

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

1. TRANSMITTAL NUMBER <u>23</u> — <u>0024</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, 2023

5. FEDERAL STATUTE/REGULATION CITATION
Sections 201 and 301 of the National Emergencies Act (50 U.S.C.1601 et seq.)
Section 1135 of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2024 \$39,500,000
b. FFY 2025 \$0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

7.4. C. Temporary Policies in Effect Following the COVID-19 National Emergency

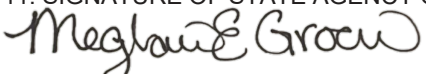
8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Section 7.4.B Temporary Extension to the Disaster Relief Policies for the COVID-19 National Emergency (TN: 23-0019)

9. SUBJECT OF AMENDMENT
This SPA updates temporary authority related to in-person premium payments for skilled nursing facilities, adult foster care homes, and homes for the aged by amending SPA 23-0019.

10. GOVERNOR'S REVIEW (Check One)

<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT	<input checked="" type="checkbox"/> OTHER, AS SPECIFIED:
<input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	
<input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	

11. SIGNATURE OF STATE AGENCY OFFICIAL


11. TYPED NAME
Meghan Groen

12. TITLE
Senior Deputy Director

13. DATE SUBMITTED
October 9, 2023

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

Attn: Erin Black

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

State/Territory: Michigan

Section 7 – General Provisions

7.4. C. Temporary Policies in Effect Following the COVID-19 National Emergency

Effective October 1, 2023 until September 30, 2024, the agency is amending the temporarily policies of the following election(s) of section 7.4 (approved 07/12/2023 in SPA number MI-23-0019) of the state plan:

Payments:

X The agency makes the following adjustments to payment rates currently covered in the state plan:

Personal Care Services:

A supplemental payment of \$3.20 per hour will be paid for in-person care provided by registered nurses, licensed practical nurses, competency-evaluated nursing assistants, and respiratory therapists employed by Medicaid-certified nursing facilities, as well as for in-person direct care services provided in Adult Foster Care Homes and Homes for the Aged serving Medicaid beneficiaries. In addition, in-person premium payments in the amount of \$0.85 per hour will be paid to non-clinical direct care workers in skilled nursing facilities. The supplemental payment for these providers will also include any associated share of employer Federal Insurance Contributions Act (FICA) payroll taxes.

Except as otherwise noted in the state plan, Michigan's Medicaid payment rates are uniform for both private and governmental providers. Reimbursement is made in accordance with Medicaid's fee screens or the usual and customary charge for these services, whichever amount is less. All rates are published at www.michigan.gov/medicaidproviders.

TN: 23-0024

Supersedes TN: NEW

Approval Date: _____

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

Update Temporary Extension to the Disaster Relief Policies for COVID-19 Public Health Emergency (PHE) Specific to In-Person Premium Payments for Skilled Nursing Facilities, Adult Foster Care Homes, and Homes for the Aged

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). The purpose of the SPA request is to update the authority to temporarily continue disaster relief COVID-19 Public Health Emergency (PHE) policies specific to in-person premium payments for skilled nursing facilities, adult foster care homes, and homes for the aged currently authorized in SPA 23-0019.

Effective October 1, 2023 until May 11, 2024, MDHHS is seeking to increase the previously authorized supplemental payment for in-person care provided by all clinical direct care workers to \$3.20 per hour. Additionally, MDHHS is seeking to extend in-person premium payments in the amount of \$0.85 per hour to eligible non-clinical direct care workers in skilled nursing facilities.

The estimated gross cost to the State of Michigan for the State Plan Amendment is \$37.9 million per year.

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 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 September 30, 2023. 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: September 13, 2023



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ELIZABETH HERTEL
DIRECTOR

September 21, 2023

NAME
TITLE
ADDRESS
CITY STATE ZIP

Dear Tribal Chair and Health Director:

RE: Michigan Department of Health and Human Services (MDHHS) Update
Temporary Extension to the Disaster Relief Policies for COVID-19 Public Health
Emergency (PHE) Specific to In-Person Premium Payments for Skilled Nursing
Facilities, Adult Foster Care Homes, and Homes for the Aged

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).

The purpose of the SPA request is to update the authority to temporarily continue disaster relief COVID-19 Public Health Emergency (PHE) policies specific to in-person premium payments for skilled nursing facilities, adult foster care homes, and homes for the aged currently authorized in SPA 23-0019.

Effective October 1, 2023, until May 11, 2024, MDHHS is seeking to increase the previously authorized supplemental payment for in-person care provided by all clinical direct care workers to \$3.20 per hour. Additionally, MDHHS is seeking to extend in-person premium payments in the amount of \$0.85 per hour to eligible non-clinical direct care workers in skilled nursing facilities. MDHHS expects this update to the temporary payment continuation to increase access to services for Native American beneficiaries.

There is no public hearing scheduled for this SPA. Due to the requirements within state law, specifically Section 1644 of Public Act 119 of 2023, for an effective date of October 1, 2023, it is not possible to adhere to the sixty (60) days notification. Therefore, notification is being provided as soon as possible. Input regarding this Amendment 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. **Please provide all input by November 6, 2023.**

In addition, MDHHS is offering to set up group or individual consultation meetings to discuss the Amendment, 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 >> 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
Daniel Frye, Director, Indian Health Service - Bemidji Area Office
Lorna Elliott-Egan, MDHHS

Distribution List for L 23-52
September 21, 2023

Ms. Whitney Gravelle, President, Bay Mills Indian Community
Ms. Audrey Breakie, Health Director, Bay Mills (Ellen Marshall Memorial Center)
Mr. David M. Arroyo, Chairman, 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
Mr. Jamie Stuck, Tribal Chairman, 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
Ms. Theresa Peters-Jackson, 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 Chuginov, 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
Daniel Frye, Director, Indian Health Service - Bemidji Area Office
Lorna Elliott-Egan, MDHHS