DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S3-13-15
Baltimore, Maryland 21244-1850

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

Center for Medicaid and CHIP Services (CMCS)

Mr. Stephen Fitton, Director
Medical Services Administration
Department of Community Health
400 South Pine
Lansing, MI 48933

AUG - 1 2012

RE: Michigan State Plan Amendment (SPA) 12-09

Dear Mr. Fitton:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 12-09. Effective for services on or after April 1, 2012, this amendment revises the long term care provider appeals process.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the regulations at 42 CFR 447 Subpart C. We hereby inform you that Medicaid State plan amendment 12-09 is approved effective April 1, 2012. We are enclosing the HCFA-179 and the amended plan pages.

If you have any questions, please call Todd McMillion at (608) 441-5344.

Sincerely,

Cindy Mann,
Director (CMCS)

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTHCARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: 12 - 09

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, 2012

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 431, Subpart D

7. FEDERAL BUDGET IMPACT:
a. FFY 2012 $ 0
b. FFY 2013 $ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Attachment 4.19-D, Section IV, Pages 1-6

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Attachment 4.19-D, Section IV, Pages 1-6

10. SUBJECT OF AMENDMENT:
Revises the long term care provider appeals process.

11. 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:
Stephen Fitton, Director
Medical Services Administration

12. SIGNATURE OF STATE AGENCY OFFICIAL:
Stephen Fitton

13. TYPED NAME:
Stephen Fitton

14. TITLE:
Director, Medical Services Administration

15. DATE SUBMITTED:
June 1, 2012

16. RETURN TO:

Medical Services Administration
Actuarial Division
Capitol Commons Center - 7th Floor
400 South Pine Street
Lansing, Michigan 48933

Attn: Loni Hackney

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

18 DATE APPROVED: AUG - 1 2012

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:
APR - 1 2012

20. SIGNATURE OF REGIONAL OFFICIAL:
Thom

21. TYPE NAME:
Penny Thompson

22 TITLE:
Deputy Director, CMCS

23. REMARKS:

FORM HCFA-179(07-92)

Instructions on Back

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of MICHIGAN

Policy and Methods for Establishing Payment Rates
(Long Term Care Facilities)

VIII. Appeals Procedure

The appeals procedure can be initiated by a provider upon receipt of a notice of adverse action, for an informal or formal review or hearing. Procedure I contains provisions for the informal review of an adverse action that is contained in the final summary of audit findings issued by the State agency. This procedure is available to Class I, II and III providers and is effective for cost reporting periods ending on or after September 30, 2000. Procedure II contains provisions for: 1) all classes of providers for formal hearings; 2) all classes of providers for informal reviews which pertain to such adverse action issues as cost settlement determinations, rate determinations, and incentives; and 3) Class IV and V providers for informal reviews of audit findings, if applicable.

A. Procedure I – Informal Review of the Final Summary of Audit Findings

A Class I or Class III provider can request an area office conference for the purpose of review of an adverse action that is contained in the preliminary summary of audit findings issued by the State agency. The election to participate in an area office conference does not result in the waiver of the provider's right to any further administrative processes contained in these provisions and in administrative hearing rules R400.3405 through R400.3424. The following provisions will apply:

1. Provision 1. As used in these provisions:

   a. Adverse action means the audit adjustments contained in the final summary of audit findings that is issued by the appropriate audit representative(s) of the department

   b. Administration means the Medical Services Administration of the Michigan Department of Community Health

   c. Appropriate audit representative(s) means that individual(s) employed or contracted by the Michigan Department of Community Health to conduct audits of provider cost reports.

   d. Days, as used herein, refer exclusively to calendar days unless otherwise specified.

   e. Department means the Michigan Department of Community Health, its officials or agents.

   f. Final determination notice means a notice of an adverse action which includes the action to be taken; the date of the proposed action; the reason for the action; the statute, rule or guideline under which the action is taken; and the right to a hearing.

   g. Provider means an individual, firm corporation, association, agency, institution or other legal entity which is providing, has formerly provided, or has been approved to provide, medical assistance to a recipient pursuant to the medical assistance program.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of MICHIGAN

Policy and Methods for Establishing Payment Rates
(Long Term Care Facilities)

h. Receipt of as used herein is either on the day of personal delivery or will be presumed on the third day subsequent to the postmark date if the article of mail containing the referenced document is: deposited in Michigan in the United State mail; mailed first class; and properly addressed with postage pre-paid.

2. Provision 2. Audit Review and Area Office Conference:

a. The appropriate audit representative(s), after completion of the field (desk) audit, will issue a preliminary summary of audit findings to the provider.

b. If the provider or its representative desires to contest the findings required by Provision 2.a), the provider or its representative must respond to the appropriate audit representative(s) within 10 business days of the date of the preliminary summary of audit findings, and indicate which findings it contests.

c. If no timely request for an area office conference is made by a provider or its representative, the provider will receive a final summary of audit adjustments notice. The notice advises the provider of subsequent appeal rights, up to and including an administrative hearing. The provider or its representative has 30 calendar days from the date of the final summary of audit adjustments notice to request a formal hearing in accordance with MDCH rules for hearings.

d. The appropriate audit representative(s) must schedule and conduct a conference to discuss the preliminary summary of audit findings. This conference will be called the area office conference. The provider or its representative must present the appropriate audit representative(s) with the documents and arguments it feels support its position relative to the issue(s) it is contesting. Likewise, the appropriate audit representative(s) shall explain to the provider his/her basis for the findings which the provider is contesting.

e. The appropriate audit representative(s) will issue a final summary of audit findings to the provider. The Final Summary of Audit Findings advises the provider of subsequent appeal rights, up to and including an administrative hearing. The provider or its representative has 30 calendar days from the date of the final summary of audit adjustments notice to request a formal hearing in accordance with MDCH rules for hearings. This is the final step in the audit review process.

f. If no timely request for an administration conference is made by a provider or its representative, the audited data as outlined in the final summary of audit findings will be submitted for the rate determination process. The provider will be deemed to have waived its right to any further administrative processes contained in these provisions and in administrative hearing rules R400.3405 through R400.3424. The findings as outlined in the final summary of audit findings will be implemented.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of MICHIGAN

Policy and Methods for Establishing Payment Rates
(Long Term Care Facilities)

3. Provision 3 – In computing any period of time prescribed or allowed, the day of the act, event or default after which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday or legal holiday in which event the period runs until 5 pm of the next business day which is not a Saturday, Sunday or legal holiday.

B. Procedure II

1. Once a notice of adverse action is issued, a provider may invoke Procedure II by submitting its application in writing to the State agency. The written request shall include an identification of the issue(s) for which resolution is being sought and a description of why the provider believes the determination on these matters is incorrect.

2. Appeals which are allowable under this plan through this procedure will be conducted in accordance with the procedures outlined in the rules, filed on March 4, 1978, as amended, and adopted into Administrative Rules, R400.3401 through R400.3424.

3. A written application for a formal hearing (that is, a hearing conducted by an administrative law judge) must be received within 30 calendar days of the date of notice of an adverse action or a final determination notice. Exceptions: 1) A written request for a formal hearing pertaining to a notification of intent to terminate shall be made in accordance with sub rule 6(4) of Administrative Rule R400.3406. 2) A written application for a formal hearing following an administration conference conducted under Provision 4(c) of Procedure II shall be made in accordance with Provision 4(e) of Procedure II and 3) as otherwise provided in Section VIII.A.1 above.

C. Specific Situation Provisions for Procedure I

1. If the State agency is responsible for a delay in the procedures and either an area office conference or administration conference is in progress, or the potential for an area office conference or an administration conference is still open, at the beginning of the rate year that begins the start of the state fiscal year the following calendar year, the provider will be given a provisional rate for the new rate year. For this purpose, "delay in the procedures" means, if applicable: 1) the State agency failed to issue the preliminary summary of audit adjustments timely (that is, in accordance with Provision 2(a) or as amended in accordance with specific situation 1); 2) the State agency failed to conduct the area office conference timely (that is, in accordance with Provision 2(d) or as amended pursuant to specific situation 1); 3) the State agency failed to issue the final summary of audit findings timely (that is, in accordance with Provision 2(e) or as amended pursuant to specific situation 1); and/or 4) the State agency failed to issue a final determination notice timely (that is, in accordance with Provision 4(c) or as amended pursuant to specific situation 1). The provisional rate will be established by updating the payment rate for the immediately preceding state fiscal rate year using the provider's filed cost data. Upon the completion of the audit appeal process, an adjustment, retroactive to the beginning of the new rate year, will be made.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of MICHIGAN

Policy and Methods for Establishing Payment Rates
(Long Term Care Facilities)

D. Non-appealable Elements

Elements of the reimbursement program for which an administrative remedy, if permitted for a single provider, would imply or necessitate a change in the program for all providers or for all providers in a class may not be appealed through administrative rules or provisions but may be appealed to a court of appropriate jurisdiction. These elements include, but are not limited to: 1) the determination of the selection and use of inflationary adjustors (Section IV.C.3.); 2) the principles of reimbursement and guidelines which define allowable costs (Section III.); 3) non- Medical Assistance Program issues; 4) the cost limits, unless otherwise specifically provided (Sections JV.B.2., and the appropriate subsections of IV.C.3. and IV.B.4.); and 5) the State agency determination of the allowability of items certified under this plan (until such time as an audit is completed).

E. Adjustments

If the results of an appeal require a change in a provider's rate, the change will be effected through an aggregate adjustment.