



COMMONWEALTH of VIRGINIA
Office of the Governor

Janet Vestal Kelly
Secretary of Health and Human Resources

March 17, 2025

Todd McMillion
Director
Department of Health and Human Services
Centers for Medicare and Medicaid Services
233 North Michigan Ave., Suite 600
Chicago, Illinois 60601

Dear Mr. McMillion:

Attached for your review and approval is amendment 25-004, entitled "Update to Non-Covered Drugs" to the Plan for Medical Assistance for the Commonwealth. I request that your office approve this change as quickly as possible.

Sincerely,

A handwritten signature in blue ink that reads "Janet V. Kelly".

Janet V. Kelly

Attachment

cc: Cheryl J. Roberts, Director, Department of Medical Assistance Services
CMS, Region III

Transmittal Summary

SPA 25-004

I. IDENTIFICATION INFORMATION

Title of Amendment: Update to Non-Covered Drugs

II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

Purpose: The State Plan is being amended to align with federal law and current DMAS practice. The Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005 (Pub. L. No. 119-91) eliminated Medicaid Federal Financial Participation (FFP) for drugs "...when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual dysfunction or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration (FDA)." Prior to the enactment of this law, FFP was available for covered outpatient drugs used to treat sexual dysfunction or erectile dysfunction, except for individuals who were sexual offenders.

In accordance with Pub. L. No. 119-91, DMAS has not covered drugs for the treatment of sexual or erectile dysfunction since January 1, 2006, unless such agents are FDA approved to treat a condition other than sexual or erectile dysfunction. As such, DMAS needs to amend the State Plan to align the language with current law (Section 1927 of the Social Security Act) and current DMAS practice.

Substance and Analysis: The section of the State Plan that is affected by this amendment is "Drugs or Drug Categories Which are Not Covered".

Impact: None.

Tribal Notice: Please see attached.

Prior Public Notice: N/A

Public Comments and Agency Analysis: N/A

Williams, Jimiequa (DMAS)

To: chief; AssistantChief@Nansemond.gov

Wed 2/26/2025 11:43 AM

Tribal Notice Letter (2.26.25) - signed.docx

64 KB

From: Williams, Jimiequa (DMAS) <Jimiequa.Williams@dmas.virginia.gov>

Sent: Wednesday, February 26, 2025 11:18 AM

To: TribalOffice@MonacanNation.com <TribalOffice@MonacanNation.com>; Ann Richardson <chiefannerich@aol.com>; Pam Thompson (pamelathompson4@yahoo.com) <pamelathompson4@yahoo.com>; Rappahannock Tribe (rappahannocktrib@aol.com) <rappahannocktrib@aol.com>; Reginald Stewart (regstew007@gmail.com) <regstew007@gmail.com>; Richard.matens@pamunkey.org <Richard.matens@pamunkey.org>; chief@monacannation.gov <chief@monacannation.gov>; Stephen Adkins (chiefstephenadkins@gmail.com) <chiefstephenadkins@gmail.com>; bradbybrown@gmail.com (bradbybrown@gmail.com) <bradbybrown@gmail.com>; tabitha.garrett@ihs.gov (tabitha.garrett@ihs.gov) <tabitha.garrett@ihs.gov>; kara.kearns@ihs.gov (kara.kearns@ihs.gov) <kara.kearns@ihs.gov>; Nansemond Administrator <administrator@nansemond.gov>; info@afwellness.com <info@afwellness.com>; info@fishingpointhc.com <info@fishingpointhc.com>; contact@Nansemond.gov <contact@Nansemond.gov>; brandon.custalow@mattaponination.com <brandon.custalow@mattaponination.com>; admin@umitribe.org <admin@umitribe.org>; Reels-Pearson, Lorraine (IHS/NAS/AO) <lorraine.reels-pearson@ihs.gov>; Holmes, Remedios (IHS/NAS/RIC) <remedios.holmes@ihs.gov>; lindsey.taylor@ihs.gov <lindsey.taylor@ihs.gov>; Lyon, Joni (IHS/NAS/AO) <joni.lyon@ihs.gov>; Howard, Joanne <Joanne.Howard@cit-ed.org>

Subject: Tribal Notification

Good morning.

Dear Tribal Leaders and Indian Health Programs:

Attached is a Tribal Notice letter from Virginia Medicaid's Director, Cheryl J. Roberts, indicating that the Dept. of Medical Assistance Services (DMAS) plans to submit a State Plan Amendment (SPA) to the federal Centers for Medicare and Medicaid Services regarding an Update to Non-Covered Drugs.

If you would like a copy of the SPA documents or proposed text changes, or if you have any questions, please let us know.

Thank you.

-J. Williams

Jimeequa Williams
Regulatory Coordinator
Policy Division
Department of Medical Assistance Services
Hours: 7:30 a.m. - 5:00 p.m. (Monday-Thursday); 7:30 a.m. - 11:30 a.m. (Friday)
jimeequa.williams@dmas.virginia.gov
(804) 225-3508
www.dmas.virginia.gov



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

CHERYL J. ROBERTS
DIRECTOR

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600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
800/343-0634 (TDD)
www.dmas.virginia.gov

February 26, 2025

SUBJECT: Notice of Opportunity for Tribal Comment – Update to Non-Covered Drugs

Dear Tribal Leader and Indian Health Programs:

This letter is to notify you that the Department of Medical Assistance Services (DMAS) is planning to amend the Virginia State Plan for Medical Assistance with the Centers for Medicare and Medicaid Services (CMS). Specifically, DMAS is providing you notice about a State Plan Amendment (SPA) that the Agency will file with CMS to align with federal law and current DMAS practice. The Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005 (Pub. L. No. 119-91) eliminated Medicaid Federal Financial Participation (FFP) for drugs "...when used for the treatment of sexual dysfunction or erectile dysfunction, unless such agents are used to treat a condition, other than sexual dysfunction or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration (FDA)." Prior to the enactment of this law, FFP was available for covered outpatient drugs used to treat sexual or erectile dysfunction, except for individuals who were sexual offenders.

In accordance with Pub. L. No. 119-91, DMAS has not covered drugs for the treatment of sexual or erectile dysfunction since January 1, 2006, unless such agents are FDA approved to treat a condition other than sexual or erectile dysfunction. As such, DMAS needs to amend the State Plan to align the language with current law (Section 1927 of the Social Security Act) and current DMAS practice.

We realize that the changes in this SPA may impact Medicaid members and providers, including tribal members and providers. Therefore, we encourage you to let us know if you have any comments or questions. The tribal comment period for this SPA is open through March 26, 2025. You may submit your comments directly to Jimeequa Williams, DMAS Policy Division, by phone (804) 225-3508, or via email: Jimeequa.Williams@dmas.virginia.gov. Finally, if you prefer regular mail you may send your comments or questions to:

Virginia Department of Medical Assistance Services
Attn: Jimeequa Williams
600 East Broad Street
Richmond, VA 23219

Please forward this information to any interested party.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl J. Roberts".

Cheryl J. Roberts, JD
Director

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

DRUGS OR DRUG CATEGORIES WHICH ARE NOT COVERED

1. A. Agents when used for anorexia or weight gain. Coverage of anorexiant for other than weight loss requires medical justification. FDA-approved drug therapies and agents for weight loss, when preauthorized, will be covered for recipients who meet the strict disability standards for obesity established by the Social Security Administration in effect on April 7, 1999, and whose condition is certified as life threatening, consistent with Department of Medical Assistance Services' medical necessity requirements by the treating physician.
- B. Agents when used for cosmetic purposes or hair growth.
 1. Minoxidil shall not be covered when prescribed for hair growth or other cosmetic purposes.
 2. Agents containing hydroquinone or its derivatives which are used solely for depigmentation of the skin.
- C. Agents used to promote fertility.
- D. Expired drugs. Drugs dispensed past the labeled expiration date.
- E. DESI Drugs. The Program shall not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.
- F. Non-legend drugs. Non-legend drugs, with those exceptions shown in 12VAC30-50-100 et seq., shall not be covered.
- G. Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.

TN No. 25-0004 Approval Date Effective Date 01-01-25
Supersedes
TN No. 05-15

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

DRUGS OR DRUG CATEGORIES WHICH ARE NOT COVERED

~~(12 VAC 30-50-520)~~

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- B. Agents when used for cosmetic purposes or hair growth.
 1. Minoxidil shall not be covered when prescribed for hair growth or other cosmetic purposes.
 2. Agents containing hydroquinone or its derivatives which are used solely for depigmentation of the skin.
- C. Agents used to promote fertility.
- D. Expired drugs. Drugs dispensed past the labeled expiration date.
- E. DESI Drugs. The Program shall not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.
- F. Non-legend drugs. Non-legend drugs, with those exceptions shown in 12VAC30-50-100 et seq., shall not be covered.
- G. ~~Agents used to treat erectile dysfunction for sexual offenders. The Program shall not provide reimbursement for drugs used for treatment of erectile dysfunction, for persons who have been convicted of a sex offense or a crime against a minor and are listed in the State Police Sex Offender and Crimes Against Minors Registry established under the Code of Virginia § 9.1-900, et seq., as amended.~~ Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.

TN No. 05-15 25-0004 Approval Date 08-11-05 Effective Date 05-27-05 01-01-25
Supersedes
TN No. 93-25 05-15

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX

XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY _____ \$ _____

b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:
Secretary of Health and Human Resources

11. SIGNATURE OF STATE AGENCY OFFICIAL



12. TYPED NAME

13. TITLE

14. DATE SUBMITTED

15. RETURN TO

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS