
June 21, 2023

Mrs. Tara LeBlanc
Medicaid Executive Director
State of Louisiana
Department of Health
628 N 4th Street
P.O. Box 91030
Baton Rouge, LA 70821-9030

Re: Louisiana Disaster Relief State Plan Amendment 23-0014

Dear Tara LeBlanc:

The Centers for Medicare & Medicaid Services (CMS) has completed our review of the proposed amendment submitted under transmittal number (TN) 23-0014. This Medicaid disaster relief (DR) state plan amendment (SPA) was submitted to respond to the COVID-19 public health emergency (PHE). The purpose of this amendment is to demonstrate compliance with the American Rescue Plan Act (ARP) provisions that require states to cover COVID-19 vaccines, vaccine administration, and treatment and has an effective date of March 11, 2023.

Before CMS can continue processing this amendment, we need additional or clarifying information. The requested information and revisions are needed to satisfy the requirements that Medicaid Disaster Relief SPAs be used only to add or increase coverage, benefits, or payment. CMS requests the following:

Attachment 7.7-A and Attachment 7.7-C:

LA-23-0014- 7.7-A and 7.7-C 9811 Reimbursement Comments/Questions

1. Consistent with regulations at 42 CFR 447.252(b), the state plan methodology must specify comprehensively the methods and standards used by the agency to set payment rates. The state plan methodology must be comprehensive enough to determine the required level of payment and the FFP to allow interested parties to understand the rate setting process and the items and services that are paid through these rates. Claims for federal matching funds cannot be based upon estimates or projections. The reimbursement methodology must be based upon actual historical utilization and actual trend factors.
 - i. Please confirm and provide assurance that the payments proposed under LA-23-0014 are not being made for managed care services and are for fee for service only.

- ii. According to the reimbursement language being proposed on this SPA, the state of Louisiana does not have any approved Disaster Relief (DR) SPAs that authorizes vaccine administration rates different than those in their Attachment 4.19-B of the state plan. If that is accurate, there is no further action for the state. However, if this is not accurate please update the SPA language to include DR SPAs (#) that provide such authorities.

7.7-A Reimbursement Plan Language:

1. It is not clear to CMS if the state already has a COVID-19 vaccine administration SPA approved either in Attachment 4.19 or through a DR SPA. Does the state have established COVID-19 vaccine administration through attachment 4.19 or/and through a DR SPA?
 - i. The state listed 4.19-B pages on the reimbursement section and we thank the state for this clarification. However, if the state also has COVID-19 vaccine administration SPA approved through a DR SPA, please clarify.
2. The state assures that it has established state plan rates for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies) through DR SPA (TN) 21-0007. However, if the state only established COVID-19 vaccine administration rates in a DR SPA, then those rates expired at the end of the PHE, when the DR expired and the state WILL NOT have payment authority from the end of the PHE through the end of the ARP coverage period. Thus, it is very important that states ALSO fill out the following “is establishing rates” section to extend the coverage through the end of the ARP coverage period or if this was an error and the state has already established rates through 4.19-B pages, please list those page(s)(#) as well:
 - a. _____ The state is establishing rates for COVID-19 vaccines and the administration of the vaccines pursuant to sections 1905(a)(4)(E) and 1902(a)(30)(A) of the Act.
3. The state should choose 1 of the 2 following checkboxes, and applicable follow-up selections:

_____ The state’s rates for COVID-19 vaccines and the administration of the vaccines are consistent with Medicare rates for COVID-19 vaccines and the administration of the vaccines, including any future Medicare updates at the:
_____ Medicare national average, OR
_____ Associated geographically adjusted rate.

_____ The state is establishing a state specific fee schedule for COVID-19 vaccines and the administration of the vaccines pursuant to sections 1905(a)(4)(E) and 1902(a)(30)(A) of the Act.
 - i. Since states attests to covering EPSDT COVID-19 vaccine counseling in this SPA, the state should check the box below and explain how

they will pay for this service. The ARP template 7.7-A is the first/best place for states to establish rates for this service. Some states might describe that payment for EPSDT COVID-19 vaccine counseling is included in the E&M visit payment.

___ The state is establishing rates for any medically necessary COVID-19 vaccine counseling for children under the age of 21 pursuant to sections 1905(a)(4)(E), 1905(r)(1)(B)(v) and 1902(a)(30)(A) of the Act.

Please note that there is no Medicare rate for this. CMS established new CPT codes for this service. <https://www.medicaid.gov/state-resource-center/downloads/stnd-vacc-cou-spec-hcpcs-codes.pdf>.

___ The state’s rate is as follows and the state’s fee schedule is published in the following location:

7.7-C Reimbursement Plan Language:

1. The state assures that it has established state plan rates for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies) through DR SPA LA-21-0007.
 - i. Because many treatments used for COVID-19 existed and pre-dated the PHE, typically a state will reference its Attachment 4.19-A, 4.19-B, and sometimes 4.19-D pages, and possibly DR SPAs. Therefore, please include any 4.19-A, 4.19-B and 4.19-D (If applicable) in addition to the already included DR SPA LA-21-0007 as referenced below:

Reimbursement

The state assures that it has established state plan rates for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies).

List references to Medicaid state plan payment methodologies that describe the rates for COVID-19 treatment for each applicable Medicaid benefit:

TN [23-0014](#) Approval Date _____ Effective Date: [March 11, 2021](#)
Supersedes
TN: [New Page](#)

[Louisiana Medicaid Disaster Relief SPA TN 21-0007](#)

2. If the state is establishing a rate for a COVID-19 treatment that differs from existing state plan methods/rates (e.g. a monoclonal antibody or Paxlovid, etc.), it should check the following box:

The state is establishing rates or fee schedule for COVID-19 treatment, including specialized equipment and therapies (including preventive therapies) pursuant to sections 1905(a)(4)(F) and 1902(a)(30)(A) of the Act.

State should describe the new rate here (or point to a fee schedule)

Section 9811 Regulatory References for State Awareness:

<https://www.medicaid.gov/federal-policy-guidance/downloads/cib060321.pdf>

<https://www.medicaid.gov/federal-policy-guidance/downloads/sho-21-003.pdf#:~:text=CMS%20interprets%20the%20amendments%20made%20by%20sections%209811,coverage%20policy%20and%20as%20the%20COVID-19%20pandemic%20evolves>

CMS is requesting this additional/clarifying information under provisions of section 1915(f)(2) of the Act (added by PL 97-35). This has the effect of stopping the 90-day clock for CMS to take action on the material, which would have expired on July 4, 2023. A new 90-day clock will not begin until we receive your response to this request.

In accordance with our guidance to all State Medicaid Directors dated January 2, 2001, and subsequently reiterated in the August 16, 2018 Center for Medicaid and CHIP Services Informational Bulletin, if a response to a formal request for additional information from CMS is not received from the state within 90 days of issuance, CMS will initiate disapproval of the SPA action. In addition, because this amendment was submitted after January 2, 2001, and is effective after January 1, 2001, please be advised that we will defer federal financial participation (FFP) for state payments made in accordance with this amendment until it is approved. Upon approval, FFP will be available beginning with the effective of the SPA.

Should you have any questions concerning this letter, please contact Tobias Griffin, Division of Program Operations, at 214-767-4425 or via e-mail at tobias.griffin@cms.hhs.gov.

Sincerely,

Alissa Mooney DeBoy
On Behalf of Anne Marie Costello, Deputy Director
Center for Medicaid and CHIP Services