South Dakota Department of Social Services

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

November 5, 2026

Dr. Sally Abbott, MS, PhD
Regional Health Administrator
Centers for Medicare and Medicaid Services
1961 Stout Street, Room 08-148
Denver, CO 80294

Re: South Dakota Medicaid State Plan Amendment SD-26-0012

Dear Dr. Abbott:

Please find enclosed South Dakota's CHIP State Plan Amendment (SPA) SD-26-0012. The SPA adds provisionally licensed marriage and family therapists working under a plan of supervision to the list of other licensed practitioner services. The SPA also makes minor edits to the PASRR Categorical Determinations page at the request of Centers for Medicare & Medicaid Services (CMS) to ensure language is consistent with PASRR definitions and requirements under 42 CFR 483.100–138.

The SPA amends page 11 of Supplement to Attachment 3.1-A and page 1 of Attachment 4.39-A. The Department intends to make this SPA effective October 15, 2026.

The department estimates there will be no fiscal impact associated with this SPA in Federal Fiscal Year 2027 or Federal Fiscal Year 2028.

The State conducted Tribal Consultation beginning with notification on October 5, 2026. We have attached a copy of the notification sent to the Tribes. Public notice was published in the South Dakota REGISTER, https://mylrc.sdlegislature.gov/api/Documents/Register/308247.pdf on October 5, 2026. There were no tribal or public comments received.

If you have any questions regarding this package, please contact Renae Hericks, Policy and Programs Manager, Division of Medical Services, 700 Governors Drive, Pierre, SD 57501-2291, e-mail Renae.Hericks@state.sd.us, or telephone (605) 773-4087.

Sincerely,

Heather Petermann, Director

CC: Brenda Tidball-Zeltinger, Interim Cabinet Secretary

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: 26 — 0012

2. STATE: SD

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 15, 2026

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 440.60 and 42 CFR 483.100–138

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2027 $ 0
b. FFY 2028 $ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Page 11 of Supplement to Attachment 3.1-A
Page 1 of Attachment 4.39-A

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*
Page 11 of Supplement to Attachment 3.1-A (TN# 18-007)
Page 1 of Attachment 4.39-A (TN# 24-16)

9. SUBJECT OF AMENDMENT
Adds provisionally licensed marriage and family therapist working under a plan of supervision to the list of other licensed practitioner services and makes minor edits to the PASRR Categorical Determinations page at the request of Centers for Medicare & Medicaid Services (CMS) to ensure language is consistent with 42 CFR 483.100–138.

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:

11. SIGNATURE OF STATE AGENCY OFFICIAL
Heather Petermann

12. TYPED NAME
Heather Petermann

13. TITLE
Director

14. DATE SUBMITTED
11/05/2026

15. RETURN TO
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF MEDICAL SERVICES
700 GOVERNORS DRIVE
PIERRE, SD 57501-2291

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

Instructions on Back

6d. Other Licensed Practitioner Services

1. Services of a licensed physician assistant. See service limitations under section 5a of this attachment.

2. Services of a licensed certified nurse practitioner other than pediatric or family nurse practitioners. See service limitations under section 5a of this attachment.

3. Services of a licensed certified registered nurse anesthetist. See service limitations under section 5a of this attachment.

4. Services of a licensed registered nurse or licensed practical nurse which are determined medically necessary by the Department, and are limited to no more than 18 hours of nursing during a calendar quarter.

5. Services of a licensed psychologist, licensed professional counselor – mental health, licensed professional counselor working toward a mental health designation, licensed clinical nurse specialist, licensed certified social worker – PIP, licensed certified social work – PIP candidate, licensed marriage and family therapist provided within their scope of licensure, or provisionally licensed marriage and family therapist working under a plan of supervision.

6. Services of a licensed nutritionist and licensed dietician provided within their scope of licensure.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT MEDICAL ASSISTANCE PROGRAM
State/Territory: SOUTH DAKOTA

CATEGORICAL DETERMINATIONS

B. The state mental health or intellectual/developmental disability authority may make an advanced determination that nursing facility services are needed for the following groups

1. Terminal Illness
   Terminal illness diagnosis, determined by a physician or hospice involvement, that includes a life expectancy of 6 months or less.

2. Severe Physical Illness
   Severe physical illness which has resulted in a coma or ventilator dependence (ex: functioning at a brain stem level, or a diagnosis such as end stage COPD, Parkinson's disease, Huntington's, amyotrophic lateral sclerosis (ALS), which results in a level of impairment so severe that a person cannot be expected to benefit from specialized service.

3. Convalescent Stay
   A physician has identified the need for a NF stay following a hospitalization for the same condition which will be less than 100 days.

4. Respite Stay
   A physician has ordered for a respite stay of 30 days or less.

5. Emergency Placement
   Provisional admission pending further assessment requiring a referral from adult protective services or law enforcement, with placement in the nursing facility not to exceed 7 days.

If an individual is later determined to need a longer stay than the State's limit allows, the individual must be subjected to a resident review before continuation of the stay may be permitted and payment made for days of NF care beyond the State's time limit.

C. The state intellectual/developmental disability authority may make categorical determinations that individuals with dementia, which exists in combination with intellectual disability or a related condition, do not need specialized services.

Hericks, Renae

From: DSS Medical Services <DSSMedicalServices@STATE.SD.US>
Sent: Monday, October 5, 2026 11:53 AM
To: DSSMEDICAIDTRIBAL@LISTSERV.SD.GOV
Subject: State Plan Amendment
Attachments: 26-0012 Notice Package.pdf

Good Afternoon,

The South Dakota Department of Social Services intends to make changes to the South Dakota Medicaid State Plan to align with recent administrative rule changes and clarify PASRR policy consistent with federal regulations. Specifically, the SPA adds marriage and family therapists working toward a mental health designation to the list of other licensed practitioner services. This update will allow this practitioner type to provide and bill for mental health services. The SPA also makes minor edits to the PASRR Categorical Determinations page at the request of Centers for Medicare & Medicaid Services (CMS) to ensure language is consistent with PASRR definitions and requirements under 42 CFR 483.100–138.

The SPA amends page 11 of Supplement to Attachment 3.1-A and page 1 of Attachment 4.39-A. The Department intends to make this SPA effective October 15, 2026.

The department estimates there will be no fiscal impact associated with this SPA in Federal Fiscal Year 2027 or Federal Fiscal Year 2028.

The SPAs are available to view 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 emailed to MedicaidSPA@state.sd.us or sent to:

DIVISION OF MEDICAL SERVICES
DEPARTMENT OF SOCIAL SERVICES
700 GOVERNORS DRIVE
PIERRE, SD 57501-2291

The public comment period will start October 5, 2026, and end November 4, 2026.

Sincerely,

South Dakota Medicaid
Department of Social Services
700 Governors Drive
Pierre, SD 57501
In-State: 1-800-452-7691
Out-of-State 605-945-5006

South Dakota Department of Social Services

This message is being sent by or on behalf of the South Dakota Department of Social Services. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, attorney-client privileged, confidential, or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by telephone at (605) 773-3495 or by reply transmission by e-mail, and delete all copies of the message.

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.

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CHIP State Plan Amendment Proposal

Transmittal Number: SD-26-0012

Effective Date: 10/15/2026

Brief Description: Adds marriage and family therapists working toward a mental health designation to the list of other licensed practitioner services and makes minor edits to the PASRR Categorical Determinations page at the request of Centers for Medicare & Medicaid Services (CMS) to ensure language is consistent with PASRR definitions and requirements under 42 CFR 483.100–138.

Area and Page(s) of State Plan Affected: Page 11 of Supplement to Attachment 3.1-A and page 1 of Attachment 4.39-A.

Estimate of Fiscal Impact, if Any: FFY27: $0.00
FFY28: $0.00

Reason for Amendment: Align with recent administrative rule changes and clarify PASRR policy consistent with federal regulations.

Anticipated Impact to Tribes: No impact anticipated.

Comment Period: October 5, 2026, to November 4, 2026

SOUTH DAKOTA REGISTER

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LEGISLATIVE RESEARCH COUNCIL ACTIONS

Apparent Error in Rules Addressed

Pursuant to authority provided in SDCL 1-26A-1, and in consultation with staff of the South Dakota Commission on Gaming, code counsel has corrected an apparent error in ARSD 20:04:33:81, depicted in relevant part as follows:

> **20:04:33:81. Patron protection information.** A hub licensee shall provide the following patron protection information to individuals and patrons on demand:
>
> (1) Information about potential risks associated with excessive wagering, and ~~contract~~ contact information for an organization based in this state or the United States, approved by the commission, dedicated to helping people with potential gambling problems;…

This error was apparent given the nature of the misspelling and the sentence conveying the plain intent to facilitate patron access to problem gambling resources.

FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

Petition for Rules

The **Department of Game, Fish and Parks** on September 28, 2026, advised the Interim Rules Review Committee and the code counsel that petitions served on them September 16, 2026, per SDCL 1-26-13, to amend ARSD 41:04:02:12 to change the dates wherein the waters of Reid Lake in Clark County are designated a "no boating zone" have been withdrawn by the petitioner. The Game, Fish and Parks Commission was initially scheduled to review the petitions at its October 8, 2026, meeting.

Notice

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan to align with recent administrative rule changes and clarify Preadmission Screening and Resident Review (PASRR) policy consistent with federal regulations.

Specifically, the proposed State Plan Amendment (SPA) adds marriage and family therapists working toward a mental health designation to the list of other licensed practitioner services. This update will allow this practitioner type to provide and bill for mental health services. The SPA also makes minor edits to the PASRR Categorical Determinations page at the request of the Centers for Medicare and Medicaid Services (CMS) to ensure the language is consistent with PASRR definitions and requirements under 42 CFR 483.100-138.

The SPA amends page 11 of Supplement to Attachment 3.1-A and page 1 of Attachment 4.39-A. The department intends to make the SPA effective October 15, 2026, and estimates there will be no fiscal impact associated with this SPA in Federal Fiscal Year 2027 or Federal Fiscal Year 2028.

The SPA is available to view 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 emailed to MedicaidSPA@state.sd.us or sent to the Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291. The public comment period will start October 5, 2026, and end November 4, 2026.

SUPREME COURT RULES

Public Hearing on November 9, 2026

Rules Hearing No. 159, proposing to amend SDCL 16-5-1.2, 16-6-1, and 16-12B-1.1.

FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

Executive Order

Governor Rhoden has signed Executive Order 2026-11, dated September 28, 2026, pursuant to SDCL chapter 34-48A, declaring a fuel emergency to exist in South Dakota due to global market factors related to the cost and availability of diesel fuel, and the impact to agricultural transportation during harvest season. The Federal Motor Carrier Safety Administration issued an Hours of Service Waiver for the transportation of gasoline and diesel fuel in response to global supply disruptions and anticipated increases in the demand for gasoline and diesel fuels; the waiver is also intended to mitigate impacts on costs and availability of fuel for transportation service providers, agricultural harvesting, and the traveling public as the demand increases. Agricultural producers are currently limited during harvest to ten percent overweight limits for a single trip from the point of harvest to the point of first unloading. The Order will serve as the overweight permit required by SDCL 32-22-42 if such transportation is in accordance with the Order, and the associated fee prescribed by ARSD 70:03:01:02 will be suspended. Under the terms of the overweight permit, additional weight not to exceed ten percent is allowed for all movement on state trunk highways, excluding the interstate system, for a vehicle hauling agricultural products, commodities, and livestock that exceeds the weight limits in SDCL chapter 32-22. It does not allow a single axle to exceed the maximum axle weight limit of 20,000 pounds nor does it apply for transporting above the posted weight limits on roads or bridges.

The Order also directs the Secretary of the Department of Revenue to continue to evaluate fuel supplies to determine if a shortage of dyed diesel fuel exists and if any refunds can be issued pursuant to SDCL 10-47B-131.3. Executive Order 2026-11 will expire December 28, 2026, unless further extended by Executive Order.

Final Administrative Rules

APPRAISER CERTIFICATION PROGRAM (DEPARTMENT OF LABOR AND REGULATION): 20:14:13:01.01, 20:14:13:03.01, 20:14:13:06; 20:77:03:01, 20:77:03:06.

History/Notice: 52 SDR 101, April 27, 2026
Hearing: July 29, 2026
Filed: September 25, 2026
Effective: October 15, 2026