



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

March 18, 2025

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-25-0008

Dear Dr. Abbott:

Please find enclosed South Dakota's Medicaid State Plan Amendment (SPA) SD-25-0008 regarding clinic services. The proposed amendment provides assurance that the State is in compliance with requirements in 42 CFR § 440.90 covering clinic services furnished outside the clinic to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address and eligible individuals outside a clinic operated by the IHS or by a Tribe or Tribal organization by clinic personnel under the direction of a physician.

The proposed State Plan Amendment (SPA) has an effective date of January 1, 2025. The amendment adds template pages 15a-15f to Supplement to Attachment 3.1-A of the Medicaid State Plan. The department estimates there will be no fiscal impact associated with this SPA in Federal Fiscal Year 2025 and Federal Fiscal Year 2026 as coverage outside the four walls was previously permitted by a CMS exception.

The State is currently conducting Tribal Consultation. The 30-day notification period began on March 17, 2025, and will conclude on April 16, 2025. 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/284546.pdf>, on March 17, 2025. There have been no tribal or public comments received to date. The State will submit to CMS all comments received once the comment period concludes on April 16th.

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,

A handwritten signature in black ink, appearing to read 'Heather Petermann', written in a cursive style.

Heather Petermann
Director

CC: Matt Althoff, Cabinet Secretary

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

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

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY _____ \$ _____
b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

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

15. RETURN TO

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED

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

State Plan under Title XIX of the Social Security Act

State/Territory: South Dakota

Section 1905(a)(9) Clinic Services

The state provides coverage for this benefit as defined at section §1905(a)(9) of the Social Security Act (the Act) and 42 C.F.R. 440.90 and as described as follows:

General Assurances

[Select all three checkboxes below.]

- The state assures services are furnished by a facility that is not part of a hospital in accordance with 42 C.F.R. 440.90.
- The state assures that services are furnished by facilities that are organized and operated to provide medical care to outpatients in accordance with 42 C.F.R. 440.90.
- The state assures that services are furnished under the direction of a physician or dentist in accordance with 42 C.F.R. 440.90(a).

Types of Clinic Services and Limitations in Amount, Duration, or Scope

[Select if applicable, describe below, and indicate if limits may be exceeded based upon state determined medical necessity criteria.]

Limitations apply to all services within the benefit category.

PRA Disclosure Statement - This use of this form is mandatory and the information is being collected to assist the Centers for Medicare & Medicaid Services in implementing section §1905(a)(9) of the Social Security Act. Under the Privacy Act of 1974, any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 #91). Public burden for all of the collection of information requirements under this control number is estimated to take about 25 hours per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

TN: 25-0008

Approval Date:

Supersedes TN: NEW

Effective: 01/01/2025

State Plan under Title XIX of the Social Security Act

State/Territory: South Dakota

Section 1905(a)(9) Clinic Services

Types of Clinics and Services:

[Select all that apply and describe below as applicable]

Behavioral Health Clinics [Describe the types of behavioral health clinics below and select below if applicable.]:

[Empty text box for Behavioral Health Clinics description]

Limitations apply only to this clinic type within the benefit category. [Describe below and indicate if limits may be exceeded based upon state determined medical necessity criteria.]

[Empty text box for Behavioral Health Clinics limitations]

IHS and Tribal Clinics [Select below if applicable.]:

Limitations apply only to this clinic type within the benefit category. [describe below and indicate if limits may be exceeded based upon state determined medical necessity criteria].

[Empty text box for IHS and Tribal Clinics limitations]

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Section 1905(a)(9) Clinic Services

Renal Dialysis Clinics [Select below if applicable.]:

Limitations apply only to this clinic type within the benefit category. [Describe below and indicate if limits may be exceeded based upon state determined medical necessity criteria.]

[Empty text box for describing limitations for Renal Dialysis Clinics]

Other Clinics [Describe the types of clinics, if any limitations apply, and select below if applicable.]:

- a. Family planning clinics;
- b. Ambulatory surgical centers which meet conditions for Medicare participation as evidenced by an agreement with the Federal Department of Health and Human Services.
- c. Maternal and child health clinics

Limitations apply only to this clinic type within the benefit category. [Describe below and indicate if limits may be exceeded based upon state determined medical necessity criteria.]

[Empty text box for describing limitations for Other Clinics]

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State/Territory: South Dakota

Section 1905(a)(9) Clinic Services

[Empty box]

Four Walls Exceptions

The state assures that the following services may be furnished outside of the clinic. [Select the first and second checkbox; Do not select the second checkbox if the state does not enroll IHS or Tribal facilities as providers of clinic services.]:

- Services furnished outside the clinic, by clinic personnel under the direction of a physician, to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address in accordance with 42 C.F.R. 440.90(b).
- Services furnished outside a clinic that is a facility of the Indian Health Service, whether operated by the Indian Health Service (IHS) or by a Tribe or Tribal organization (as authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. 93-638), by clinic personnel under the direction of a physician in accordance with 42 C.F.R. 440.90(c).

The state elects to cover the following services outside of the clinic [Select all that apply.]:

- Services furnished outside of a clinic that is primarily organized for the care and treatment of outpatients with behavioral health disorders, including mental health and substance use disorders, by clinic personnel under the direction of a physician in accordance with 42 C.F.R. 440.90(d) [Describe the types of behavioral health clinics such exception applies to below.]:

[Empty box]

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State/Territory: South Dakota

Section 1905(a)(9) Clinic Services

[Empty box for additional information]

Services furnished outside of a clinic that is located in a rural area and is not a rural health clinic (as referenced in section §1905(a)(2)(B) of the Act and 42 C.F.R. 440.20(b) of this subpart) by clinic personnel under the direction of a physician in accordance with 42 C.F.R. 440.90(e) [Select one of the checkboxes below and describe the definition of a rural area that applies to this exception.]:

A definition adopted and used by a federal governmental agency for programmatic purposes [Describe below.]:

[Empty box for description of federal definition]

A definition adopted by a state governmental agency with a role in setting state rural health policy [Describe below.]:

[Empty box for description of state definition]

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Section 1905(a)(9) Clinic Services

The state attests that **[Select the checkbox if the state elects to cover services outside of a clinic that is located in a rural area.]**:

- The selected definition of a rural area best captures the population of rural individuals that meets more of the four criteria that mirror the needs and barriers to access experienced by individuals who are unhoused:
- The population experiences high rates of behavioral health diagnoses or difficulty accessing behavioral health services;
 - The population experiences issues accessing services due to lack of transportation;
 - The population experiences a historical mistrust of the health care system; and
 - The population experiences high rates of poor health outcomes and mortality.

Additional Benefit Description (Optional)

At its option the state may provide additional descriptive information about the benefit, beyond what is included in the federal statutory and regulatory definitions and descriptions. **[Describe below.]**

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TN: 25-0008

Approval Date:

Supersedes TN: NEW

Effective: 01/01/2025

From: [DSS Medical Services](#)
To: DSSMEDICAIDTRIBAL@LISTSERV.SD.GOV
Subject: State Plan Amendment
Date: Monday, March 17, 2025 10:36:24 AM
Attachments: [image002.png](#)
[Notice Package for 25-0008.pdf](#)

Good morning,

The South Dakota Department of Social Services intends to make changes to the clinic services section of the South Dakota Medicaid State Plan. Clinic services are a specific benefit type, distinct from physician services, which generally only permit services inside a physical building. Providers included in the clinic benefit include ambulatory surgical centers, renal dialysis clinics, Indian Health Service clinics, and Department of Health clinics. On November 27, 2024, Centers for Medicare and Medicaid (CMS) published a final rule clarifying coverage of clinic services furnished outside the clinic as allowable in certain circumstances under 42 CFR 440.90. CMS is requiring states to submit a state plan amendment to incorporate attestation pages to indicate the state is in compliance with this federal regulation. The SPA pages provide assurances that South Dakota Medicaid covers clinic services furnished:

- outside the clinic to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address
- outside a clinic operated by the IHS or by a Tribe or Tribal organization by clinic personnel under the direction of a physician.

The proposed State Plan Amendment (SPA) has an effective date of January 1, 2025. The amendment adds template pages 15a-15f to Supplement to Attachment 3.1-A of the Medicaid State Plan. The department estimates there will be no fiscal impact associated with this SPA in Federal Fiscal Year 2025 and Federal Fiscal Year 2026 as coverage was formerly permitted by CMS as a COVID-19 public health emergency exception that was extended through February 11, 2025.

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 March 17, 2025, and end April 16, 2025.

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



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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March 17, 2025

RE: South Dakota Medicaid State Plan Amendment # SD-25-0008

The South Dakota Department of Social Services intends to make changes to the clinic services section of the South Dakota Medicaid State Plan. Clinic services are a specific benefit type, distinct from physician services, which generally only permit services inside a physical building. Providers included in the clinic benefit include ambulatory surgical centers, renal dialysis clinics, Indian Health Service clinics, and Department of Health clinics. On November 27, 2024, Centers for Medicare and Medicaid (CMS) published a final rule clarifying coverage of clinic services furnished outside the clinic as allowable in certain circumstances under 42 CFR 440.90. CMS is requiring states to submit a state plan amendment to incorporate attestation pages to indicate the state is in compliance with this federal regulation. The SPA pages provide assurances that South Dakota Medicaid covers clinic services furnished:

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

The public comment period will start March 17, 2025, and end April 16, 2025.

Sincerely,

Matthew Ballard

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

CC: Matt Althoff, Cabinet Secretary
Heather Petermann, Director



SOUTH DAKOTA REGISTER

Published weekly by the Legislative Research Council

Volume 51

Monday, 8:00 a.m., March 17, 2025

FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

Notice of Proposed Rules

Date in parentheses indicates when rules were filed with the Legislative Research Council.

Copies of proposed rules may be obtained for no charge at <https://rules.sd.gov> or from the agency directly.

Board of Barber Examiners (Department of Labor and Regulation): (March 11, 2025) intends to amend rules to revise the renewal date for a barber school license; increase fees for barber certificate renewal, barber certificate restoration, barber certificate restoration annual penalty, barber school license, barbershop license (initial and renewal), and barber chair license (initial and renewal); and establish new fee rules for fees related to annual inspections and initial barber licensure. The general authority for these rules, as cited by the department, is SDCL [36-14-9](#), [36-14-24](#), [36-14-27](#), and [36-14-30](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held via Microsoft Teams on April 1, 2025, at 10:00 a.m. (CT). Persons may access the Microsoft Teams meeting at <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> and use meeting ID 272 655 084 461 and passcode Zx22aT2D. Interested parties may also attend by calling (605) 679-7263 and using conference code 338 399 043#. Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, the Board of Barber Examiners, 217 West Missouri Avenue, Pierre, South Dakota 57501 or by email to tyler.evins@state.sd.us. Copies of the rules are also available online at <https://rules.sd.gov>. The deadline to submit any written comments for consideration is no later than 10:00 a.m. (CT) on March 29, 2025. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 295-7727 at least 48 hours before the public hearing.

Department of Game, Fish and Parks: (March 14, 2025) intends to adopt, amend, or repeal rules to clarify the use of personal flotation devices; ensure that required fire extinguishers on boats operated in public waters are in serviceable condition and not expired; include PRE-09A and PRE-27A in Prairie Elk Hunting Season units eligible for a landowner-own-land resident-only antlerless elk license; remove the reference to a locking seal requirement for Canada geese; increase the daily limit of pintail ducks and reduce the bonus blue-winged teal season to nine days; modify the season dates in Unit 3 to match the season dates in Unit 2 for Canada geese; allow hunting in CGW-11A with an appropriate waterfowl license without the requirement to obtain a permit specific to Bennett County; remove language describing bag limits, permit requirements, and the application process for CGW-11A Special Canada Goose; move twenty-five nonresident licenses from NRW-11A to NRW-00B; preclude ARSD 41:06:50:02 from referencing Unit 3; expand the unit boundary for BHS-BH4 and clean up unit descriptions; expand PRE-09A and PRE-27A season dates; expand PRE-WRA; and allow the initiation of the pursuit of a mountain lion with dogs outside the Black Hills Fire Protection District to occur anywhere. The general authority for these rules, as cited by the department, is SDCL [32-3A-1](#), [41-2-18](#), [41-6-18.2](#), [41-6-18.4](#), [41-6-19.3](#), [41-6-19.4](#), [41-6-19.9](#), [41-8-15](#), and [41-11-5](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held at the Matthews Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on April 3, 2025, at 2:00 p.m. (CT). Copies of the proposed rules may be obtained without charge from, and written comments on the proposed rules may be sent to, the Secretary of the Department of Game, Fish and Parks, Foss Building, 523 East Capitol

Avenue, Pierre, South Dakota 57501. The rules are also available online at <https://rules.sd.gov>. Comments may also be submitted at <http://gfp.sd.gov/forms/positions>. All written and email comments must include the name, city, and state of the person submitting them. The comment period will close 72 hours prior to the date of the hearing. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3718 or (605) 223-7684 (Telecommunication Device for the Deaf).

Department of Social Services: (March 14, 2025) intends to update adoption rules specific to kinship adoptions and to create a new foster licensure pathway for kinship foster homes. The general authority for these rules, as cited by the department, is SDCL [26-4-9.1](#) and [26-6-16](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held at the Department of Social Services Building, Linden Conference Room C207, 1501 South Highline Avenue, Sioux Falls, South Dakota, on April 14, 2025, at 11:00 a.m. (CT). Interested parties may also attend by calling (605) 679-7263 and using conference code 843 219 069#. Copies of the proposed rules may be obtained without charge from, and written comments on the proposed rules may be sent to, Teresa Schulte, Administrative Rules C0202, Department of Social Services, 1501 South Highline Avenue, Sioux Falls, South Dakota 57110. The rules are also available online at <http://rules.sd.gov>. Comments and requests for copies of the proposed rules may also be emailed to DSSAdminRules@state.sd.us. Written comments must reach the department by April 24, 2025, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 674-5771 at least 48 hours before the public hearing.

Notice

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