



Administrator
Washington, DC 20201

JUN - 7 2007

Mr. Paul Reinhart
Director
Medical Services Administration
Michigan Department of Community Health
Capitol Commons Center
P.O. Box 30479
Lansing, MI 48909

Dear Mr. Reinhart:

I am responding to your request to approve Michigan's Medicaid State plan Amendment (SPA) 06-18, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on October 19, 2006. Effective April 1, 2007, this amendment proposes to impose a co-payment on non-emergency services provided in the hospital emergency department. As explained below, I am unable to approve Michigan SPA 06-18 because I cannot conclude that the SPA complies with the requirements of section 1916A(e) of the Social Security Act (the Act).

The State submitted SPA 06-18 to provide for the establishment of co-payments on non-emergency services provided in the hospital emergency department utilizing the authority under section 1916(a)(3) of the Act. CMS issued a request for additional information on January 12, 2007. The State responded to the request on March 7, 2007, by stating that it intended to utilize the authority under section 1916A(e) of the Act to impose such co-payments.

Section 1916A(e) of the Act provides hospitals with the ability to impose cost sharing when an individual receives non-emergency services in a hospital emergency department if alternate means of receiving appropriate care are available and accessible to the individual. Prior to imposing such a co-payment, the hospital is required to provide an appropriate medical screening examination under section 1867—Emergency Medical Treatment and Active Labor Act (EMTALA)—of the Act. If a determination has been made that the individual does not have an emergency medical condition, the hospital must inform the individual that cost sharing would be assessed to receive treatment of the condition in the hospital emergency department and provide information to the individual on alternate sources of care that will not impose such a co-payment (including a referral to such care). The hospital is permitted to require that the cost sharing be collected prior to providing treatment.

Section 1916A(e)(2)(B) of the Act limits the amount of cost sharing certain Medicaid recipients can be required to pay for non-emergency services provided in a hospital emergency department. For individuals with family income at or below 100 percent of the Federal poverty level (FPL), cost sharing for non-emergency services furnished in the hospital emergency department may be imposed as long as no cost sharing is imposed to receive such care through an outpatient

Page 2 – Mr. Paul Reinhart

department or other alternative health care provider in the geographic area of the hospital emergency department. Such cost sharing is limited to nominal cost sharing levels and is subject to an aggregate cost sharing cap of 5 percent of the family's income.

The information provided in this SPA, and in your response to the request for additional information, indicated that the State would not be able to assure CMS that it would impose the co-payments on individuals at 100 percent of the FPL and below within the 5 percent aggregate cap.

Federal regulations at 42 CFR section 430.10 require that States include in their State plans all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation. Absent information that would more precisely describe the process for monitoring cost sharing to populations particularly below 100 percent of the FPL, I cannot conclude that SPA 06-18 meets the requirements of section 1916A(e) of the Act.

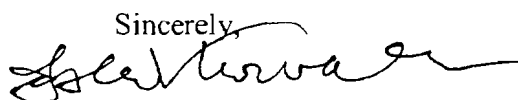
For these reasons, and after consulting with the Secretary as required by Federal regulations at 42 CFR section 430.15(c)(2), I am disapproving this SPA.

If you are dissatisfied with this determination, you may petition for reconsideration within 60 days of the receipt of this letter, in accordance with the procedure set forth in Federal regulations at 42 CFR section 430.18. Your request for reconsideration may be sent to:

Ms. Cynthia Potter
Centers for Medicare & Medicaid Services
Center for Medicaid and State Operations
7500 Security Boulevard, Mail Stop S2-25-22
Baltimore, MD 21244-1850

If you have any questions or wish to discuss this determination further, please contact:

Ms. Phyllis Smith
Centers for Medicare & Medicaid Services
Acting Associate Regional Administrator
Division of Medicaid and Children's Health
233 North Michigan Avenue, Suite 600
Chicago, IL 60601

Sincerely,


Leslie V. Norwalk, Esq.
Acting Administrator

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**
FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:
06 - 18

2. STATE:
Michigan

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH FINANCING ADMINISTRATION
DEPARTMENT OF HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
April 1, 2007

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:
DRA of 2005, Title VI, Section 6043

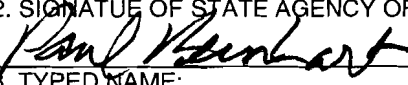
7. FEDERAL BUDGET IMPACT:
a. FFY 07 _____ \$ (85,000) _____
b. FFY 08 _____ \$ (170,000) _____

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Attachment 4.18-A, pages 1 and 2

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):
Attachment 4.18-A, pages 1 and 2

10. SUBJECT OF AMENDMENT:
Hospital Emergency Department - Co-pay for non-emergency services

11. GOVERNOR'S REVIEW (Check One):
 GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Paul Reinhart, Director
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL Medical Services Administration

12. SIGNATURE OF STATE AGENCY OFFICIAL:


16. RETURN TO:
Medical Services Administration
Program/Eligibility Policy Division - Federal Liaison Unit
Capitol Commons Center - 7th Floor
400 South Pine
Lansing, Michigan 48933

Attn: Nancy Bishop

13. TYPED NAME:
Paul Reinhart

14. TITLE:
Director, Medical Services Administration

15. DATE SUBMITTED:
October 18, 2006

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: _____ 18. DATE APPROVED: _____

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: _____

20. SIGNATURE OF REGIONAL OFFICIAL: _____

21. TYPE NAME: _____

22. TITLE: _____

23. REMARKS: _____

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of MICHIGAN

Cost Sharing and Similar Charges

A. The following charges are imposed on the categorically and medically needy for services other than those provided under section 1905 (a)(1) through (5) and (7) of the Act.

Services covered for certain ambulatory beneficiaries age 21 and over:	Type Charge			Amount
	Deductible	Co-insurance	Co-pay	
Vision services			X	\$2.00 per each reimbursable visit (average payment \$27.00).
Dental services			X	\$3.00 per each reimbursable visit (average payment \$110.00).
Podiatric services			X	\$2.00 per each reimbursable visit (average payment \$32.00).
Hearing aids			X	\$3.00 on each hearing aid (average payment \$340.00).
Pharmacy services specified by the department			X	\$1.00 for each generic drug (average payment \$15.00) and \$3.00 for each brand drug (average payment \$105.00) dispensed.
Chiropractic services			X	\$1.00 for each reimbursable visit (average payment \$11.00).
Physician Office visit			X	\$2.00 for each reimbursable visit (average payment \$35.00)
Hospital Emergency Department visit			X	\$6.00 for each non-emergency reimbursable visit (average payment \$70.00)
In-patient Hospital			X	\$50.00 for the first day of each reimbursable inpatient hospital stay (average payment \$1265)
Out-patient hospital			X	\$1.00 for each reimbursable visit (average payment \$18.00)

TN NO.: 06-18

Approval Date: _____

Effective Date: 04/01/2007

Supersedes TN No.: 05-14