



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

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:

- 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](mailto:MedicaidSPA@state.sd.us) or sent to:

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DEPARTMENT OF SOCIAL SERVICES  
700 GOVERNORS DRIVE  
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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

## **Medicaid State Plan Amendment Proposal**

**Transmittal Number:** SD-25-0008

**Effective Date:** 01/01/2025

**Brief Description:** Provides assurance 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 and outside a clinic operated by the IHS or by a Tribe or Tribal organization by clinic personnel under the direction of a physician as required by CMS.

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

**Page(s) of State Plan Affected:** 15a-15f

**Estimate of Fiscal Impact, if Any:**       FFY25: \$0  
  FFY26: \$0

**Reason for Amendment:** The federal regulatory definition of clinic services (42 CFR 440.90) was amended to include a mandatory exception to the four walls requirement..

**Anticipated Impact to Tribes:** Allows for permanent Medicaid coverage of clinic services such as public health nursing services to occur outside of the IHS/Tribal facilities.

**Comment Period:** March 17, 2025 to April 16, 2025.

# PUBLIC NOTICE

## South Dakota Medicaid Program

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**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.

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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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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 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 box for describing limitations for Other Clinics]

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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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Section 1905(a)(9) Clinic Services

[Empty box for description]

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]

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

[Empty box for description]

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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.]:

[Empty box for additional benefit description]

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