June 24, 2020

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

Re: South Dakota CHIP State Plan Amendment SD-20-004

Dear Mr. Allen:

Please find enclosed South Dakota CHIP State Plan Amendment (SPA) SD-20-004 regarding adding assurances of coverage of behavioral health services. The assurances are required by recent federal legislation and do not alter existing coverage in any way. The SPA adds new CHIP state plan template language to pages 70 and 72 through 76 of the South Dakota CHIP State Plan. The Department intends to make this SPA effective October 24, 2019. The Department estimates there will be no fiscal impact associated with this SPA in Federal Fiscal Year 2020 and Federal Fiscal Year 2021.

The State conducted Tribal Consultation beginning with notification on May 18, 2020. We have attached a copy of the notification sent to the Tribes. Public notice was published in the South Dakota REGISTER, https://sdlegislature.gov/docs/rules/Register/05182020.pdf, on May 18, 2020. We received no comments during the tribal consultation and public comment periods.

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, or telephone (605) 773-3495.

Sincerely,

[Signature]

Laurie R. Gill
Cabinet Secretary

CC: William Snyder, Director
    Sarah Aker, Deputy Director
Notice

The Department of Social Services intends to make changes to the South Dakota CHIP State Plan to add assurances of coverage of behavioral health services. The assurances are required by recent federal legislation and do not alter existing coverage in any way. The proposed State Plan Amendment adds new CHIP state plan template language to pages 70 and 72 through 76 of the South Dakota CHIP State Plan. The department intends to make this Amendment effective October 24, 2019, and estimates there will be no fiscal impact in Federal Fiscal Years 2020 and 2021. The Amendment can be viewed on the department’s website at http://dss.sd.gov/medicaid/medicaidstateplan.aspx. Written requests for a copy of these changes, and corresponding comments may be sent to Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

Final Administrative Rules


History/Notice: 46 SDR 108, March 16, 2020
Hearing: April 2, 2020
Filed: May 8, 2020
Effective: May 28, 2020

Executive Orders

Governor Noem has signed Executive Order 2020-23, dated May 11, 2020, suspending the statute relating to the renewal of certain alcoholic beverage licenses and the rule regarding submission of financial statements for Deadwood gaming establishments, in response to the COVID-19 pandemic.

Executive Appointments

<table>
<thead>
<tr>
<th>Appointee</th>
<th>Appointed by</th>
<th>Succeeding</th>
<th>Effective/End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Dakota Interagency Coordinating Council</td>
<td>Governor</td>
<td>Kristi Swier</td>
<td>4/28/2020</td>
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<td>Jodi Berscheid</td>
<td>Governor</td>
<td>Kristi Swier</td>
<td>4/28/2020</td>
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<td>Pierre</td>
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**Good Morning,**

The South Dakota Department of Social Services intends to make changes to the South Dakota CHIP State Plan to add assurances of coverage of behavioral health services. The assurances are required by recent federal legislation and do not alter existing coverage in any way. The SPA adds new CHIP state plan template language to pages 70 and 72 through 76 of the South Dakota CHIP State Plan.

The Department intends to make this SPA effective October 24, 2019. The Department estimates there will be no fiscal impact associated with this SPA in Federal Fiscal Year 2020 and Federal Fiscal Year 2021.

The documents comprising the SPA are attached. Please contact me within 30 days of receipt of this message with any questions or comments.

Sincerely,

**Matthew Ballard** | State Plan Program Manager  
South Dakota Department of Social Services  
Division of Medical Services
(605) 773-3495

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The Department of Social Services does not exclude, deny benefits to, or otherwise discriminate against any person on the basis of actual or perceived race, color, religion, national origin, sex, age, gender identity, sexual orientation or disability in admission or access to, or treatment or employment in its programs, activities, or services. For more information about this policy or to file a Discrimination Complaint you may contact: Discrimination Coordinator, Director of DSS Division of Legal Services, 700 Governor’s Drive, Pierre SD 57501, 605-773-3305.
May 18, 2020

RE: South Dakota CHIP State Plan Amendment #SD-20-004

The South Dakota Department of Social Services intends to make changes to the South Dakota CHIP State Plan to add assurances of coverage of behavioral health services. The assurances are required by recent federal legislation and do not alter existing coverage in any way. The SPA adds new CHIP state plan template language to pages 70 and 72 through 76 of the South Dakota CHIP State Plan.

The Department intends to make this SPA effective October 24, 2019. The Department estimates there will be no fiscal impact associated with this SPA in Federal Fiscal Year 2020 and Federal Fiscal Year 2021.

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

Sincerely,

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

CC: Laurie R. Gill, Cabinet Secretary
    William Snyder, Director
CHIP State Plan Amendment Proposal

Transmittal Number:  SD-20-004

Effective Date:  10/24/2019

Brief Description:  This CHIP state plan amendment adds assurances of coverage of behavioral health services as required by recent federal legislation.

Area of State Plan Affected:  CHIP State Plan, Section 6.2.26 and Section 6.2 Behavioral Health Coverage

Page(s) of State Plan Affected:  Pages 70 and 72 - 76

Estimate of Fiscal Impact, if Any:  
FFY20:  $0.00
FFY21:  $0.00

Reason for Amendment:  To provide assurances of compliance with federal legislation.
as identified in the State Medicaid manual.

6.2.26. EPSDT consistent with requirements of sections 1905(r) and 1902(a)(43) of the Act

Any Medicaid eligible child under 21 years of age, pursuant to Section 1905(r)(5) of the Act, has access to necessary health care, diagnostic services, treatment and other measures described in Section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services whether or not such services are covered under this State plan.

Payment will also be allowed under EPSDT for the following medically necessary services:

1. Nutrition items, prior authorization required for total parenteral nutrition.
2. Orthodontic services, prior authorization required.
3. Private duty nursing services, prior authorization required.

Payment will also be made for any medically necessary services provided to children less than 21 years of age in excess of service limitations applicable to adult Medicaid recipients.

6.2.26.1 The state assures that any limitations applied to the amount, duration, and scope of benefits described in Sections 6.2 and 6.3- BH of the CHIP state plan can be exceeded as medically necessary.

6.2.27. Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services. (See instructions) (Section 2110(a)(24))

Other medical services included in the plan are Chiropractic Services, Podiatry Services, Nutritional Services, Nursing Facility Services, Diabetes Self-management training programs, Vaccination Services and certain Organ Transplant Services.

Chiropractic services are limited to examinations and manual manipulations required to correct a subluxation of the spine. Services are outside of the PCCM program and limited to no more than one visit per day and thirty visits in a twelve-month period.

Podiatry services include the surgical and non-surgical diagnosis and treatment of conditions of the feet and lower extremities, excluding routine
6.2.30. ☒ Enabling services (such as transportation, translation, and outreach services (Section 2110(a)(27))

6.2.31. ☐ Any other health care services or items specified by the Secretary and not included under this section (Section 2110(a)(28))

6.2-BH Behavioral Health Coverage  Section 2103(c)(5) requires that states provide coverage to prevent, diagnose, and treat a broad range of mental health and substance use disorders in a culturally and linguistically appropriate manner for all CHIP enrollees, including pregnant women and unborn children.

6.2.1- BH Periodicity Schedule  The state has adopted the following periodicity schedule for behavioral health screenings and assessments. Please specify any differences between any covered CHIP populations:

☐ State-developed schedule  
☒ American Academy of Pediatrics/ Bright Futures  
☐ Other Nationally recognized periodicity schedule (please specify:  
☐ Other (please describe: For pregnant women South Dakota covers AAP/Bright Futures and USPSTF A and B graded recommended behavioral health screenings and behavioral health preventive services.)

6.3- BH Covered Benefits  Please check off the behavioral health services that are provided to the state’s CHIP populations, and provide a description of the amount, duration, and scope of each benefit. For each benefit, please also indicate whether the benefit is available for mental health and/or substance use disorders. If there are differences in benefits based on the population or type of condition being treated, please specify those differences.

If EPSDT is provided, as described at Section 6.2.22 and 6.2.22.1, the state should only check off the applicable benefits. It does not have to provide additional information regarding the amount, duration, and scope of each covered behavioral health benefit.

6.3.1- BH ☒ Behavioral health screenings and assessments. (Section 2103(c)(6)(A))

6.3.1.1- BH ☒ The state assures that all developmental and behavioral health recommendations outlined in the AAP Bright Futures periodicity schedule and United States Public Preventive Services Task Force (USPSTF) recommendations graded as A and B are covered as a part of the CHIP benefit package, as appropriate for the covered populations.

6.3.1.2- BH ☒ The state assures that it will implement a strategy to facilitate the use of age-appropriate validated behavioral health screening tools in primary care settings. Please describe how the state will facilitate the use of validated screening tools.
South Dakota’s strategy to facilitate the use of age appropriate validated behavioral health screening tools will include recommending PCCMs use tools recommended by the AAP, USPSTF, or tools otherwise considered a validated behavioral health screening tool. South Dakota will also utilize its providers manuals to facilitate the use of these tools in primary care settings.

6.3.2- BH ✗ Outpatient services (Sections 2110(a)(11) and 2110(a)(19))

6.3.2.1- BH ✗ Psychosocial treatment
Provided for: ☒ Mental Health ☒ Substance Use Disorder

6.3.2.2- BH ✗ Tobacco cessation
Provided for: ☒ Substance Use Disorder

6.3.2.3- BH ✗ Medication Assisted Treatment
Provided for: ☒ Substance Use Disorder

6.3.2.3.1- BH ✗ Opioid Use Disorder

6.3.2.3.2- BH ✗ Alcohol Use Disorder

6.3.2.3.3- BH ☐ Other

6.3.2.4- BH ☐ Peer Support
Provided for: ☐ Mental Health ☐ Substance Use Disorder

6.3.2.5- BH ☐ Caregiver Support
Provided for: ☐ Mental Health ☐ Substance Use Disorder

6.3.2.6- BH ☐ Respite Care
Provided for: ☐ Mental Health ☐ Substance Use Disorder

6.3.2.7- BH ✗ Intensive in-home services
Provided for: ☒ Mental Health ☐ Substance Use Disorder

6.3.2.8- BH ✗ Intensive outpatient
Provided for: ☒ Mental Health ☒ Substance Use Disorder

6.3.2.9- BH ✗ Psychosocial rehabilitation
Provided for: ☒ Mental Health ☐ Substance Use Disorder

6.3.3- BH ✗ Day Treatment
Provided for: ☐ Mental Health ☒ Substance Use Disorder

6.3.3.1- BH ☐ Partial Hospitalization
Provided for: ☐ Mental Health ☐ Substance Use Disorder

6.3.4- BH ☒ Inpatient services, including services furnished in a state-operated mental hospital and including residential or other 24-hour therapeutically planned structural services (Sections 2110(a)(10) and 2110(a)(18))
Provided for: ☒ Mental Health ☒ Substance Use Disorder

6.3.4.1- BH ☒ Residential Treatment
Provided for: ☐ Mental Health ☒ Substance Use Disorder

6.3.4.2- BH ☒ Detoxification
Provided for: ☒ Substance Use Disorder

6.3.5- BH ☒ Emergency services
Provided for: ☒ Mental Health ☒ Substance Use Disorder

6.3.5.1- BH ☒ Crisis Intervention and Stabilization
Provided for: ☐ Mental Health ☒ Substance Use Disorder

6.3.6- BH ☐ Continuing care services
Provided for: ☐ Mental Health ☐ Substance Use Disorder

6.3.7- BH ☒ Care Coordination
Provided for: ☒ Mental Health ☒ Substance Use Disorder

6.3.7.1- BH ☐ Intensive wraparound
Provided for: ☐ Mental Health ☐ Substance Use Disorder

6.3.7.2- BH ☒ Care transition services
Provided for: ☒ Mental Health ☒ Substance Use Disorder

6.3.8- BH ☐ Case Management
Provided for: ☐ Mental Health ☐ Substance Use Disorder

6.3.9- BH ☐ Other
Provided for: ☐ Mental Health ☐ Substance Use Disorder

6.4- BH Assessment Tools

6.4.1- BH Please specify or describe all of the tool(s) required by the state and/or each managed care entity:

☒ ASAM Criteria (American Society Addiction Medicine)
☐ Mental Health ☒ Substance Use Disorders
South Dakota’s state-specific criteria is a comprehensive assessment integrating mental health and substance use disorder needs based on the ASAM criteria.

Please describe the state’s strategy to facilitate the use of validated assessment tools for the treatment of behavioral health conditions.

South Dakota’s administrative rules require providers to use a state-specific comprehensive assessment that is based on ASAM criteria. South Dakota also facilitates the use of a state-specific assessment through our provider manuals.

6.2.5- BH Covered Benefits The State assures the following related to the provision of behavioral health benefits in CHIP:

- All behavioral health benefits are provided in a culturally and linguistically appropriate manner consistent with the requirements of section 2103(c)(6), regardless of delivery system.

- The state will provide all behavioral health benefits consistent with 42 CFR 457.495 to
ensure there are procedures in place to access covered services as well as appropriate and timely treatment and monitoring of children with chronic, complex or serious conditions.

6.2- MHPAEA  Section 2103(c)(6)(A) of the Social Security Act requires that, to the extent that it provides both medical/surgical benefits and mental health or substance use disorder benefits, a State child health plan ensures that financial requirements and treatment limitations applicable to mental health and substance use disorder benefits comply with the mental health parity requirements of section 2705(a) of the Public Health Service Act in the same manner that such requirements apply to a group health plan. If the state child health plan provides for delivery of services through a managed care arrangement, this requirement applies to both the state and managed care plans. These requirements are also applicable to any additional benefits provided voluntarily to the child health plan population by managed care entities and will be considered as part of CMS’s contract review process at 42 CFR 457.1201(l).

6.2.1- MHPAEA  Before completing a parity analysis, the State must determine whether each covered benefit is a medical/surgical, mental health, or substance use disorder benefit based on a standard that is consistent with state and federal law and generally recognized independent standards of medical practice. (42 CFR 457.496(f)(1)(i))

6.2.1.1- MHPAEA  Please choose the standard(s) the state uses to determine whether a covered benefit is a medical/surgical benefit, mental health benefit, or substance use disorder benefit. The most current version of the standard elected must be used. If different standards are used for different benefit types, please specify the benefit type(s) to which each standard is applied. If “Other” is selected, please provide a description of that standard.

- International Classification of Disease (ICD)
- Diagnostic and Statistical Manual of Mental Disorders (DSM)
- State guidelines (Describe: )
- Other (Describe: )

6.2.1.2- MHPAEA  Does the State provide mental health and/or substance use disorder benefits?

- Yes
- No

6.2.2- MHPAEA  Section 2103(c)(6)(B) of the Social Security Act (the Act) provides that to the extent a State child health plan includes coverage of early and periodic screening, diagnostic, and treatment services (EPSDT) defined in section 1905(r) of the Act and provided in accordance with section 1902(a)(43) of the Act, the plan shall be deemed to satisfy the parity requirements of section 2103(c)(6)(A) of the Act.