

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

1. TRANSMITTAL NUMBER <u>24</u> — <u>0013</u>	2. STATE <u>MI</u>
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3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT

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

3. PROPOSED EFFECTIVE DATE  
October 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION  
42 CFR 447

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)  
a. FFY 2025 \$0  
b. FFY 2026 \$0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  
  
Attachment 4 19-D Section III Page 3

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  
  
Attachment 4 19-D Section III Page 3 (TN 19-0008)

9. SUBJECT OF AMENDMENT  
  
This SPA provides authority to set a principal balance minimum payment amount for nursing facilities for any loan issued after October 1, 2019, that has a loan period greater than four years.

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:

11. SIGNATURE OF STATE AGENCY OFFICIAL  
*Meghan Groen*

11. TYPED NAME  
Meghan Groen

12. TITLE  
Senior Deputy Director

13. DATE SUBMITTED  
August 26, 2024

15. RETURN TO  
Behavioral and Physical Health and Aging Services  
Administration  
Office of Strategic Partnerships & Medicaid Administrative  
Services – Federal Liaison  
Capitol Commons Center – 7<sup>th</sup> Floor  
400 South Pine  
Lansing, Michigan 48933  
  
Attn: Erin Black

**FOR CMS USE ONLY**

16. DATE RECEIVED	17. DATE APPROVED
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**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

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT**

State of MICHIGAN

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

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2. All other facilities will have interest expense determined in accordance with current Medicare Principles of Reimbursement, including the provisions at 42 CFR 413.153 and section 1861(v)(1)(O) of Title XVIII of the Social Security Act.
  3. For loans issued on or after October 1, 2019, interest on loans, to be allowable, must reflect a principal balance payment on at least an annual basis if the loan is greater than four years old. For loans issued prior to October 1, 2019, interest on loans, to be allowable, must reflect a principal balance payment on at least an annual basis starting on October 1, 2023. **As of October 1, 2024 the minimum payment amount on the principal balance or a payment amount totaling at least 0.1 percent of the total outstanding loan balance, whichever is greater, must be made at least annually for any loan that has a loan period of greater than four years and was issued on or after October 1, 2019 in order for the interest to be an allowable expense.** Refinancing of a loan or refinancing of multiple loans is not considered a ~~principle~~ principal balance payment, nor is a refinanced loan considered a new loan for purposes of this section.
- H. Allowable lease costs are determined using principle 1 or 2 below:
1. A provider who entered into a bona fide, arms-length lease prior to September 1, 1973 where the lessor refused to open his books, will be allowed an actual lease cost up to a maximum of \$2.50 per patient day. This limit was developed from the average lease rental cost for facilities leased prior to September 1, 1973, at which time the current method of calculation was effected. The pre-September 1, 1973 lessee has the right of appeal for bona fide, arms-length lease agreements which exceed the \$2.50 limit.
  2. Providers who enter into or amend a bona fide arms-length lease agreement after August 31, 1973 will be reimbursed a plant cost component determined in accordance with sections IV. A. or B. as applicable to an owner-provider, if the lessee discloses the allowable cost information required or rate setting as outlined in section IV.A.3. Without full disclosure lease expense will not be an allowable cost. The only exceptions to this disclosure rule shall be for lease expenses for pass through leases.
- I. Bad debts, charity and courtesy allowances as defined in 42 CFR 413.80 are not recognized as allowable costs.
- J. The cost of educational activities will be determined in accordance with 42 CFR 413.85, except the costs of educational activities outside the continental United States are not allowable.
- K. The cost of research activities will be determined in accordance with 42 CFR 413.90.
- L. The value of services of non-paid workers will be treated in accordance with 42 CFR 413.94.
- M. Purchase discounts and allowances and refunds of expenses will be treated in accordance with 42 CFR 413.98.
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TN NO.: 24-0013

Approval Date: \_\_\_\_\_

Effective Date: 10-01-2024

Supersedes TN No.: 19-0008

**Michigan Medicaid Nursing Facility Upper Payment Limit Non-Federal Funding Questions – 10/1/2023**

The following questions should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology for each of the applicable services that are submitted pursuant to SMDL #13-003.

1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the payments, a complete listing of providers that return a portion of their payments, the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)

***Response:*** *Providers will not return any portion of any Medicaid-related payments they receive.*

2. Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either through an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local governmental entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:
  - i. a complete list of the names of entities transferring or certifying funds;
  - ii. the operational nature of the entity (state, county, city, other);
  - iii. the total amounts transferred or certified by each entity;
  - iv. clarify whether the certifying or transferring entity has general taxing authority; and,
  - v. whether the certifying or transferring entity received appropriations (identify level of appropriations).

**Response:** Funding for all nursing facility payments must be appropriated by the state legislature before expenditures can be incurred. The funding sources supporting appropriations for specific payments are broken out below.

**Per Diem Payments** – Nursing facility per diem payments made under Attachment 4.19-D of the Michigan State Plan are estimated to be \$1,661.4 million for fiscal year 2022. The non-federal share for these payments is approximately \$503.6 million and is financed with state funding of \$369.1 million, local funding of \$5.1 million, and \$129.4 million in nursing home provider tax.

**Supplemental/Enhanced Payments** - The Quality Assurance Supplement (QAS) payments made under Attachment 4.19-D Section IV page 20a of the Michigan State Plan are supplemental payments. QAS payments are estimated to be \$381 million for fiscal year 2022. The non-federal share for these payments is \$115.5 million and is funded with nursing facility provider tax.

**CPE Payments** – Approximately \$5.4 million was funded through certified public expenditures (CPEs) in FY22. The methodology for these payments is described on pages 24-27 of Attachment 4.19-D Section IV of the Michigan State Plan. Attachment A provides additional information related to these CPEs.

3. Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.

**Response:** The following supplemental payments are made to nursing facilities under Attachment 4.19-D Section IV of the Michigan State Plan.

**Quality Assurance Assessment (QAS)** - QAS payments are estimated to be \$380.9 million for fiscal year 2022. The non-federal share for these payments is \$115.5 million for this time period. Payments are funded with a nursing facility provider tax. The methodology for these payments is described in Attachment 4.19-D Section IV page 20a of the Michigan State Plan.

**CPE Payments** – A supplemental payment of \$17.7 million was made to County Medical Care Facilities in FY22. The non-federal share of \$5.4 million was funded through certified public expenditures. The methodology for these payments is described on pages 24-27 of Attachment 4.19-D Section IV of the Michigan State Plan. Attachment A provides additional information related to these CPEs.

4. For clinic or outpatient hospital services please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated, non-state government owned or operated, and

privately owned or operated). Please provide a current (i.e., applicable to the current rate year) UPL demonstration.

**Response:** N/A

5. Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?

**Response:** *In the aggregate, the payments are under the Medicare upper payment limit. They therefore do not exceed the nursing facilities' reasonable costs of providing services. A mechanism has been implemented to recoup and return the federal share of overpayments in the event that overpayment occurs.*

## Public Notice

### Michigan Department of Health and Human Services Behavioral and Physical Health and Aging Services Administration

#### Principal Balance Payment Requirement State Plan Amendment Request

The Michigan Department of Health and Human Services (MDHHS) plans to submit a State Plan Amendment (SPA) request to the Centers for Medicare & Medicaid Services (CMS) to set a principal balance minimum payment amount for any loan issued after October 1, 2019 that has a loan period greater than four years.

The anticipated effective date for the Principal Balance Payment Requirement SPA is Oct 1, 2024.

This SPA and corresponding policy bulletin are a follow-up to numbered letter L 24-08 issued February 13, 2024, which provided clarification to nursing facilities that if a loan issued on or after October 1, 2019 has a loan period greater than four years, a principal balance payment paid to a lender on at least an annual basis is required for each year for the respective interest expense to be considered an allowable cost.

Effective October 1, 2024, any loan issued after October 1, 2019 that has a loan period greater than four years will be required to make principal balance payments totaling at least 0.1 percent of the total loan amount to the lender annually for the interest expense to be considered an allowable cost.

There is no estimated gross cost to the State of Michigan for the SPA and it is considered budget neutral.

There is no public meeting scheduled regarding this notice. Any interested party wishing to request a written copy of the SPA or wishing to submit comments may do so by sending an e-mail to [MSADraftPolicy@michigan.gov](mailto:MSADraftPolicy@michigan.gov) or submitting a request in writing to: MDHHS/ Behavioral and Physical Health and Aging Services Administration, Program Policy Division, PO Box 30479, Lansing MI 48909-7979 by July 8, 2024. A copy of the proposed State Plan Amendment will also be available for review at: <https://www.michigan.gov/mdhhs/inside-mdhhs/budgetfinance/264/state-plan-amendments>.

**RELEASED:** June 6, 2024



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
LANSING

GRETCHEN WHITMER  
GOVERNOR

ELIZABETH HERTEL  
DIRECTOR

June 25, 2024

NAME  
TITLE  
ADDRESS  
CITY STATE ZIP

Dear Tribal Chair and Health Director:

**RE:** Principal Balance Payment Requirement

This letter, in compliance with Section 1902(a)(73) and Section 2107(e)(1)(C) of the Social Security Act, serves as notice to all Tribal Chairs and Health Directors of the intent by the Michigan Department of Health and Human Services (MDHHS) to submit a State Plan Amendment (SPA) request to the Centers for Medicare & Medicaid Services (CMS).

This SPA and corresponding policy bulletin are a follow-up to numbered letter [L 24-08](#) issued February 13, 2024, which provided clarification to nursing facilities that if a loan issued on or after October 1, 2019 has a loan period greater than four years, a principal balance payment paid to a lender on at least an annual basis is required for each year for the respective interest expense to be considered an allowable cost.

The purpose of this SPA request is to include a minimum principal balance payment requirement for any loans issued after October 1, 2019 that have a loan period greater than four years. Effective October 1, 2024, any loan issued after October 1, 2019 that has a loan period greater than four years will be required to make principal balance payments totaling at least 0.1 percent of the total loan amount to the lender annually for the interest expense to be considered an allowable cost. MDHHS expects this change to have minimal impact on Native American beneficiaries.

There is no public hearing scheduled for this SPA. Input regarding this SPA is highly encouraged, and comments regarding this notice of intent may be submitted to Lorna Elliott-Egan, MDHHS Liaison to the Michigan tribes. Lorna can be reached at 517-512-4146, or via email at [Elliott-EganL@michigan.gov](mailto:Elliott-EganL@michigan.gov). **Please provide all input by August 9, 2024.**

In addition, MDHHS is offering to set up group or individual consultation meetings to discuss the SPA, according to the tribes' preference. Consultation meetings allow tribes the opportunity to address any concerns and voice any suggestions, revisions, or

objections to be relayed to the author of the proposal. If you would like additional information or wish to schedule a consultation meeting, please contact Lorna Elliott-Egan at the telephone number or email address provided above.

MDHHS appreciates the continued opportunity to work collaboratively with you to care for the residents of our state.

An electronic copy of this letter is available at [www.michigan.gov/medicaidproviders](http://www.michigan.gov/medicaidproviders) >> Policy, Letters & Forms.

Sincerely,



Meghan E. Groen, Director  
Behavioral and Physical Health and Aging Services Administration

CC: Keri Toback, CMS  
Nancy Grano, CMS  
Chasity Dial, CEO, American Indian Health and Family Services of Southeastern Michigan  
Asha Petoskey, Acting Area Director, Indian Health Service - Bemidji Area Office  
Lorna Elliott-Egan, MDHHS



**Distribution List for L 24-27  
June 25, 2024**

Ms. Whitney Gravelle, President, Bay Mills Indian Community  
Ms. Lucy DeWildt, Health Director, Bay Mills (Ellen Marshall Memorial Center)  
Ms. Sandra Witherspoon, Chairperson, Grand Traverse Band Ottawa & Chippewa Indians  
Ms. Doris Winslow, Health Director, Grand Traverse Band Ottawa/Chippewa  
Mr. Kenneth Meshigaud, Tribal Chairman, Hannahville Indian Community  
Ms. G. Susie Meshigaud, Health Director, Hannahville Health Center  
Ms. Doreen G. Blaker, Tribal President, Keweenaw Bay Indian Community  
Ms. Deanna Foucault, Health Director, Keweenaw Bay Indian Community - Donald Lapointe Health/Educ Facility  
Mr. James Williams, Jr., Tribal Chairman, Lac Vieux Desert Band of Lake Superior Chippewa Indians  
Ms. Sadie Valliere, Health & Human Services Director, Lac Vieux Desert Band  
Mr. Larry Romanelli, Ogema, Little River Band of Ottawa Indians  
Mr. Daryl Wever, Health Director, Little River Band of Ottawa Indians  
Ms. Regina Gasco-Bentley, Tribal Chairman, Little Traverse Bay Band of Odawa Indians  
Ms. Jodi Werner, Health Director, Little Traverse Bay Band of Odawa  
Mr. Bob Peters, Chairman, Match-E-Be-Nash-She-Wish Potawatomi Indians (Gun Lake Band)  
Ms. Phyllis Davis, Tribal Council Member, Match-E-Be-Nash-She-Wish Potawatomi  
Ms. Mariah Austin, Tribal Council Member, Match-E-Be-Nash-She-Wish Potawatomi  
Ms. Dorie Rios, Tribal Chairperson, Nottawaseppi Huron Band of Potawatomi Indians  
Ms. Rosalind Johnston, Health Director, Huron Potawatomi Inc.- Tribal Health Department  
Ms. Rebecca Richards, Tribal Chairwoman, Pokagon Band of Potawatomi Indians  
Ms. Priscilla Gatties, Interim Health Director, Pokagon Potawatomi Health Services  
Mr. Tim Davis, Tribal Chief, Saginaw Chippewa Indian Tribe  
Mrs. Karmen Fox, Executive Health Director, Nimkee Memorial Wellness Center  
Mr. Austin Lowes, Tribal Chairperson, Sault Ste. Marie Tribe of Chippewa Indians  
Mr. Leonid Chugunov, Health Director, Sault Ste. Marie Tribe of Chippewa Indians - Health Center

CC: Keri Toback, CMS  
Nancy Grano, CMS  
Chasity Dial, CEO, American Indian Health and Family Services of Southeastern Michigan  
Asha Petoskey, Acting Area Director, Indian Health Service - Bemidji Area Office  
Lorna Elliott-Egan, MDHHS