



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, 2024

RE: South Dakota Medicaid Plan Amendment # SD-24-0008

The South Dakota Department of Social Services intends to amend the South Dakota Medicaid State Plan regarding prescribed drugs. The SPA allows for coverage of select over-the-counter drugs manufactured by a firm that does not have a signed rebate agreement with the United States Department of Health and Human Services. South Dakota Medicaid is implementing coverage of iron supplements for pregnant women through this amendment. The SPA also allows for South Dakota Medicaid to enter into value-based agreements with manufacturers on a voluntary basis, which would allow the state to recoup partial payment for select high-cost drugs if a drug does not achieve agreed upon health outcomes. The SPA amends page 20 of Supplement to Attachment 3.1-A of the Medicaid State Plan. The Department intends to make this SPA effective April 1, 2024.

The department estimates the fiscal impact associated with this SPA to be \$13,607 in State funds and \$20,393 in Federal funds, totaling \$34,000 in Federal Fiscal Year 2024 (April 1, 2024 to September 30, 2024) and \$40,786 in State funds and \$27,214 in Federal funds, totaling \$68,000 in Federal Fiscal Year 2025 (October 1, 2024 to September 30, 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 18, 2024, and end April 17, 2024.

Sincerely,

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

CC: Matt Althoff, Cabinet Secretary
Heather Petermann, Director

Medicaid and CHIP State Plan Amendment Proposal

Transmittal Number: SD-24-0008

Effective Date: 4/1/2024

Brief Description: Allows for coverage of select over-the-counter drugs manufactured by a firm that does not have a signed rebate agreement with the United States Department of Health and Human Services, including iron supplements for pregnant women. The SPA also allows for South Dakota Medicaid to enter into value-based agreements with manufacturers on a voluntary basis.

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

Page(s) of State Plan Affected: Page 20

Estimate of Fiscal Impact, if Any: FFY24: \$34,000
FFY25: \$68,000

Reason for Amendment: To expand over-the-counter drug coverage and allow for value-based agreements with drug manufacturers.

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 prescribed drugs. The SPA allows for coverage of select over-the-counter drugs manufactured by a firm that does not have a signed rebate agreement with the United States Department of Health and Human Services. South Dakota Medicaid is implementing coverage of iron supplements for pregnant women through this amendment. The SPA also allows for South Dakota Medicaid to enter into value-based agreements with manufacturers on a voluntary basis, which would allow the state to recoup partial payment for select high-cost drugs if a drug does not achieve agreed upon health outcomes. The SPA amends page 20 of Supplement to Attachment 3.1-A of the Medicaid State Plan. The Department intends to make this SPA effective April 1, 2024.

The department estimates the fiscal impact associated with this SPA to be \$13,607 in State funds and \$20,393 in Federal funds, totaling \$34,000 in Federal Fiscal Year 2024 (April 1, 2024 to September 30, 2024) and \$40,786 in State funds and \$27,214 in Federal funds, totaling \$68,000 in Federal Fiscal Year 2025 (October 1, 2024 to September 30, 2025).

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:

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

The public comment period will start March 18, 2024, and end April 17, 2024.

SUPPLEMENT TO ATTACHMENT 3.1-A

12a. Prescribed Drugs

Any covered outpatient drug may be subject to prior authorization, and the agency maintains a list of drugs requiring prior authorization. Prescribing physicians, pharmacists, and/or designated representatives may contact the Medicaid Prior Authorization Unit via 1-800 phone or fax lines, mail or encrypted e-mail to request prior authorization. The program will issue responses within 24 hours of the request. Pharmacies may dispense a 72-hour supply of a prior authorized product in the event of an emergency. The program complies with requirements set forth in OBRA 1990 and 1993 pertaining to prior authorization programs.

Supplemental Rebates

Pursuant to Section 1927 of the Act, the State has the following policies for Medicaid supplemental rebates:

South Dakota participates in the Sovereign States Drug Consortium (SSDC) Medicaid multi-State purchasing pool. SSDC will negotiate supplemental rebates for South Dakota. The state retains all options to accept or reject offers. Drugs of manufacturers who do not participate in the supplemental rebate program will still be available to Medicaid recipients.

A model rebate agreement between the state and a drug manufacturer for drugs provided to the Medicaid population, submitted to the Centers for Medicare & Medicaid Services (CMS) with SPA TN # 22-0012, and entitled "SSDC South Dakota Medicaid Supplemental Drug Rebate Agreement" has been authorized by CMS. Any substantive modification to the agreement will be submitted to CMS for authorization.

Per Section 1927 (b)(3)(D) of the Social Security Act the unit rebate amount is confidential and cannot be disclosed. Funds received from supplemental rebate agreements will be reported to CMS. The state will remit the federal portion of any supplemental rebates collected.

Over-the-Counter Drugs

Select over-the-counter (OTC) drugs are covered if they are prescribed by a physician (or other person authorized to prescribe). The list of covered OTC drugs can be found in the Pharmacy Provider Manual.

Excluded Items

The program does not cover the following items:

1. Delivery charges;
2. Agents when used for the treatment of sexual or erectile dysfunction;
3. Items manufactured by a firm that has not signed a rebate agreement with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services except for select OTC drugs;
4. Drugs and biologicals which the federal government has determined to be less than effective;
5. Experimental items.

The program does not cover any Medicare Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B. (See **Attachment 3.1-A.1** for specific coverage.)

Value Based Agreements

South Dakota may enter into a value-based agreement on a voluntary basis.