

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

August 30, 2024

Robert M. Kerr, Director
South Carolina Department of Health & Human Services
P.O. Box 8206
Columbia, SC 29202-8206

Re: South Carolina State Plan Amendment (SPA) 24-0016

Dear Director Kerr:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 24-0016. This amendment proposes to bring the South Carolina Medicaid State Plan into compliance with the Third Party Liability federal requirements reflected in the current state law.

We conducted our review of your submittal according to statutory requirements in the Consolidated Appropriations Act, 2022, Pub L. No. 117-103, Division H, Title II, Section 202. This letter informs you that South Carolina's Medicaid SPA TN 24-0016 was approved on August 30, 2024, with an effective date of July 1, 2024.

Enclosed are copies of Form CMS-179 and approved SPA pages to be incorporated into the South Carolina State Plan.

If you have any questions, please contact Etta Hawkins at (404) 562-7429 or via email at Etta.Hawkins@cms.hhs.gov.

Sincerely,

James G. Scott, Director
Division of Program Operations

Enclosures

cc: Sheila Chavis
Margaret Alewine

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>2</u> <u>4</u> — <u>0</u> <u>0</u> <u>1</u> <u>6</u>	2. STATE <u>S</u> <u>C</u>
	3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE <p style="text-align: center;">July 1, 2024</p>	
5. FEDERAL STATUTE/REGULATION CITATION Consolidated Appropriations Act of 2022 Pub L. No. 117-103, Division H, Title II, Section 202	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>2024</u> \$ <u>(20,000)</u> b. FFY <u>2025</u> \$ <u>(79,000)</u>	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 4.22-B, page 2	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 4.22-B, page 2	

9. SUBJECT OF AMENDMENT

This SPA will bring the SC Medicaid State Plan into compliance with the TPL federal requirements reflected in current state law.

10. GOVERNOR'S REVIEW (Check One)

<input type="radio"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="radio"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="radio"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	<input checked="" type="radio"/> OTHER, AS SPECIFIED: Mr. Kerr was designated by the Governor to review and approve all State Plans.
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11. SIGNATURE OF STATE AGENCY OFFICIAL 	15. RETURN TO South Carolina Department of Health and Human Services Post Office Box 8206 Columbia, SC 29202-8206
12. TYPED NAME Robert M. Kerr	
13. TITLE Director	
14. DATE SUBMITTED August 1, 2024	

FOR CMS USE ONLY

16. DATE RECEIVED August 1, 2024	17. DATE APPROVED August 30, 2024
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL July 1, 2024	19. SIGNATURE OF APPROVING OFFICIAL
20. TYPED NAME OF APPROVING OFFICIAL James G. Scott	21. TITLE OF APPROVING OFFICIAL Director, Division of Program Operations

22. REMARKS

8/29/2024 SC approved a pen & ink change to Box 5 to add the following: Pub L. No. 117-103, Division H, Title II, Section 202.

SCDHHS' review of cost effectiveness shall include, but not be limited to, documentation as to the Factual and Legal issues of certainty of liability; SCDHHS' previous professional experience with the recipient's Counsel and related Jurisdiction; the involvement of multiple third parties, COB, and other payment sources (i.e., PIP, Worker's Comp, Underinsured Motorist, Uninsured Motorist), the estimated attorney's fees, and any other cost of recovery.

SCDHHS will at all times pursue that amount which will maximize total net recoveries to the program. When deemed appropriate, SCDHHS will attempt to resolve the case through binding arbitration, arbitration or mediation. SCDHHS will not agree to a lesser recovery amount than that determined by an analysis of cost-effectiveness.

In all instances, SCDHHS, through the assignment of rights to third party benefits as a condition of eligibility, reserves the right to pursue known liable third parties on behalf of the Recipient. In instances where it has been determined that the Recipient has engaged sufficient competent representation, and is in pursuit of known liable third parties, SCDHHS may rely upon their services and seek reimbursement of Medicaid Paid Claims from the obtain settlement proceeds.

SCDHHS shall apply available resources in a manner that ensures maximum average return over the entire caseload and will apply the cost effectiveness principle established in 1902(a)(25)(B) in determining the amount of recovery to pursue based on the likelihood of collections.

3. All claims which are not cost-avoided, including waived claims, EPSDT services, pediatric preventive care, and any other claims for which SCDHHS does not make a determination related to cost-effectiveness and access to care, are accumulated and billed directly to the liable health insurance companies on a monthly basis without regard to a dollar amount.

4. Per the provisions in the Consolidated Appropriations Act of 2022 (CAA), the State of South Carolina has applicable State Law to ensure third-party liability. The applicable statute is Section 43-7-465 of the S.C. Code.