

# **Table of Contents**

**State/Territory Name: West Virginia**

**State Plan Amendment (SPA) #: 22-0012**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form
- 3) Approved SPA Pages

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



**Center for Medicaid and CHIP Services**

**Disabled and Elderly Health Programs Group**

September 21, 2022

Cynthia Beane, MSW, LCSW  
Commissioner  
West Virginia Department of Health  
Bureau for Medical Services  
350 Capitol Street, Room 251  
Charleston, West Virginia 25301

Dear Cynthia Beane:

The CMS Division of Pharmacy team has reviewed West Virginia's State Plan Amendment (SPA) 22-0012 received in the CMS Division of Program Operations on June 28, 2022. This SPA proposes to allow for certain medications to be filled in 90-day supplies. This was a change the state made during the COVID-19 Public Health Emergency (PHE) period, and this SPA seeks to extend the provision beyond the PHE timeframe. The 90-day supply was initially authorized through Disaster Relief SPA 20-0004.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 22-0012 is approved. The effective date of SPA 22-0012 will be the day after the COVID-19 Public Health Emergency (PHE). Our review was limited to the materials necessary to evaluate the SPA under applicable federal laws and regulations.

We are attaching a copy of the updated, signed CMS-179 form, as well as the pages approved for incorporation into West Virginia's state plan. If you have any questions regarding this amendment, please contact Charlotte Hammond at (410) 786-1092 or [charlotte.hammond@cms.hhs.gov](mailto:charlotte.hammond@cms.hhs.gov).

Sincerely,

Cynthia R. Denemark, R.Ph.  
Acting Director  
Division of Pharmacy

cc: Riley Romeo, West Virginia Department of Health  
Dan Belnap, CMS Division of Program Operations

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

1. TRANSMITTAL NUMBER  
2 2 — 0 0 1 2

2. STATE  
WV

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  
~~04/01/2022~~ Day after COVID-19 PHE ends

5. FEDERAL STATUTE/REGULATION CITATION  
42 U.S.C. § 1396r-8

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)  
a. FFY 2022 \$ 0  
b. FFY 2023 \$ 9,686,300

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  
Supplement 2 to Attachment 31.A and 3.1B  
Page 4a

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  
Supplement 2 to Attachment 31.A and 3.1B  
Page 4a

9. SUBJECT OF AMENDMENT

90-day Prescription Refill

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  
Cynthia Beane, MSW, LCSW  
Digitally signed by: Cynthia Beane, MSW, LCSW  
DN: CN = Cynthia Beane, MSW, LCSW email = cynthia.e.beane@wv.gov C =  
US O = Medical Services OU = WV DHHR  
Date: 2022.06.28 07:16:59 -05'00'

15. RETURN TO  
Bureau for Medical Services  
350 Capitol Street Room 251  
Charleston, West Virginia 25301

12. TYPED NAME  
Cynthia Beane

13. TITLE  
Commissioner, Bureau for Medical Services

14. DATE SUBMITTED  
06/28/2022

**FOR CMS USE ONLY**

16. DATE RECEIVED  
6/28/2022

17. DATE APPROVED  
9/21/2022

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
The day after the COVID-19 PHE ends

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL  
CYNTHIA R. DENEMARK

21. TITLE OF APPROVING OFFICIAL  
ACTING DIRECTOR, DIVISION OF PHARMACY

22. REMARKS

The state authorized CMS to do a Pen & Ink change at box 4 to change the effective date to "the day after the covid-19 PHE ends"

## INSTRUCTIONS FOR COMPLETING FORM CMS-179

Use Form CMS-179 to transmit State plan material to the Center for Medicaid & CHIP Services for approval. Submit a separate **typed** transmittal form with each plan/amendment.

**Block 1 - Transmittal Number** - Enter the State Plan Amendment transmittal number. Assign consecutive numbers on a **calendar year** basis with the first two digits being the two-digit year (e.g., 21-0001, 21-0002, etc.). Because states have different state fiscal years, a calendar year is required for consistency.

**Block 2 - State** - Enter the two-letter abbreviation code of the State/District/Territory submitting the plan material.

**Block 3 - Program Identification** - Enter the applicable Title of the Social Security Act (Title XIX Medicaid or Title XXI CHIP).

**Block 4 - Proposed Effective Date** - Enter the proposed effective date of material. The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted. With respect to expenditures for assistance under such plan, the effective date may not be earlier than the first day on which the plan is in operation on a statewide basis or earlier than the day following publication of notice of changes.

**Block 5 - Federal Statute/Regulation Citation** - Enter the appropriate statutory/regulatory citation.

**Block 6 - Federal Budget Impact - 6(a)** - IN WHOLE DOLLARS, NOT IN THOUSANDS, Enter 1st **Federal Fiscal Year** (FFY) impacted by the SPA & estimated Federal share of the cost of the SPA for 1st FFY. The first FFY should be the FFY inclusive of the earliest effective date of any amended payment language; **6 (b)** - Enter 2nd FFY impacted by the SPA & estimated Federal share of the cost for 2nd FFY. In general, the estimates should include any amount not currently approved in the state's plan for assistance.

**Block 7 - Page No.(s) of Plan Section or Attachment** - Enter the page number(s) of plan material amended and transmitted. If additional space is needed, use bond paper. **New pages** should be included in Block 7, but not in Block 8.

**Block 8 - Page No.(s) of the Superseded Plan Section or Attachment (if Applicable)** - Enter the page number(s) (including the transmittal number) that is being superseded. If additional space is needed, use bond paper. **Deleted pages** should be included in Block 8, but not in Block 7.

**Block 9 - Subject of Amendment** - Briefly describe plan material being transmitted.

**Block 10 - Governor's Review** - Check the appropriate box. See SMM section 13026 A.

**Block 11 - Signature of State Agency Official** - Authorized State official signs this block.

**Block 12 - Typed Name** - Type name of State official who signed block 11.

**Block 13 - Title** - Type title of State official who signed block 11.

**Block 14 - Date Submitted** - Enter the date that the state transmits plan material to CMCS. Unless the state officially withdraws this SPA and then resubmits it, this date should not be revised. Documentation of version revisions will be maintained in the CMCS administrative record.

**Block 15 - Return To** - Type the name and address of State official to whom this form should be returned.

**Block 16–22 (FOR CMS USE ONLY).**

**Block 16 - Date Received** - Enter the date plan material is received by CMCS. This is the date that the submission is received by CMCS via the subscribed submission process.

**Block 17 - Date Approved** - Enter the date CMCS approved the plan material.

**Block 18 - Effective Date of Approved Material** - Enter the date the plan material becomes effective. If more than one effective date, list each provision and its effective date in Block 22 or attach a sheet.

**Block 19 - Signature of Approving Official** - Approving official signs this block.

**Block 20 - Typed Name of Approving Official** - Type approving official's name.

**Block 21 - Title of Approving Official** - Type approving official's title.

**Block 22 - Remarks** - Use this block to reference and explain agreed to changes and strike-throughs to the original CMS-179 as submitted, a partial approval, more than one effective date, etc. If additional space is needed, use bond paper.

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

State: West Virginia

## 3.1 AMOUNT, DURATION AND SCOPE OF ASSISTANCE

## C. Quantities and Duration

1. Covered outpatient drugs are reimbursed up to a 90-day supply per prescription. The number of refills per prescription will be in accordance with state and federal law and regulations.
2. Certain drugs are limited by quantity, number of allowable refills, or duration of use.

## D. Drug rebate Agreements

The state is in compliance with § 1927 of the Social Security Act. The state will cover drugs of federal rebate participating manufacturers. The State is in compliance with reporting requirements for utilization and restrictions to coverage. Pharmaceutical manufacturers can audit utilization data. The unit rebate amount is confidential and cannot be disclosed for purposes other than rebate invoicing and verification.

The state will be negotiating supplemental rebates in addition to the federal rebates provided for in Title XIX. Rebate agreements between the state and a pharmaceutical manufacturer will be separate from federal rebates.

A rebate agreement between the state and a drug manufacturer for drugs provided to the Medicaid program, submitted to CMS on January 1, 2008, and entitled "West Virginia Supplemental Drug Rebate Agreement" has been authorized by CMS.

CMS has authorized the state of West Virginia to enter into the Sovereign States Drug Consortium (SSDC) multistate pool. This Supplemental Drug Rebate Agreement was submitted to CMS on September 30, 2008, and was authorized by CMS effective August 1, 2008. A revised SSDC Supplemental Rebate Agreement was authorized by CMS, effective January 1, 2015, for any renewal and new agreements with pharmaceutical manufacturers for drugs provided to Medicaid recipients.

Supplemental rebates received by the State in excess of those required under the national rebate agreement will be shared with the Federal government on the same percentage basis as applied under the national rebate agreement.

All drugs covered by the program, irrespective of a prior authorization requirement, will comply with the provisions of the national drug rebate agreement.

## E. Preferred Drug List with Prior Authorization

1. Pursuant to 42 U.S.C. § 1396r-8 and WV Code § 9-5-15, the state is establishing a preferred drug list with prior authorization for drugs not included on the preferred drug list. Prior authorization will be provided with a 24-hour turn-around from receipt of request and a 72-hour supply of drugs in emergency circumstances.
2. Prior authorization will be established for certain drug classes, particular drugs or medically accepted indication for use and doses.
3. The state will appoint a Pharmaceutical and Therapeutic Committee or utilize the drug utilization review committee in accordance with federal law.

TN No:	22-0012	Approval Date:	9/21/2022	Effective Date:	DAY AFTER COVID-19 PHE ENDS
Supersedes:	15-002				