

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)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



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](http://dss.sd.gov)

November 04, 2024

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-24-0016

Dear Dr. Abbott:

Please find enclosed South Dakota's Medicaid State Plan Amendment (SPA) SD-24-0016. The SPA clarifies the state plan to reflect current practice for PASRR specialized services in nursing facilities and the available categorical determinations options. The SPA does not change the State's current level of care determination process.

The SPA amends pages 79s and 79t of Section 4.39, page 1 of Attachment 4.39, and page 1 of Attachment 4.39-A, and adds page 2 of Attachment 4.39 to the South Dakota Medicaid state plan. The proposed State Plan Amendment (SPA) will have an effective date of October 1, 2024. The Department estimates there will be no fiscal impact in Federal Fiscal Year 2025 and Federal Fiscal Year 2026 as the amendment allows for alignment with current practice.

The State conducted Tribal Consultation beginning with notification on September 30, 2024. 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/268540.pdf>, September 30, 2024. No comments were received.

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

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



# SOUTH DAKOTA REGISTER

Published weekly by the Legislative Research Council

Volume 51

Monday, 8:00 a.m., September 30, 2024

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## FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

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### Petition for Rules

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The **South Dakota State Board of Dentistry (Department of Health)** on September 23, 2024, served on the Interim Rules Review Committee and the director of the Legislative Research Council, petitions received from interested persons, per [SDCL 1-26-13](#), to add new sections to Article [20:43](#) to allow dental hygienists and registered dental assistants to perform limited restorative functions and allow registered dental assistants to perform supragingival scaling; and amend ARSD [20:43:09:06](#) to allow dental assistants to administer nitrous oxide and monitor patients under nitrous oxide. The [South Dakota State Board of Dentistry](#) will review the petitions at its October 18, 2024, meeting.

### Notice

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The **Department of Social Services** intends to amend the South Dakota Medicaid State Plan regarding Preadmission Screening and Annual Resident Reviews (PASRR). The proposed state plan amendment (SPA) clarifies the state plan to reflect current practice for PASRR specialized services in nursing facilities and the available categorical determination options. It does not change the State's current level of care determination process. The SPA amends pages 79s and 79t of Section 4.39, page 1 of Attachment 4.39, and page 1 of Attachment 4.39-A, and adds page 2 of Attachment 4.39 to the South Dakota Medicaid State Plan.

The department intends to make this SPA effective October 1, 2024, and estimates there will be no fiscal impact in Federal Fiscal Year 2025 and Federal Fiscal Year 2026 as the amendment allows for alignment with current practice.

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](mailto: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 September 30, 2024, and end October 30, 2024.

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## FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

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### Final Administrative Rules

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**[SOUTH DAKOTA BOARD OF EDUCATION STANDARDS \(DEPARTMENT OF EDUCATION\)](#)**: 24:05:30:08.03, 24:05:30:08.04, 24:05:30:08.12, 24:05:30:08.13, 24:05:30:09.04, 24:05:30:11, 24:05:30:13.

**History/Notice**: 50 SDR 128, April 29, 2024

**Hearing**: July 8, 2024

**Filed**: September 24, 2024

**Effective**: October 14, 2024

## Hericks, Renae

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**From:** DSS Medical Services <DSSMedicalServices@STATE.SD.US>  
**Sent:** Monday, September 30, 2024 7:54 AM  
**To:** DSSMEDICAIDTRIBAL@LISTSERV.SD.GOV  
**Subject:** State Plan Amendment  
**Attachments:** 24-0016 Notice Package.pdf

Good morning,

The South Dakota Department of Social Services intends to amend the South Dakota Medicaid State Plan regarding Preadmission Screening and Annual Resident Reviews (PASRR). The proposed state plan amendment (SPA) clarifies the state plan to reflect current practice for PASRR specialized services in nursing facilities and the available categorical determinations options. The SPA does not change the State's current level of care determination process.

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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 September 30, 2024, and end October 30, 2024.

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

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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.

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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](http://dss.sd.gov)

September 30, 2024

RE: South Dakota Medicaid Plan Amendment # SD-24-0016

The South Dakota Department of Social Services intends to amend the South Dakota Medicaid State Plan regarding Preadmission Screening and Annual Resident Reviews (PASRR). The proposed state plan amendment (SPA) clarifies the state plan to reflect current practice for PASRR specialized services in nursing facilities and the available categorical determinations options. The SPA does not change the State's current level of care determination process.

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

The public comment period will start September 30, 2024, and end October 30, 2024.

Sincerely,

*Matt Ballard*

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

CC: Matt Althoff, Cabinet Secretary  
Heather Petermann, Director



# PUBLIC NOTICE

## South Dakota Medicaid Program

Notice is hereby given that the South Dakota Department of Social Services intends to amend the South Dakota Medicaid State Plan regarding Preadmission Screening and Annual Resident Reviews (PASRR). The proposed state plan amendment (SPA) clarifies the state plan to reflect current practice for PASRR specialized services in nursing facilities and the available categorical determinations options. The SPA does not change the State's current level of care determination process.

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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 September 30, 2024, and end October 30, 2024.



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

SECTION 4. GENERAL PROGRAM ADMINISTRATION

Citation

4.39 Preadmission Screening and Annual Resident Review in Nursing Facilities

Sections

1902(a)(28)(D)(i) and  
1919(e)(7) of the Act,  
P.L. 100-203 (section  
4211(c));  
P.L. 101-508 (section  
4801(b)).

- (a) The Medicaid agency has in effect a written agreement with the State mental health and State intellectual/developmental disability authorities that meets the requirements of 42 CFR 431.621(c).
  - (b) The State operates a preadmission and annual resident review program that meets the requirements of 42 CFR 483.100-138.
  - (c) The State does not claim as "medical assistance under the State Plan" the cost of services to individuals who should receive preadmission screening or annual resident review until such individuals are screened or reviewed.
  - (d) With the exception of NF services furnished to certain NF residents defined in 42 CFR 483.118(c)(1), the State does not claim as "medical assistance under the State Plan" the cost of NF services to individuals who are found not to require NF services.
- X (e) **ATTACHMENT 4.39** specifies the State's definition of specialized services.

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

SECTION 4. GENERAL PROGRAM ADMINISTRATION

Citation 4.39 Preadmission Screening and Annual Resident Review in Nursing Facilities (continued)

Sections  
1902(a)(28)(D)(i) and  
1919(e)(7) of the Act,  
P.L. 100-203 (section  
4211(c));  
P.L. 101-508 (section  
4801(b)).

1. Except for residents identified in 42 CFR 438.118(c), the State mental health or State intellectual/developmental disability authority makes categorical determinations that individuals with certain mental conditions or levels of severity of mental illness would normally require specialized services of such an intensity that a specialized services program could not be delivered by the State in most, if not all, NFs and that a more appropriate placement should be utilized.

\_X\_ (g) The State describes any categorical determinations it applies in **ATTACHMENT 4.39-A**

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

DEFINITION OF SPECIALIZED SERVICES

Serious Mental Illness

Specialized outpatient services for adults are medically necessary related treatment, and rehabilitative, and support services to a recipient age 18 or older with serious mental illness (SMI), including those with co-occurring disorders. The individual must have at least one functional impairment as a result of the SMI. These "Specialized Services" are psychiatric services resulting in the continuous and aggressive implementation of an individual plan of care that is developed by an interdisciplinary team which includes a physician, qualified mental health professionals, and other professionals which prescribes specific therapies and activities for the treatment of individuals experiencing an acute episode of serious mental illness requiring supervision by trained mental health professionals to obtain improvement in function that would permit a reduction in the level of intensity to below the level of specialized services at the earliest possible time. The State Mental Health Authority has identified the following Specialized Services:

1. Psychiatric medication management and monitoring
  - a. Psychiatric assessment, treatment, and prescription of pharmacotherapy with the primary purpose of prescribing or reviewing a recipient's use of pharmaceuticals.
2. Individual mental health therapy
  - a. Therapeutic contact between a recipient and therapist in which the therapist delivers direct therapy/counseling to assist the recipient in progressing toward therapeutic goals.
3. Case management services as provided through a Community Mental Health Center, which includes:
  - a. Care Coordination - A collaborative process which assesses, plans, implements, coordinates, monitors, and evaluates the options and services to meet an individual's health needs as identified in the treatment plan.
  - b. Symptom Assessment and Management - The assessment of an individual's symptoms and providing education regarding managing their symptoms including medication and monitoring education.

- c. Recovery Support Services- Supportive counseling/psychotherapy (when diagnostically indicated) and the development of psychosocial and recovery skills may be provided to help the recipient cope with and gain mastery over symptoms and disabilities, including those related to co-occurring disorders, in the context of daily living.
4. Psychoeducational or other therapeutic group
  - a. Provided to assist the recipient to gain or relearn self-care, interpersonal, and community living skills needed to live independently, sustain psychiatric stability, and progress towards recovery.

#### Intellectual or Developmental Disability

Specialized services available for eligible individuals with intellectual/developmental disabilities include the following:

1. Day habilitation services;
2. Career exploration;
3. Small Group Vocational Support;
4. Group Supported Employment;
5. Individual Supported Employment;
6. Assistive Technology; and
7. Specialized Medical Equipment and Drugs.

Specialized services for eligible individuals with intellectual/developmental disabilities must be provided by certified providers as determined by the State intellectual/developmental disability authority. Certified providers must meet all service specifications as outlined by the State intellectual/developmental disability authority.

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

CATEGORICAL DETERMINATIONS

- A. The State mental health or intellectual/developmental disability authority may make an advanced determination that nursing facility services are needed for the following groups of applicants:
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 active treatment.
  3. Convalescent Stay  
A physician has identified the need for a NF stay following a hospitalization 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.
- B. The state mental health or intellectual/developmental disability authorities may make categorical determinations that individuals with dementia, which exists in combination with a PASRR condition, do not need specialized services.