

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

April 25, 2022

Ms. Nicole Comeaux
Director
Medical Assistance Division
New Mexico Human Services Department
2025 South Pacheco Drive
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Re: New Mexico State Plan Amendment (SPA) 22-0009

Dear Ms. Comeaux:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 22-0009. This amendment proposes to add coverage of routine patient costs associated with participation in qualifying clinical trials to conform with the new regulatory requirements of 1905(a)(30) and 1905(gg) of the Social Security Act (SSA).


We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 1905(a)(30) and 1905(gg). This letter is to inform you that New Mexico Medicaid SPA 22-0009 was approved on April 25, 2022, with an effective date of January 1, 2022.

If you have any questions, please contact Peter Banks at (415) 744-3782 or via email at Peter.Banks@cms.hhs.gov

Sincerely,

James G. Scott, Director
Division of Program Operations

cc: Julie Lovato
Valeri Tapia
Donna Lopez

<p>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES</p>		<p>1. TRANSMITTAL NUMBER <u>2 2</u> — <u>0 0 0 9</u></p>	<p>2. STATE <u>N M</u></p>
<p>TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES</p>		<p>3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI</p>	
<p>5. FEDERAL STATUTE/REGULATION CITATION 1905(a)(30) and 1905(gg) of the Social Security Act</p>		<p>4. PROPOSED EFFECTIVE DATE January 1, 2022</p>	
<p>7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Supplement A to Attachment 3.1-A, pg. 30 (new) Attachment 4.19-B, pg. 2</p>		<p>6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>22</u> \$ <u>0</u> b. FFY <u>23</u> \$ <u>0</u></p>	
<p>9. SUBJECT OF AMENDMENT Qualifying Clinical Trials - New Mexico Medicaid is adding coverage of routine patient costs associated with participation in qualifying clinical trials to conform with the new regulatory requirements of 1905(a)(30) and 1905(gg) of the Social Security Act (SSA).</p>		<p>8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 4.19-B, pg. 2</p>	
<p>10. GOVERNOR'S REVIEW (Check One)</p> <p style="display: flex; justify-content: space-between;"> GOVERNOR'S OFFICE REPORTED NO COMMENT COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL OTHER, AS SPECIFIED: Authority delegated to the Medicaid Director </p>			
<p>11. SIGNATURE OF STATE AGENCY OFFICIAL </p>	<p>15. RETURN TO Nicole Comeaux, J.D., M.P.H., Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504-2348</p>		
<p>12. TYPED NAME Nicole Comeaux</p>	<p>14. DATE SUBMITTED March 29, 2022</p>		
<p>13. TITLE Director, Medical Assistance Division</p>	<p>FOR CMS USE ONLY</p>		
<p>16. DATE RECEIVED March 29, 2022</p>	<p>17. DATE APPROVED April 25, 2022</p>		
<p>PLAN APPROVED - ONE COPY ATTACHED</p>			
<p>18. EFFECTIVE DATE OF APPROVED MATERIAL January 1, 2022</p>	<p>19. SIGNATURE OF APPROVING OFFICIAL</p>		
<p>20. TYPED NAME OF APPROVING OFFICIAL James G. Scott</p>	<p>21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations</p>		
<p>22. REMARKS</p>			

State/Territory: NEW MEXICO

AMOUNT, DURATION AND SCOPE OF SERVICES PROVIDED

CATEGORICALLY NEEDY GROUP(S)

30. Coverage of Routine Patient Cost in Qualifying Clinical Trials

*The state needs to check each assurance below.

Provided: X

I. General Assurances:

Routine Patient Cost – Section 1905(gg)(1)

 X Coverage of routine patient cost for items and services as defined in section 1905(gg)(1) that are furnished in connection with participation in a qualified clinical trial.

Qualifying Clinical Trial – Section 1905(gg)(2)

 X A qualified clinical trial is a clinical trial that meets the definition at section 1905(gg)(2).

Coverage Determination – Section 1905(gg)(3)

 X A determination with respect to coverage for an individual participating in a qualified clinical trial will be made in accordance with section 1905(gg)(3).

PRA Disclosure Statement - This information is being collected to assist the Centers for Medicare & Medicaid Services in implementing Section 210 of the Consolidated Appropriations Act of 2021 amending section 1905(a) of the Social Security Act (the Act), by adding a new mandatory benefit at section 1905(a)(30). Section 210 mandates coverage of routine patient services and costs furnished in connection with participation by Medicaid beneficiaries in qualifying clinical trials effective January 1, 2022. Section 210 also amended sections 1902(a)(10)(A) and 1937(b)(5) of the Act to make coverage of this new benefit mandatory under the state plan and any benchmark or benchmark equivalent coverage (also referred to as alternative benefit plans, or ABPs). 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 #74). Public burden for all of the collection of information requirements under this control number is estimated to take about 56 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.

TN: 22-0009

Supersedes TN none (new)

Approval Date: 4/25/2022

Effective Date: 1/1/2022

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE OF NEW MEXICO
AND STANDARDS FOR ESTABLISHING PAYMENT RATES
--OTHER TYPES OF CARE

Attachment 4.19-B
Page 2

The average commercial rates are determined by:

- i.** Calculating a commercial payment to charge ratio for all services paid to the eligible providers by commercial insurers using the providers' claims-specific data from the most currently available fiscal year period.
 - ii.** Multiplying the Medicaid charges by the commercial payment to charge ratio to establish the estimated commercial payments to be made for these services; and
 - iii.** Subtracting the interim Medicaid payments already made for these services to establish the supplemental payment amount.
- a.** Providers eligible under Part (a) of this section will be paid on an interim claims-specific basis through the Department's claims processing system using the methodology outlined elsewhere in this state plan. The supplemental payment, which represents final payment for services, will be made on a quarterly basis subject to available claims data.

A. Medical and Dental Services

Medical and dental services are reimbursed on a fee schedule basis and include physicians, dentists, radiologists, and radiological facilities, licensed treatment and diagnostic centers and family planning clinics, podiatrists, optometrists, certified nurse midwives and certified nurse practitioners working under the direction of a physician.

Routine patient costs for items and services as defined in section 1905(gg) of the Act that are furnished in connection with participation in a qualified clinical trial are reimbursed on a fee schedule basis.

Preventive services provided to alternative benefit plan recipients not otherwise covered under standard Medicaid benefits are also reimbursed using this methodology including annual preventive care physicals, expanded nutritional and dietary counseling, and expanded skin cancer and tobacco use counseling. Electroconvulsive therapy services provided to alternative benefit plan recipients not otherwise covered under standard Medicaid benefits are paid at the Medicare fee schedule rate.

Services rendered under the supervision of one of the above providers are paid at the fee schedule rate for the supervising provider when the service is performed by one of the following: a dietician; clinical pharmacist; physician assistant; dental hygienist; nurse; certified nurse practitioner; or, clinical nurse specialist.

Except as otherwise noted in the state plan, state developed fee schedule rates are the same for both governmental and private providers. The agency's fee schedule rates were set as of January 1, 2020 and are effective for services provided on or after that date. All rates are published at <http://www.hsd.state.nm.us/providers/fee-schedules.aspx>.