August 29, 2022

RE: South Dakota Medicaid State Plan Amendment # SD-22-0012

The South Dakota Department of Social Services intends to make changes to the South Dakota Medicaid State Plan. The Department is participating in the Sovereign States Drug Consortium (SSDC) for supplemental drug rebate negotiations, pursuant to Section 1927 of the Act. The SPA amends Supplement to Attachment 3.1-A, page 20 to reflect this.

The Department intends to make this SPA effective October 1, 2022. Supplemental drug rebates will result in savings for the State and federal government. The savings/fiscal impact for FFY 23 or FFY 24 is unknown at this time.

Please contact me at Matthew.Ballard@state.sd.us within 30 days if you have any questions or comments.

Sincerely,

Matthew Ballard
Deputy Director
Division of Medical Services
South Dakota Department of Social Services

CC: Laurie R. Gill, Cabinet Secretary
    Sarah Aker, Director
Medicaid State Plan Amendment Proposal

Transmittal Number:  SD-22-0012

Effective Date:  October 1, 2022

Brief Description:  Updates the state plan to reflect that the Department is participating in the Sovereign States Drug Consortium (SSDC) for supplemental drug rebate negotiation.

Area of State Plan Affected:  Supplement to Attachment 3.1-A

Page(s) of State Plan Affected:  20

Estimate of Fiscal Impact, if Any:  The fiscal impact is unknown, but the Department estimates there will cost savings in FFY 23 or FFY 24.

Reason for Amendment:  To obtain supplemental drug rebates that will generate savings for the State.
12a. **Prescribed Drugs**

Any covered outpatient drug may be subject to prior authorization, and the agency maintains a list of drugs requiring prior authorization. Prescribing physicians, pharmacists, and/or designated representatives may contact the Medicaid Prior Authorization Unit via 1-800 phone or fax lines, mail or encrypted e-mail to request prior authorization. The program will issue responses within 24 hours of the request. Pharmacies may dispense a 72-hour supply of a prior authorized product in the event of an emergency. The program complies with requirements set forth in OBRA 1990 and 1993 pertaining to prior authorization programs.

**Supplemental Rebates**

Pursuant to Section 1927 of the Act, the State has the following policies for Medicaid supplemental rebates:

Beginning July 18, 2022, South Dakota participates in the Sovereign States Drug Consortium (SSDC) Medicaid multi-State purchasing pool. SSDC will negotiate supplemental rebates for South Dakota. The state retains all options to accept or reject offers. Drugs of manufacturers who do not participate in the supplemental rebate program will still be available to Medicaid recipients.

A model rebate agreement between the state and a drug manufacturer for drugs provided to the Medicaid population, submitted to the Centers for Medicare & Medicaid Services (CMS) with SPA TN # 22-0012, and entitled “SSDC South Dakota Medicaid Supplemental Drug Rebate Agreement” has been authorized by CMS. Any substantive modification to the agreement will be submitted to CMS for authorization.

Per Section 1927 (b)(3)(D) of the Social Security Act the unit rebate amount is confidential and cannot be disclosed. Funds received from supplemental rebate agreements will be reported to CMS. The state will remit the federal portion of any supplemental rebates collected.

**Excluded Items**

The program does not cover the following items:

1. Delivery charges;
2. Agents when used for the treatment of sexual or erectile dysfunction;
3. Items manufactured by a firm that has not signed a rebate agreement with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services;
4. Drugs and biologicals which the federal government has determined to be less than effective;
5. Experimental items;
6. Over-the-counter items limited to non-sedating anti-histamines and smoking cessation drugs for pregnant women.

The program does not cover any Medicare Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B. (See **Attachment 3.1-A.1** for specific coverage.)