

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



August 13, 2018

Richard Allen
Associate Regional Administrator
Centers for Medicare and Medicaid Services
1961 Stout Street, Room 08-148
Denver, CO 80294

Re: South Dakota Medicaid State Plan Amendment SD-18-006

Dear Mr. Allen:

Please find enclosed South Dakota's Medicaid State Plan Amendment (SPA) SD-18-006. The proposed SPA implements prescription drug reimbursement methodology changes required by the federal government including implementation of actual acquisition cost and a professional dispensing fee. The SPA also allows the state to take appropriate action to maintain budget neutrality in the event that the prescription drugs payment methodology is projected to result in expenditures that exceed the amount appropriated by the state legislature for the current state fiscal year. The SPA revises page 20 and adds page 20b to Attachment 4.19-B of the South Dakota Medicaid State Plan. Page 1 of Attachment 3.1-A.1 is also being revised to remove obsolete language.

To determine the professional dispensing fee South Dakota Medicaid began meeting with a small group of pharmacists representing both chain and independent pharmacies in June 2016. South Dakota Medicaid analyzed the professional dispensing fee including cost to dispense surveys of surrounding states and collected key data points from South Dakota pharmacists to inform the analysis. Budget neutrality was an important consideration in developing South Dakota's methodology as this change was presented federally to be cost neutral. South Dakota's professional dispensing fee of \$10.50 is in line with the fee paid by surrounding Medicaid agencies (IA & NE \$10.02, WY \$10.65, MT \$10.67, ND \$12.46). As required under federal rule, South Dakota Medicaid plans to perform a cost to dispense survey in the future.

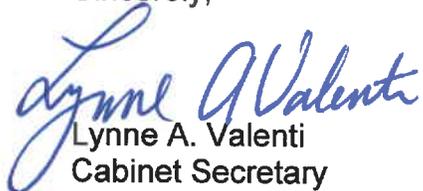
South Dakota requests an effective date of August 1, 2018. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Years 2018 and 2019.

The State conducted Tribal Consultation beginning with notification on June 25, 2018. We have attached a copy of the notification sent to the Tribes. The State also discussed the SPA at the quarterly tribal consultation meeting on July 12, 2018. Public notice was published in

the South Dakota REGISTER, <http://sdlegislature.gov/docs/rules/Register/06252018.pdf>, on June 25, 2018. We received no comments. As part of our outreach to stakeholders the state also mailed and faxed all enrolled pharmacies a letter informing them of the changes associated with this SPA. A copy of the letter is available here: https://dss.sd.gov/docs/medicaid/providers/ProviderBulletins/2018/outpatient_retail_pharmacy.pdf In addition, the state also kept the South Dakota Pharmacy Association informed of the state plan amendment process and asked the pharmacy association to pass on information to their members.

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

Sincerely,



Lynne A. Valenti
Cabinet Secretary

CC: Brenda Tidball-Zeltinger, Deputy Secretary
William Snyder, Director
Sarah Aker, Deputy Director

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER: SD-18-006	2. STATE: South Dakota
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE August 1, 2018	

5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 447 Subpart I	7. FEDERAL BUDGET IMPACT: a. FFY 2018: \$ 0.00 b. FFY 2019: \$ 0.00
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B pages 20a and 20b, Attachment 3.1-A.1 page 1	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B page 20 and Attachment 3.1-A.1 page 1

10. SUBJECT OF AMENDMENT:
The proposed state plan amendment implements prescription drug reimbursement methodology changes required by the federal government including implementation of actual acquisition cost and a professional dispensing fee. The amendment removes obsolete drug coverage language. The amendment also allows the state to take appropriate action to maintain budget neutrality.

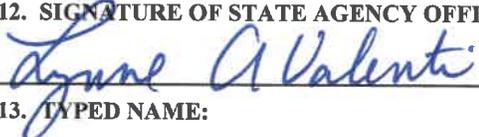
11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED:

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: DEPARTMENT OF SOCIAL SERVICES DIVISION OF MEDICAL SERVICES 700 GOVERNORS DRIVE PIERRE, SD 57501-2291
13. TYPED NAME: Lynne A. Valenti	
14. TITLE: Cabinet Secretary	
15. DATE SUBMITTED: August 13, 2018	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED:
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME:	22. TITLE:

23. REMARKS:

FORM CMS-179 (07-92)

charge from and written comments sent to the South Dakota Department of Health, 600 E. Capitol Avenue, Pierre, SD 57501. Copies are also available online at <http://doh.sd.gov/News> or <https://rules.sd.gov>. Material sent by mail must reach the Department by August 6, 2018, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the Department can make arrangements are asked to call (605) 773-3361 at least 48 hours before the public hearing.

Department of Health: Board of Certified Professional Midwives: (June 20, 2018) intends to amend rules to address definitions, licensing, scope of practice, fees, and disciplinary procedures for midwives. The general authority for these rules, as cited by the department, is SDCL § 36-9C-32.

A public hearing will be held at the South Dakota Department of Health, Robert Hayes Building Conference Room, 600 East Capitol Avenue, Pierre, South Dakota, on July 17, 2018, at 2:00 p.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, 600 E. Capitol Avenue, Pierre, SD 57501. Material sent by mail must reach the Department by July 16, 2018, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the Department can make arrangements are asked to call (605) 773-3361 at least 48 hours before the public hearing.

NOTICE:

The **Department of Social Services** intends to make changes to the South Dakota Medicaid

State Plan regarding prescription drug reimbursement. The proposed State Plan Amendment (SPA) implements federally required prescription drug reimbursement methodology changes including the implementation of actual acquisition cost and a professional dispensing fee. It also contains cost containment measures should expenditures be projected to exceed the amount appropriated by the state legislature. The SPA revises page 20 and adds page 20b to Attachment 4.19-B, and removes obsolete language on page 1 of Attachment 3.1-A.1 of the South Dakota Medicaid State Plan. The Department intends to make this SPA effective August 1, 2018 and estimates it will have no federal fiscal impact in Federal Fiscal Years 2018 and 2019. The SPA can be viewed online at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Written requests for a copy of these changes, and corresponding comments, may be sent to Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, SD 57501.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

(None)

Note: A copy of the rules may be obtained directly from the above agencies or at <https://rules.sd.gov>. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue, and the Department of Labor and Regulation for Article 47:03.

Ballard, Matthew

From: Ballard, Matthew
Sent: Monday, June 25, 2018 8:59 AM
To: 'Amanda Taylor'; 'Anthony Reider'; 'April Herrick'; 'Arlene Krulish'; 'Audrey German'; 'Becky Diehm'; 'Beth Lee'; 'Bonnie Cromwell'; 'Brandon Sazue'; 'Brittany Brewer'; 'CAPT Christopher W. Allen'; 'Carmen Thompson'; 'Carol Diaz'; 'CDR Emily Williams'; 'Christine Olson'; 'Christy Hacker'; 'Clarence, Montgomery'; 'Cody Wolff'; 'Corey Smith'; 'Crystal Horse Looking'; 'Crystal Owen'; 'Damon Leader Charge'; 'Dave Archambault II'; 'David Flute'; 'David Walford'; 'DaVonna Keeble'; 'Dayle Knutson'; 'DeAnna Howe-Swan'; 'Deb Odens'; 'Debee Eagle Elk'; 'Delaine Rasmussen'; 'Delores Pourier'; 'Devero Yellow Earing'; 'Don Lee'; 'Dr. Bill Carr'; 'Ed Parsells'; 'Eddie Johnson Jr.'; 'Edwin Harris'; 'Elaine Clement'; 'Ella "John" Carlow'; 'Ellen Durkin'; 'Emery, Steve'; 'Eugene Giago'; 'Evelyn "Evie" Espinoza'; 'Gerri LeBeau'; 'Gina Johnson'; 'Gypsy Wanna'; 'Harold Frazier'; 'Holly Rice'; 'Jade Trottier'; 'James Begeman'; 'Jana Gipp'; 'Jean Richards-Tulloss'; 'Jennie Crawford'; 'Jennifer Giroux'; 'Jennifer Williams'; 'Jenny Jeffries'; 'Jeremy Burtenshaw'; 'Jeri Starr'; 'Jerilyn Church'; 'Jerome Lee Bearheels'; 'Jessica Morson'; 'Johanna Camacho'; 'John Eagle Shield'; 'John Yellow Bird Steele'; 'Jon Schuchardt'; 'Jonni Arpan'; 'Julie Thorstenson'; 'Justin Taylor'; 'Karla Kirkpatrick'; 'Kathy Bad Moccasin'; 'Kathy Gordon'; 'Kendra Roland'; 'Kevin Meeks'; 'Kevin Stiffarm'; 'Kim Clown'; 'Kym Swimmer'; 'Leah Fyten'; 'Lee Lawrence'; 'LeLewis Gipp'; 'Linda Littlefield'; 'Lisa Schlosser'; 'Liz Anderson'; 'Lori Braaten'; 'Lori Sampson'; 'Lynn Big Eagle'; 'Marc Beaudreau'; 'Margaret Gates'; 'Margaret Gunville'; 'Marieta Little Thunder'; 'Marilyn Prairie Chicken'; 'Mark Calkins'; 'Mark LeBrun'; 'Mary Bickel'; 'Matthew Frye'; 'Matthew Sieler'; 'Melissa Huff'; 'Michelle Red Willow'; 'Mika Tibbs'; 'Mike Boland'; 'Monta Little Solider'; 'Myrna Thompson'; 'Neil Austin'; 'Nichole Cottier'; 'Nick Thomas'; 'Nicole White Wolf'; 'Olivia Grass'; 'Olson, Alissa'; 'Patty Eagle Bull'; 'Paulette High Elk'; 'PJ Beaudry'; 'Randal White'; 'Randi Peacock'; 'Randolph Runs After'; 'Reiss, David'; 'Ricahrd Mousseau'; 'Richard Bud'; 'Richard Huff'; 'Rick Sorensen'; 'Robert Flying Hawk'; 'Roberta Jacobson'; 'Ron Cornelius'; 'Roxanne Sazue'; 'Roxee Johnson'; 'Royal Yellow Hawk'; 'Sara DeCoteau'; 'Shirley Crane'; 'Sonia Little Hawk-Weston'; 'Staci Hunter'; 'Sunny Cololmbe'; 'Susan Porter'; 'Terra Haug'; 'Terri Rattler'; 'Tiffany Bird Necklace'; 'Tiffany Larson'; 'Tina Russell'; 'Tinka Duran'; 'Tinnekkia Williams'; 'Todd Warren'; 'Kenefick-Aschoff, Toni'; 'Tony Stayner'; 'Tricia Birdnecklace'; 'Tricia Knight'; 'Trina Fischer'; 'Tyler Lannoye'; 'Valentina LaFountain'; 'Vicky Barnes'; 'William "Willie" Kindle'
Cc: Snyder, William; Aker, Sarah; Tidball-Zeltinger, Brenda; Valenti, Lynne
Subject: SPA SD 18-006 Prescription Drug Reimbursement - Tribal Consultation
Attachments: SD 18-006 SPA Package.pdf

Good Morning,

Please find attached the documents comprising South Dakota State Plan Amendment (SPA) 18-006. The proposed State Plan Amendment (SPA) implements prescription drug reimbursement methodology changes required by the federal government including implementation of actual acquisition cost and a professional dispensing fee. The SPA also contains cost containment measures in the event expenditures are projected to exceed the amount appropriated by the state legislature. The SPA revises page 20 and adds page 20b to Attachment 4.19-B of the South Dakota Medicaid State Plan. Page 1 of Attachment 3.1-A.1 is also being revised to remove obsolete language. The Department intends to make this SPA effective August 1, 2018.

Please contact me within 30 days of receipt of this message with any comments.

Sincerely,

Matthew Ballard | Program Specialist II
South Dakota Department of Social Services
Division of Medical Services
(605) 773-3495



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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.

DEPARTMENT OF SOCIAL SERVICES

DIVISION OF MEDICAL SERVICES

700 GOVERNORS DRIVE

PIERRE, SD 57501-2291

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FAX: 605-773-5246

WEB: dss.sd.gov



Strong Families - South Dakota's Foundation and Our Future

June 25, 2018

RE: South Dakota Medicaid State Plan Amendment #SD-18-006

The South Dakota Department of Social Services intends to make changes to the South Dakota Medicaid State Plan regarding prescription drug reimbursement. The proposed State Plan Amendment (SPA) implements prescription drug reimbursement methodology changes required by the federal government including implementation of actual acquisition cost and a professional dispensing fee. The SPA also contains cost containment measures in the event expenditures are projected to exceed the amount appropriated by the state legislature. The SPA revises page 20 and adds page 20b to Attachment 4.19-B of the South Dakota Medicaid State Plan. Page 1 of Attachment 3.1-A.1 is also being revised to remove obsolete language.

We intend to make this SPA effective August 1, 2018. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Years 2018 and 2019.

Please contact me within 30 days of receipt of this message with any questions or comments.

Sincerely,

Sarah Aker
Deputy Director
Division of Medical Services
South Dakota Department of Social Services

CC: Lynne A. Valenti, Cabinet Secretary
Brenda Tidball-Zeltinger, Deputy Secretary
William Snyder, Director

Medicaid State Plan Amendment Proposal

Transmittal Number: SD-18-006

Effective Date: 08/01/2018

Brief Description: This State Plan Amendment implements prescription drug reimbursement methodology changes.

Area of State Plan Affected: Attachment 4.19-B and Attachment 3.1-A.1

Page(s) of State Plan Affected: Revises page 20 and adds page 20b to Attachment 4.19-B and revises page 1 of Attachment 3.1-A.1.

Estimate of Fiscal Impact, if Any: No federal fiscal impact is projected in FFYs 2018 and 2019.

Reason for Amendment: To comply with federal requirements.

ATTACHMENT 4.19-B
PAYMENTS FOR MEDICAL AND REMEDIAL CARE AND SERVICES

12a. Prescription Drugs

The State agency will reimburse prescription drugs, including covered non-legend drugs that are prescribed by an authorized prescriber and legend drugs prescribed by an authorized prescriber, at the lowest of the following:

1. The pharmacy's usual and customary charge to the general public for the drug; or
2. South Dakota Medicaid's established State Maximum Allowable Cost (SMAC) for that drug plus the professional dispensing fee. South Dakota Medicaid's SMAC is acquisition cost based and includes all types of medications, including specialty and hemophilia products; or
3. The current National Average Drug Acquisition Cost (NADAC) for that drug plus the professional dispensing fee or if there is no NADAC for the drug the current wholesale acquisition cost (WAC) of the drug plus the professional dispensing fee. In compliance with 42 CFR 447.512 and 447.514, reimbursement for drugs subject to Federal Upper Limits (FULs) may not exceed FULs in the aggregate; All Indian Health Service and tribal pharmacies are paid the encounter rate by South Dakota Medicaid. Due to this the logic described above and below does not apply to them regardless of their method of purchasing.
4. Federal Supply Schedule (FSS) purchased drugs are required to be billed at no more than their actual acquisition cost plus the professional dispensing fee.
5. Drugs not distributed by a retail community pharmacy (such as a long-term care facility) will be reimbursed by using the logic described above and below.
6. Drugs not distributed by a retail community pharmacy and distributed primarily through the mail, such as specialty drugs, will be reimbursed using the logic described above and below since South Dakota Medicaid's SMAC is acquisition cost based and includes all types of drugs.
7. Clotting factor from specialty pharmacies, hemophilia treatment centers (HTC), and centers of excellence will be reimbursed through the logic described above and below since South Dakota Medicaid's SMAC is acquisition cost based and includes all type of drugs.
8. Drugs acquired at nominal price (outside of 340B or FSS) will be reimbursed at no more than the actual acquisition price plus the professional dispensing fee while using the logic described above and below.
9. South Dakota Medicaid requires physician administered drugs to be billed by the facility in which it was administered. Payment for physician administered drugs is limited to the lesser of the provider's usual and customary charge or South Dakota Medicaid's fee schedule. For physician administered drugs not listed in the fee schedule, payment is limited to 40 percent of the provider's usual and customary charge.
10. Where indicated that South Dakota Medicaid will reimburse a professional dispensing fee, the professional dispensing fee is \$10.50. The methodology used to develop the dispensing fee utilized information from participating pharmacies relative to their operating costs and the

TN# 18-06

SUPERSEDES

TN# 13-7

Approval Date _____

Effective Date 8/1/18

volume of prescriptions dispensed.

11. Drugs acquired through the federal 340B drug program and dispensed by covered entities as described in section 1927(a)(5)(B) of the Social Security Act are not covered.
12. Drugs acquired through the federal 340B drug pricing program and dispensed by 340B contract pharmacies are not covered.
13. Investigational drugs are not covered.
14. In the event that the above methodology is projected to result in expenditures that exceed the amount appropriated by the state legislature for the current state fiscal year the state may take appropriate action to maintain budget neutrality.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: South Dakota

REQUIREMENTS RELATING TO COVERED OUTPATIENT DRUGS FOR THE
CATEGORICALLY NEEDY

Citation(s)	Provision(s)
Section 1935(d)(1) of the Act	The Medicaid agency does not cover any Part D drug for full-benefit, dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B.
Sections 1927(d)(2) and 1935(d)(2)	<p>The Medicaid agency provides coverage for the following excluded or otherwise restricted drugs or classes of drugs, or their medical uses to all Medicaid recipients, including full-benefit dual eligible beneficiaries under the Medicare prescription Drug Benefit—Part D.</p> <p>The following excluded drugs are covered:</p> <ul style="list-style-type: none"><input checked="" type="checkbox"/> (a) Agents when used for anorexia, weight loss, or weight gain, with limitations;<input type="checkbox"/> (b) Agents when used to promote fertility;<input checked="" type="checkbox"/> (c) Agents when used for the symptomatic relief of cough and colds;<input checked="" type="checkbox"/> (d) Prescription vitamins and mineral products, except prenatal vitamins and fluoride;<input checked="" type="checkbox"/> (e) Non-prescription drugs, with limitations;<input type="checkbox"/> (f) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee (see specific drug categories below);