 2017 8:52 AM  
**To:** 'Adele White'; 'Amanda Taylor'; 'Amy Muchna'; 'Anthony Reider'; 'April Herrick'; 'Arlene Krulish'; 'Audrey German'; 'Becky Diehm'; 'Beth Lee'; 'Bonnie Cromwell'; 'Brandon Sazue'; 'Brittany Brewer'; 'CAPT Christopher W. Allen'; 'Carmen Thompson'; 'Carol Diaz'; 'CDR Emily Williams'; 'CeCe BigCrow'; Chase, Kyle; 'Christine Olson'; 'Christy Hacker'; 'Clarence Montgomery'; 'Cody Wolff'; 'Cole Hunter'; 'Corey Smith'; 'Crystal Owen'; 'Dara Harwood'; 'Dave Archambault II'; 'David Flute'; 'David Walford'; 'DaVonna Keeble'; 'Dayle Knutson'; 'DeAnna Howe-Swan'; 'Deb Odens'; 'Debee Eagle Elk'; 'Dee LeBeau-Hein'; 'Delaine Rasmussen'; 'Delores Pourier'; 'Devero Yellow Earing'; 'Donna LC Keeler'; 'Dr. Bill Carr'; 'Dylan Fills Pipe'; 'Ed Parsells'; 'Eddie Johnson Jr.'; 'Edwin Harris'; 'Elaine Clement'; 'Elaine Keepseagle'; 'Ella "John" Carlow'; 'Ellen Durkin'; 'Ellen Rogers'; Emery, Steve; 'Eugene Giago'; 'Evelyn "Evie" Espinoza'; 'Gerri LeBeau'; 'Gina Johnson'; 'Gypsy Wanna'; 'Harold Frazier'; 'Holly Rice'; 'Jade Trottier'; 'James Begeman'; 'Jana Gipp'; 'Jean Richards-Tulloss'; 'Jennie Crawford'; 'Jennifer Giroux'; 'Jennifer Williams'; 'Jenny Jeffries'; 'Jeremy Burtenshaw'; 'Jerilyn Church'; 'Jerome Lee Bearheels'; 'Jessica Morson'; 'Johanna Camacho'; 'John Eagle Shield'; 'John Yellow Bird Steele'; 'Jon Schuchardt'; 'Jonni Arpan'; 'Julie Thorstenson'; 'Justin Taylor'; Kagey, Hannah; 'Karla Kirkpatrick'; 'Kathlene Thurman'; 'Kathy Bad Moccasin'; 'Kathy Gordon'; 'Kendra Christensen'; 'Kendra Roland'; 'Kenneth Johnson'; 'Kevin Meeks'; 'Kevin Stiffarm'; 'Kim Clown'; 'Kristine Watts'; 'Kym Swimmer'; 'Leah Fyten'; 'Leatrice Wilson'; 'Lee Lawrence'; 'LeLewis Gipp'; 'Lezley "Lez" Kempf'; 'Linda Littlefield'; 'Lisa Schlosser'; 'Liz Anderson'; 'Lori Braaten'; 'Lynn Big Eagle'; 'Marc Beaudreau'; 'Margaret Gates'; 'Margaret Gunville'; 'Marieta Little Thunder'; 'Marilyn Prairie Chicken'; 'Mark Aguilar'; 'Mark Calkins'; 'Mark LeBrun'; 'Mary Ann McClowen'; 'Mary Bickel'; 'Matthew Frye'; 'Melissa Huff'; 'Michelle Patton'; 'Michelle Red Willow'; 'Mika Tibbs'; 'Mike Boland'; 'Monta Little Solider'; 'Myrna Thompson'; 'Neil Austin'; 'Nichole Cottier'; 'Nick Thomas'; 'Nicole White Wolf'; 'Nyal Brings'; 'Olivia Grass'; Olson, Alissa; 'Opal Jones'; 'Patty Eagle Bull'; 'Paula Brown'; 'Paulette High Elk'; 'PJ Beaudry'; 'Randal White'; 'Randi Peacock'; 'Randolph Runs After'; Reiss, David; 'Ricahrd Mousseau'; 'Richard Bud'; 'Richard Huff'; 'Rick Sorensen'; 'Robert Flying Hawk'; 'Robert Taken Alive'; 'Roberta Jacobson'; 'Rochelle Rogers'; 'Ron Cornelius'; 'Roxanne Sazue'; 'Roxee Johnson'; 'Sara DeCoteau'; 'Sean Jackson'; 'Shawn Carging'; 'Shirley Crane'; 'Sierra Wolcott'; 'Sonia Little Hawk-Weston'; 'Stacey Red Willow'; 'Staci Hunter'; 'Steven Kaleda'; 'Sue Mallon'; 'Sunny Cololmbe'; 'Susan Porter'; 'Tara Fox'; 'Teresa Stites'; 'Terra Haug'; 'Terri Rattler'; 'Tina Russell'; 'Tinka Duran'; 'Tinnekkia Williams'; 'Todd Warren'; 'Toni Slockish'; 'Tony Stayner'; 'Tricia Birdnecklace'; 'Tricia Knight'; 'Trina Fischer'; 'Tyler Lannoye'; 'Valentina LaFountain'; 'Warren Giago'; 'Whitney Nordvold'; 'William "Willie" Kindle'  
**Cc:** Aker, Sarah; Barraza-Cannon, Johanna; Tidball-Zeltinger, Brenda; Valenti, Lynne  
**Subject:** State Plan Amendments Tribal Consultation: SD-17-004, SD 17-005, SD 17-006  
**Attachments:** SD 17-004 SPA Package.pdf; SD 17-005 SPA Package.pdf; SD 17-006 SPA Package.pdf

Good Morning,

Please find attached three Department of Social Services' proposed Medicaid State Plan Amendments ("SPA"). SD 17-004 is regarding hospital disproportionate share payments. SD 17-005 is regarding outpatient hospital payment methodology. SD 17-006 is regarding nursing facility payment methodology for Access Critical nursing facilities and tribally operated nursing facilities operating under a 638 agreement.



Proposed State Plan Amendment (SPA) SD 17-004 clarifies the criteria for qualifying for disproportionate share payments. The SPA amends pages 6, 7, and 8 of Attachment 4.19-A of the South Dakota Medicaid State Plan. The Department intends to make this SPA effective July 1, 2017.

Proposed State Plan Amendment (SPA) SD 17-005 removes duplicative language from the outpatient hospital payment methodology section. The SPA amends page 1b of Attachment 4.19-B of the South Dakota Medicaid State Plan. The Department intends to make this SPA effective July 1, 2017.

Proposed State Plan Amendment (SPA) SD 17-006 clarifies payment methodology for Access Critical nursing facilities and nursing facilities operating under Indian Health Service, Public Law 93-638 authority. The reimbursement rate for facilities operated under Public Law 93-638 will be calculated based on historical costs reported by the facility and reasonable and allowable prospective costs that support quality and access to care. The SPA amends pages 8, 12, and 17 of Attachment 4.19-D of the South Dakota Medicaid State Plan. The Department intends to make this SPA effective July 1, 2017.

Please contact me within 30 days with any questions or comments.

Sincerely,

**Matthew Ballard** | Program Specialist II  
South Dakota Department of Social Services  
Division of Medical Services  
(605) 773-3495

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**DEPARTMENT OF SOCIAL SERVICES**

DIVISION OF MEDICAL SERVICES

700 GOVERNORS DRIVE

PIERRE, SD 57501-2291

**PHONE:** 605-773-3495

**FAX:** 605-773-5246

**WEB:** [dss.sd.gov](http://dss.sd.gov)



June 26, 2017

RE: South Dakota Medicaid State Plan Amendment #SD-17-006

The South Dakota Department of Social Services intends to make changes to the South Dakota Medicaid State Plan regarding nursing facility payment methodology. The proposed State Plan Amendment (SPA) clarifies payment methodology for Access Critical nursing facilities and nursing facilities operating under Indian Health Service, Public Law 93-638 authority. The SPA amends pages 8, 12, and 17 of Attachment 4.19-D of the South Dakota Medicaid State Plan.

We intend to make this SPA effective July 1, 2017. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018.

Please contact me within 30 days of receipt of this message with any questions or comments.

Sincerely,

A handwritten signature in blue ink that reads 'Sarah Aker'.

Sarah Aker  
Deputy Director  
Division of Medical Services  
South Dakota Department of Social Services

CC: Lynne A. Valenti, Cabinet Secretary  
Brenda Tidball-Zeltinger, Deputy Secretary  
Johanna Barraza-Cannon, Interim Director

## **Medicaid State Plan Amendment Proposal**

**Transmittal Number:** SD-17-006

**Effective Date:** 07/01/2017

**Brief Description:** This State Plan Amendment clarifies payment methodology for Access Critical nursing facilities and nursing facilities operating under Indian Health Service, Public Law 93-638 authority.

**Area of State Plan Affected:** Attachment 4.19-D

**Page(s) of State Plan Affected:** Pages 8, 12, and 17.

**Estimate of Fiscal Impact, if Any:** FFY17: \$0.00  
FFY18: \$0.00

**Reason for Amendment:** To clarify payment methodology for Access Critical and 638 nursing facilities.



**Section C—Limits and Ceilings:****1. Direct Care Case Mix Adjusted Cost—115% to 125%**

The method used to determine the Direct Care Case Mix Adjusted Cost will be: (1) Calculate the average Case Mix Score for each facility during the cost reporting period, (Section A, Provision Number 3); (2) Determine the per diem Case Mix Component Cost for each facility from the cost report (Section A, Provision Number 3); and (3) Divide each facility's per diem Case Mix Component cost by its Case Mix Score to arrive at the facility's Case Mix Adjusted Per Diem Cost. The Case Mix Adjusted Per Diem Cost will then be used to establish a minimum ceiling at 115% of the median and a maximum ceiling at 125% of the median. The Medicaid Program will only pay a stated percentage of all costs in excess of the 115% (Section B, Provision Number 4a). Any costs in excess of 125% will not be recognized. The ceiling limitations will apply to all nursing facilities participating in the State Medicaid Program.

**2. Non-Direct Care Cost—105% to 110%**

The Non-Direct Care Cost components will consist of: (1) General Administrative; (2) Health and Subsistence; (3) Other Operating; (4) Plant/Operational; and Capital. The Non-Direct Care Costs will not be subject to Case Mix Adjustment.

Non-Direct Care Costs will be limited by establishing three separate cost categories and establishing ceiling limitations for each.

**a. Health & Subsistence Costs—105% to 110%**

This category will consist of the cost categories of Health & Subsistence, Plant & Operation and Other Operating, as defined in the Medicaid Cost Report. The median cost is based on all Level I non-waivered nursing facilities that have a case mix acuity level of 1.0 or more. A minimum ceiling will be established at 105% of the median and a maximum ceiling will be established at 110% of the median. The Medicaid Program will only pay a stated percentage of costs in excess of the 105% limitation (Section B, Provision Number 4b). Any costs in excess of the 110% limitation will not be recognized.

Section D—Other:

1. In computing annual per diem rates, costs subject to inflation which are submitted to the Department on the “Statistical and Cost Summary for Nursing Facilities” (Section A, Provision Number 3) shall be inflated in the statewide aggregate three percent annually. [Obsolete, effective July 7, 2009.]
2. Allowances may be made for known future costs due to new or revised Federal or State laws, regulations, and/or standards having an impact on costs incurred by nursing facilities. An explanation of costs of this nature must be attached to the “Statistical and Cost Summary for Nursing Facilities” if they are to be given consideration.
3. Facilities designated as Access Critical in accordance with South Dakota Codified Law 34-12-35.5 are reimbursed using cost reports submitted to the Department per Section A, Provision Number 3 and shall be calculated to recognize additional direct care, non-direct care, and overall costs incurred by the facility.
4. Statewide averages and allowable per diem rates shall be set annually prior to July 1, using cost reports submitted to the Department per Section A, Provision Number 3.

12. The reimbursement rate for facilities operated under 93-638 PL will be calculated based on historical costs reported by the facility and reasonable and allowable prospective costs that support quality and access to care.