

# **Medicaid Report of Implementation of Rules and Regulations, State Plan Amendments and Waivers January 1, 2013 through December 31, 2014**

Neb. Rev. Stat. § 68-909(4) requires the Department to periodically, but no less than biennially, report to the Governor, the Legislature, and the Medicaid Reform Council on the implementation of rules and regulations, Medicaid State Plan Amendments, and waivers adopted under the Medical Assistance Act and the effect of such rules and regulations, amendments, or waivers on eligible recipients of medical assistance and medical assistance expenditures. This report summarizes the implementation of rules, regulations, and State Plan Amendments from January 1, 2013 through December 31, 2014.

## **ELIGIBILITY**

### **Former Wards**

Corrected coverage of reasonable classification groups of individuals who are under the age of 21, are both categorically and medically needy, are former wards of the state, and who are receiving inpatient psychiatric services.

The State Plan Amendment was effective February 1, 2013.

### **Coverage of Lawfully present Aliens**

Provided coverage of lawfully present children and pregnant women with federal-state matching funds and eliminated state-only-funded coverage for legal permanent residents.

Regulations (471 NAC 2, 3, 4) were effective August 28, 2013.

### **Eligibility for Certain Emancipated Minors**

Provided eligibility for certain emancipated minors as enacted under LB 690.

Regulations (471 NAC 28 and 477 NAC 1, 2) were effective September 29, 2013.

### **Public Assistance Reporting Information System (PARIS) Data Match**

Complied with Section 3 of the Qualifying Individual Program Supplemental Funding Act of 2008. The purpose of the data obtained through the PARIS system is to ensure that individuals enrolled in Medicaid are not receiving duplicate benefits based on simultaneous enrollment in the Medicaid program or other public benefit programs in another state.

The State Plan Amendment was effective January 1, 2013.

**Below is a listing of the State Plan Amendments (SPA) and regulation changes required for eligibility pursuant to the changes due to the Affordable Care Act (ACA). A number of new SPA's were required under Title XIX and Title XXI. Also, changes to the States Medicaid eligibility regulations were required. All revisions were made pursuant to the ACA's March 23, 2010, Final Rule or January 22, 2013, Proposed Rule.**

**Title XXI**

**Modified Adjusted Gross Income (MAGI) Eligibility & Methods**

Applied methodologies based on MAGI for all separate CHIP covered groups using the approved MAGI conversion plan income thresholds.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

**XXI CHIP Income Methodology**

Converted the state's existing income eligibility standards to MAGI-equivalent standards, by age group, for children covered in its title XXI-funded Medicaid program.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

**Establish 2101(f) Group**

Provided coverage in a separate CHIP, established in accordance with section 2101(f) of the Affordable Care Act.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

**MAGI-Based Eligibility Process**

Incorporated the MAGI-based eligibility process requirements, including the single streamlined application, into Nebraska's CHIP State Plan, in accordance with the Affordable Care Act.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective October 1, 2013.

## **Non-Financial Eligibility**

Clarified the state's non-financial eligibility policies on residency, citizenship, social security numbers, and continuous eligibility.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

## **Title XIX**

### **MAGI-Based Eligibility Groups**

Described the Modified Adjusted Gross Income (MAGI) based eligibility groups. The MAGI based eligibility groups are set forth at 1902(a)(10)(A)(i)(VIII) of the Act and in 42 CFR § 435.119.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

### **Eligibility Process**

Incorporated the MAGI-based eligibility process requirements, including the single streamlined application, into Nebraska's Medicaid state plan in accordance with the Affordable Care Act. The State has used the interim alternative single streamlined paper application developed by the Secretary and as of December 31, 2014, implemented a revised online application approved by CMS.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective October 1, 2013.

### **MAGI Income Methodology**

Incorporated financial eligibility methodologies that apply to all Modified Adjusted Gross Income (MAGI)-based eligibility groups covered under Nebraska's Medicaid State Plan. The MAGI financial methodologies set forth in 42 CFR § 435.6023 apply to everyone except those individuals described at 42 CFR § 435.602(j) for whom MAGI-based methods do not apply.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

### **CMS Residency**

The MAGI based residency requirements are set forth at 1902(b) (2) of the Act and in 42 CFR § 435.402.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

## **MAGI Citizenship/Immigration**

The MAGI based citizenship and immigration status requirements are set forth at 1902(a)(46)(B) and 1903(v)(2), (3), and (4) of the Act and in 42 CFR § 435.4, 435.406 and 435.956.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

## **MAGI Hospital Presumptive Eligibility**

Incorporated hospital based presumptive eligibility as set forth in 42 CFR § 435.1110 allows states to provide Medicaid services to children under 19 years of age, during period of presumptive eligibility, prior to formal determination. Specified options for presumptive eligibility conducted by hospitals.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

## **Single State Agency**

Addresses single state agencies organization and administration, the delegation of appeals and determinations as set forth in 42 CFR § 431.10. The state did not delegate appeals or determinations.

Regulations (477 NAC 1-25) were effective January 1, 2014.

The State Plan Amendment was effective January 1, 2014.

# **REIMBURSEMENT**

## **Durable Medical Equipment in Nursing Facility's and Intermediate Care Facilities for the Developmentally Disabled**

Modified the reimbursement methodology for durable medical equipment and supplies provided to residents of nursing facilities and intermediate care facilities for the developmentally disabled. In addition this removed orthotics and prosthetics from under the category of Medical Supplies Equipment, and Appliance Suitable for Use In The Home, and removed home health agencies as providers of durable medical equipment and appliances from under the category of Prosthetic Devices.

Regulations (471 NAC 7, 12 and 31) were effective June 7, 2014.

The State Plan Amendment was effective August 1, 2013.

**Nursing Facility Rates - July 2012 (SPA 12-12)**

Established rates for July 1, 2012 through June 30, 2013 with rebasing to the June 30, 2011 cost reports and a proposed positive inflation factor of 2.25 percent. Other changes included providing quarterly interim special funding payments to IHS providers and providing special funding payments on non-IHS eligible clients.

The State Plan Amendment was effective July 1, 2013.

**Nursing Facility Rates - July 2013 (SPA 13-20)**

Established rates for Nursing homes for July 1, 2013 through June 30, 2014 with rebasing to the June 30, 2012 cost reports and a proposed positive inflation factor of 2.50 percent. Established rates for Intermediate Care Facilities for July 1, 2013 through June 30, 2014 with rebasing to the June 30, 2012 cost reports and a negative inflation factor of 2.05 percent.

The State Plan Amendment is pending CMS approval.

**Nursing Facility Rates - July 2014 (SPA 14-10)**

Established rates for Nursing homes for July 1, 2014 through June 30, 2015 with rebasing to the June 30, 2013 cost reports and a proposed positive inflation factor of 2.13 percent. Established rates for Intermediate Care Facilities for July 1, 2014 through June 30, 2015 with rebasing to the June 30, 2013 cost reports and a positive inflation factor of 3.18 percent.

Regulations (471 NAC 7, 12 and 31) were effective December 8, 2014.

The State Plan Amendment is pending CMS approval.

**Specialized Nursing Facility Rehabilitation Services**

Removed references to an obsolete contracting process for setting reimbursement rates for specialized nursing facility services.

Regulations (471 NAC 7, 12 and 31) were effective December 8, 2014.

The State Plan Amendment was effective April 1, 2014.

**Home Health Visits**

Removed language pertaining to a second home health visit on the same day.

The State Plan Amendment was effective September 1, 2013.

**Home Health Services**

Amended the reimbursement for home health services for a second home health visit on the same day.

The State Plan Amendment was effective July 1, 2014.

**Psychiatric Residential Treatment Facilities (PRTFs)**

Modified the reimbursement methodology for psychiatric residential treatment facility (PRTF) services by providing for the direct reimbursement of certain ancillary services.

Regulations (471 NAC 32-008) were effective April 29, 2014.

The State Plan Amendment was effective October 1, 2014.

**Fee Schedule Rates - July 2013**

Implemented 2.25 percent fee schedule rate increase pursuant to Legislative appropriation.

The State Plan Amendment was effective July 1, 2013.

**Fee Schedule Rates - July 2014**

Implemented 2.25 percent fee schedule rate increase pursuant to Legislative appropriation.

The State Plan Amendment was effective July 1, 2014.

**Timely Filing of Medicaid Claims**

Changed the time limit for the submission of Medicaid claims from 12 months to 6 months to provide a greater efficiency in Medicaid claims payment.

Regulations (471 NAC 3, 15, 36) were effective July 2, 2013.

**Hospital Payment**

Transitioned the inpatient hospital reimbursement methodology to one based on the all patient refined diagnosis related groups (APR\_DRG).

Regulations (471 NAC 10) were effective June 30, 2014.

The State Plan Amendment was effective July 1, 2014.

**Inpatient and Outpatient Hospital Rate Increase - July 2013**

Implemented 2.25 percent fee schedule rate increase pursuant to Legislative appropriation.

Regulations (471 NAC 10) were effective May 18, 2013.

The State Plan Amendment was effective July 1, 2013.

**Outpatient Hospital Rate Increase - July 2014**

Implemented 2.25 percent fee schedule rate increase pursuant to Legislative appropriation.

Regulations are pending.

The State Plan Amendment was effective July 1, 2014.

**Inpatient Hospital Rate Increase - July 2014**

Implemented 2.25 percent fee schedule rate increase pursuant to Legislative appropriation.

Regulations are pending.

The State Plan Amendment is pending CMS approval.

**Methodology for Reimbursement of Practitioner Administered Injectable Medications**

Amended the reimbursement for practitioner administered injectable medications to 100 percent of the Medicare Drug Fee Schedule.

The State Plan Amendment was effective April 1, 2013.

**Non-Payment for Provider-Preventable Conditions**

Established non-payment provisions to include all inpatient hospitals reimbursed under the DRG payment methodology, critical access hospitals, children's hospitals, and outpatient hospitals and to establish non-payment provisions to include physicians, advanced practice registered nurses, physician assistants, clinics, and ambulatory surgical centers.

Regulations (471 NAC 10, 18, 26) were effective May 18, 2013.

**Freestanding Birth Center**

Section 2301 of the Patient Protections and Affordable Care Act mandated that state Medicaid agencies include the provision requiring States to provide coverage and separate payments for freestanding birth center facility services and services rendered by certain professionals providing services in a freestanding birth center to the extent the State licenses or otherwise recognizes such providers under State law.

The State Plan Amendment was effective February 4, 2012.

Regulations (471 NAC 42) were effective February 26, 2013.

**Hospital Supplemental Payment Inpatient and Outpatient**

Inpatient and outpatient hospital services provided by the Nebraska Medical Center not to exceed the upper payment limit pursuant to 42 CFR447.272 and 42 CFR447.321.

The State Plan Amendment is pending CMS approval.

## **BENEFITS**

### **Medicaid Improvement for Patients and Providers Act (MIPPA) Pharmacy Changes**

Included barbiturates “used in the treatment of epilepsy, cancer, or chronic mental health disorder” and benzodiazepines in Part D drug coverage.

The State Plan Amendment was effective January 1, 2013.

### **Benzodiazepine Coverage**

Updated pharmacy coverage for benzodiazepines, by removing the wording “generic only” from the drug description.

The State Plan Amendment was effective April 1, 2013.

### **Supplemental Drug Rebate Program/Preferred Drug List**

Continued participation in The Optimal PDL Solution (TOP\$), a multi-state pooling supplemental rebate agreement.

The State Plan Amendment was effective October 1, 2013.

### **Coverage of Agents for Smoking Cessation-Removal of Barbiturate Coverage for Dual Eligibles**

Removed barbiturates, benzodiazepines, and agents used to treat smoking cessation from the list of drugs a Medicaid program may exclude from coverage or otherwise restrict in accordance with the Patient Protection and Affordable Care Act.

The State Plan Amendment was effective January, 1, 2014.

### **Pay Primary Care Provider Payment Increase**

Reimbursed qualified providers for Evaluation and Management and certain vaccine administration codes at the rate that would have been paid for the covered service under Medicare as required under Section 1202 of the Affordable Care Act of 2010.

The State Plan Amendment was effective January 1, 2013.

### **Medicaid Medical Home Pilot**

Discontinued the Medicaid Medical Home Pilot in Dawson and Buffalo counties. The two year pilot authorized by the Nebraska Legislature was implemented in February 2011 and expired January 31, 2013.

The State Plan Amendment was effective January 31, 2013.



### **Children's Mental Health & Substance Abuse Services-General Rules Including Medical Necessity**

Established general requirements for Medicaid coverage of children's mental health and substance abuse services. In addition, updated guidelines and criteria utilized by DHHS to determine medical necessity for services covered by Medicaid.

Regulations (471 NAC 32-008) effective October 29, 2012. Remaining sections of Chapter 32 were effective June 12, 2013.

### **Children's Mental Health & Substance Abuse Services-Outpatient Services**

Established covered and non-covered services, definitions and requirements for each covered service, and standards for providers, location of services, and reporting.

Regulations (471 NAC 32-002) were effective January 5, 2014.

### **Psychiatric Residential Rehab-Change Bed Limit**

Changed the bed limit for facilities providing psychiatric residential rehabilitation services. The existing limit of eight beds was changed to 16 beds.

Regulations (471 NAC 35) are pending.

### **Pre-treatment Assessment Mental Health & Substance Use**

Eliminated the requirement of a pretreatment biopsychosocial assessment for Outpatient, Inpatient Hospital, Early and Periodic Screening and Diagnosis and Treatment (EPSDT), and Rehabilitative services. The requirement for the Individual Diagnostic Interview remains.

Regulations (471 NAC 20-001.22) were effective October 22, 2014.

The State Plan was effective December 1, 2013.

### **Rehabilitative Services**

Revised state plan to include an assurance statement that rehabilitative services are not provided to adults in Institutions for Mental Diseases (IMDs).

The State Plan was effective September 1, 2013.

### **Copayments-Eliminate Exclusion for Managed Care**

Removed the exclusion for managed care participants from the requirements to make co-payments.

Regulations (471 NAC 3) were effective April 28, 2014.

### **Prior Authorization for Root Canals**

Eliminated prior authorization requirement for root canals.

Regulations (471 NAC 6) were effective June 11, 2013.

**Legislative Requirements for Children Related to Telehealth (LB556)**

Incorporated telehealth services for children’s behavioral health services regardless of distance from place of residence. In addition eliminated the exclusion of several Medicaid services from telehealth and the exclusion on using telehealth in certain situations.

Regulations (471 NAC 1-006) were effective July 23, 2014.

The State Plan Amendment was effective February 1, 2014.

**Legislative Requirements for Children Related to Telehealth (LB1076)**

Incorporated the requirements of LB1076 which introduced coverage for telemonitoring and asynchronous services.

Regulations (471 NAC 1-006) were effective July 23, 2014.

The State Plan Amendment was effective July 1, 2014.

**Non-Emergency Transportation (NET) Broker**

Eliminated medical escort as a non-emergency transportation (NET) service provided through the NET Brokerage. Medically necessary escort services are covered and authorized by Medicaid Long-Term Care Central Office staff unless appropriately covered in another service when the client is participating in the Personal Assistance Service program or the Aged and Disabled Waiver program.

Regulations (471 NAC 1, 27) were effective June 7, 2014. Regulations (471 NAC 27) were effective July 23, 2014

The State Plan Amendment is pending approval.

**Program of All-Inclusive Care (PACE)**

Implemented Program of All-Inclusive Care for the Elderly, known as PACE, a capitated benefit for elders that features a comprehensive service delivery system and integrated Medicare and Medicaid financing. Individuals age 55 and older who meet nursing facility level of care criteria and live within a defined geographic service area voluntarily enroll in the PACE program, enabling them to continue to live in a community setting. The geographic area for this first PACE initiative is metro Omaha.

Regulations (471 NAC 37) were effective April 3, 2013.

The State Plan Amendment was effective February 1, 2013.

### **Program of All-Inclusive Care (PACE)**

Revised the State Plan regarding updating the rates for the Program of All-Inclusive Care for the Elderly (PACE) that will be effective July 1, 2014.

The State Plan Amendment is pending approval.

### **School-Based Services**

Added additional Medicaid reimbursable services when provided by a school district pursuant to Nebraska Legislative Bill 276 (2014). Current Medicaid reimbursable services are physical therapy, occupational therapy, and speech language pathology services. The additional services that will be reimbursable to school districts include nursing, personal assistance, medical transportations, vision, and mental health services.

The State Plan Amendment is pending CMS approval.

## **ADMINISTRATION**

### **Medical Director for Medicaid Recovery Audit Contractor**

Requested an exception to 42 CFR 455.508(b) which states, “the entity must hire a minimum of 1.0 FTE Contractor Medical Director who is a Doctor of Medicine or Doctor of Osteopathy in good standing with the relevant State Licensing authorities and has relevant work and educational experience.” A State may seek to be excepted, in accordance with § 455.516, from requiring its RAC to hire a minimum of 1.0 FTE Contractor Medical Director by submitting to CMS a written request for CMS review and approval.

The State Plan Amendment was effective July, 2013.

### **Revocation of Transfer-on-Death Deeds**

Allowed for Medicaid Revocation of transfer-on-death deeds as enacted under LB536.

Regulations (469 NAC 2) were effective October 27, 2013.

### **Single State Agency appeals and determinations**

Amended the administration of the state plan’s designation of authority, organization and administration , assurances and tribal consultation in accordance with 1902(a)(73) of the Act and 42 CFR 431.10, 431.11, 431.12 and 431.50.

The State Plan Amendment was effective January, 2014.

## **Amendments to Approved Waiver Applications**

### **Traumatic Brain Injury (TBI) Waiver**

Renewed Home and Community Based Services (HCBS) waiver for persons with TBI for a five year period. Services provided by this waiver consist of assisted living service.

Waiver renewal effective October 1, 2013.

### **Autism Waiver**

Amended the Autism Waiver to change to April 8, 2013. Legislation regarding the waiver (LB 27) required the receipt of matching funds from private donations to finance the program.

Waiver amendment effective April 8, 2013.

The request to CMS for an additional extension, pending receipt of matching donated funds was not approved. Waiver ended April 8, 2014.

### **Managed Care Waiver**

Amended the Managed Care Waiver. An amendment to the 1915(b) waiver allowed the implementation of a full risk behavioral health managed care program beginning September 1, 2013.

### **Comprehensive Developmental Disability Waiver**

Renewed Comprehensive Developmental Disability Waiver for adults, effective January 1, 2011. Added additional services, implemented individual budgeting and expanded self-direction opportunities.

No changes in 2013 and 2014

### **Day Services Developmental Disability Waiver**

Renewed Day Services Developmental Disability Waiver for adults, effective January 1, 2011. Added additional services, implemented individual budgeting and expanded self-direction opportunities.

No changes in 2013 and 2014

### **Developmental Disability Waiver for Children and Their Families**

Renewed Developmental Disability Waiver for Children and Their Families, effective June 1, 2012. Added additional services, implemented individual budgeting and expanded self-direction opportunities.

No changes in 2013 and 2014