

April 9, 2008

Ms. Elizabeth A. Johnson
Commissioner
Cabinet for Health and Family Services
Department of Medicaid Services
275 East Main Street, 6W-A
Frankfort, Kentucky 40621-0001

Attention: Kevin Skeeters

RE: Kentucky Title XIX State Plan Amendment, Transmittal #08-003

Dear Ms. Johnson:

This is a follow up to the approval letter that your office should have received from Ms. Deirdre Duzor, Director, Division of Pharmacy, Disable & Elderly Health Programs Group, Centers for Medicare & Medicaid Services, dated April 4, 2008, regarding State Plan Amendment 08-003. Enclosed is a copy of the approval letter, the signed HCFA-179 and the approved plan pages.

The effective date of this amendment is January 1, 2008.

Sincerely,



Jay Gavens
Acting Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosures



Center for Medicaid and State Operations

APR 4 2008

Elizabeth A. Johnson
Commissioner
Kentucky Department for Medicaid Services
275 East Main Street 6W-A
Frankfort, Kentucky 40621

Dear Ms. Johnson:

We have reviewed Kentucky's State Plan Amendment (SPA) 08-003 that was received in the Atlanta Regional Office on February 6, 2008. Under this SPA, the State requests the Centers for Medicare & Medicaid Services (CMS) to authorize the State to continue to use the Michigan multi-state pooling agreement (MMSPA), also referred to as the National Medicaid Pooling Initiative (NMPI), for drugs provided to Medicaid beneficiaries. The NMPI Supplemental Rebate Agreement (SRA) and the Amendment to the SRA submitted to CMS on January 6, 2005 have been previously authorized for use with pharmaceutical manufacturers through their current expiration dates. With approval of this SPA, the updated and merged NMPI SRA submitted to CMS on March 11, 2008 will be authorized for renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid beneficiaries.

Based upon the information provided to us, we approve Kentucky SPA 08-003, effective January 1, 2008. Please note that the approval of Kentucky SPA 08-003 only extends to the SRAs, Amendments, and Exhibits previously noted. If changes are subsequently made to the SRAs, Amendments, or Exhibits, a new SPA and any such documents should be submitted to CMS for review and approval.

The Atlanta Regional Office will forward to you a copy of the CMS-179 form, as well as the pages approved for incorporation into the Kentucky Medicaid State Plan. If you have any questions regarding this Amendment, please contact Bernadette Leeds at (410) 786-9463.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deirdre Duzor".

Deirdre Duzor
Director
Division of Pharmacy
Disabled & Elderly Health Programs Group

cc: Jay Gavens, Acting ARA, Atlanta Regional Office
Maria Donatto, Atlanta Regional Office
Elaine Imore, Atlanta Regional Office
Mary Holly, Atlanta Regional Office

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 08-003	2. STATE Kentucky
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: HEALTH CARE FINANCING ADMINISTRATION		4. PROPOSED EFFECTIVE DATE January 1, 2008
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		

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 430.12(b)	7. FEDERAL BUDGET IMPACT: a. FFY 2005 \$0 b. FFY 2006 \$0
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1-A page 7.5.2(a) Attachment 3.1-B page 31.1(a)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Same

10. SUBJECT OF AMENDMENT:

This amendment authorizes CMS to use the consolidated Supplemental Rebate Agreement document with First Health Corporation and Provider Synergies, LLC.

11. GOVERNOR'S REVIEW (Check One):

<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT	X OTHER, AS SPECIFIED: Review delegated to Commissioner, Department for Medicaid Services
<input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	
<input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: Department for Medicaid Services 275 East Main Street 6W-A Frankfort, Kentucky 40621
13. TYPED NAME: Elizabeth A. Johnson	
14. TITLE: Commissioner, Department for Medicaid Services	
15. DATE SUBMITTED: February 6, 2008	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 02/07/08	18. DATE APPROVED: 04/03/08
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: 01/01/08	20. SIGNATURE OF REGIONAL OFFICIAL: 
21. TYPED NAME: Jay Gavens	22. TITLE: Acting Associate Regional Administrator Division of Medicaid & Children's Health Opns

23. REMARKS: Approved with the following changes as authorized by the State Agency on e-mail dated 03-24-08: "Attachment 3.1-A, page 7.5.2(a)" changed to read "Attachment 3.1-A, page 7.5.2," and "Attachment 3.1-B, page 31.1(a)" changed to read "Attachment 3.1-B, page 31.1."

- (c) A drug for which the drug manufacturer has not entered into or has not complied with a rebate agreement in accordance with 42 USC 1396r-8(a) unless there has been a review and determination by the department that it shall be in the best interest of Medicaid recipients for the department to make payment for the non-rebated drug. Note: Because federal financial participation is not generally available for a non-rebated drug, state funds will be used to cover such drugs if necessary to protect the health of a Medicaid recipient and no other appropriate options exist;
 - (d) A drug provided to a recipient in an institution in which drugs are considered a part of the reasonable allowable costs under the Kentucky Medicaid Program;
 - (e) A drug used to treat sexual or erectile dysfunction, unless the drug is FDA approved to treat a condition other than sexual or erectile dysfunction. (This provision is effective 01-01-06); and
 - (f) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service. However, a legend drug may be provided through prior authorization to a recipient admitted to an inpatient facility that does not bill patients, Medicaid, or other third-party payers for health care services.
- (4) A patient “locked-in” to one pharmacy due to over-utilization may receive pharmacy services only from his/her lock-in provider except in the case of an emergency or by referral.
- (5) If authorized by the prescriber, a prescription for a controlled substance in Schedule III-V may be refilled up to five times within a six month period from the date the prescription was written or ordered; a noncontrolled substance may be refilled up to 11 times within a 12 month period from the date the prescription was written or ordered. In addition, a prescription fill for a maintenance drug shall be dispensed in a 92-day supply if a recipient has demonstrated stability on the maintenance drug. However, a 92-day supply of a maintenance drug shall not be dispensed if a prescribing provider specifies that the quantity should be less. Also, individuals receiving supports for community living services shall not be subject to the 92-day supply requirement.
- (6) Kentucky will cover no more than a total of four (4) prescriptions, of which no more than three (3) shall be brand name prescriptions, per recipient per month. If a physician provides sufficient information that a medical need exists for a Medicaid member to receive more than four prescriptions or more than three brand name drug prescriptions in a one-month period, an exception to the four-script limit or three brand allowance will be allowed.
- (7) A refill of a prescription shall not be covered unless at least 80 percent of the prescription time period has elapsed. However, a refill may be covered before 80 percent of the prescription time period has elapsed if the prescribing provider submits a prior authorization request for override consideration.
- (8) Supplemental Rebate Program:
The state is in compliance with Section 1927 of the Social Security Act. The state has the following policies for the Supplemental Rebate Program for the Medicaid population:
- (a) CMS has authorized the Commonwealth of Kentucky to enter into the Michigan multi—state pooling agreement (MMSPA) also referred to as the National Medicaid Pooling Initiative (NMPI) for drugs provided to Medicaid beneficiaries. The NMPI Supplemental Rebate Agreement (SRA) and the Amendment to the SRA submitted to CMS on January 6, 2005 have been authorized for pharmaceutical manufacturers’ existing agreements through their current expiration dates. The updated NMPI SRA submitted to CMS on March 11, 2008 has been authorized for renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid beneficiaries.

TN No.: 08-003
Supersedes
TN No.: 06-001

Approval Date: 04/03/08

Effective Date: 01/01/08

- (c) A drug for which the drug manufacturer has not entered into or has not complied with a rebate agreement in accordance with 42 USC 1396r-8(a) unless there has been a review and determination by the department that it shall be in the best interest of Medicaid recipients for the department to make payment for the non-rebated drug. Note: Because federal financial participation is not generally available for a non-rebated drug, state funds will be used to cover such drugs if necessary to protect the health of a Medicaid recipient and no other appropriate options exist;
- (d) A drug provided to a recipient in an institution in which drugs are considered a part of the reasonable allowable costs under the Kentucky Medicaid Program;
- (e) A drug used to treat sexual or erectile dysfunction, unless the drug is FDA approved to treat a condition other than sexual or erectile dysfunction. (This provision is effective 01-01-06); and
- (f) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service. However, a legend drug may be provided through prior authorization to a recipient admitted to an inpatient facility that does not bill patients, Medicaid, or other third-party payers for health care services.
- (4) A patient "locked-in" to one pharmacy due to over-utilization may receive pharmacy services only from his/her lock-in provider except in the case of an emergency or by referral.
- (5) If authorized by the prescriber, a prescription for a controlled substance in Schedule III-V may be refilled up to five times within a six month period from the date the prescription was written or ordered; a noncontrolled substance may be refilled up to 11 times within a 12 month period from the date the prescription was written or ordered. In addition, a prescription fill for a maintenance drug shall be dispensed in a 92-day supply if a recipient has demonstrated stability on the maintenance drug. However, a 92-day supply of a maintenance drug shall not be dispensed if a prescribing provider specifies that the quantity should be less. Also, individuals receiving supports for community living services shall not be subject to the 92-day supply requirement.
- (6) Kentucky will cover no more than a total of four (4) prescriptions, of which no more than three (3) shall be brand name prescriptions, per recipient per month. If a physician provides sufficient information that a medical need exists for a Medicaid member to receive more than four prescriptions or more than three brand name drug prescriptions in a one-month period, an exception to the four-script limit or three brand allowance will be allowed.
- (7) A refill of a prescription shall not be covered unless at least 80 percent of the prescription time period has elapsed. However, a refill may be covered before 80 percent of the prescription time period has elapsed if the prescribing provider submits a prior authorization request for override consideration.
- (8) Supplemental Rebate Program:
The state is in compliance with Section 1927 of the Social Security Act. The state has the following policies for the Supplemental Rebate Program for the Medicaid population:
- (a) CMS has authorized the Commonwealth of Kentucky to enter into the Michigan multi-state pooling agreement (MMSPA) also referred to as the National Medicaid Pooling Initiative (NMPI) for drugs provided to Medicaid beneficiaries. The NMPI Supplemental Rebate Agreement (SRA) and the Amendment to the SRA submitted to CMS on January 6, 2005 have been authorized for pharmaceutical manufacturers' existing agreements through their current expiration dates. The updated NMPI SRA submitted to CMS on March 11, 2008 has been authorized for renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid beneficiaries.

TN No.: 08-003
Supersedes
TN No.: 06-001

Approval Date: 04/03/08

Effective Date: 01/01/08