

Department of Health & Human Services
Centers for Medicare & Medicaid Services
26 Federal Plaza, Room 37-100 North
New York, NY 10278



March 15, 2013

Jason A. Helgeson
New York State department of Health
Bureau of HCRA Oper & Financial Analysis
99 Washington Ave – One Commerce Plaza
Suite 810
Albany, NY 12210

Dear Mr. Helgeson:

We received a copy of Larry Reed's letter to you, in which he notified you of the approval of New York's State Plan Amendment (SPA) 12-35. This amendment proposed to remove coverage of benzodiazepines, as well as barbiturates, used in the treatment of epilepsy, cancer, or a chronic mental health disorder for dually eligible beneficiaries effective January 1, 2013. Since the coverage of barbiturates under Part D is limited to the treatment of epilepsy, cancer, or a chronic mental health disorder, NYS proposes to continue to cover barbiturates for conditions other than the three covered by Part D. The coverage of benzodiazepines under part D is inclusive of all indications, so NYS proposes to provide coverage for only non-dually eligible beneficiaries.

Mr. Reed advised you that the New York Regional Office would forward you the signed CMS-179 form as well as copies of the approved pages, these documents are enclosed. The revised pages of supplement attachment 3.1-A and supplement attachment 3.1-B submitted to our office on January 28, 2013 have replaced the corresponding pages that were originally into the New York state plan. Please note the approval date of the SPA is March 15, 2013 and the effective date is January 1, 2013.

If you have any questions, please contact Ivelisse M. Salce at (212) 616-2411.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Melendez". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Melendez
Associate Regional Administrator
Division of Medicaid and Children's Health

Cc. Delaine Deardorff-Beck, CMS Division of Pharmacy
Ilene E. Matthews, New York State Department of Health

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 12-35	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE January 1, 2013	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 1860D-2(e)(2)(A) of the Social Security Act, amended by section 175 of the Medicare Improvement for Patients and Providers Act of 2008 (MIPPA)		7. FEDERAL BUDGET IMPACT: a. FFY 01/01/13-09/30/13 (\$ 1,487,898) b. FFY 10/01/13-09/30/14 (\$ 1,983,864)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1-A Supplement: Page 2c Attachment 3.1-B Supplement: Page 2c **SEE REMARKS BELOW		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 3.1-A Supplement: Page 2c Attachment 3.1-B Supplement: Page 2c	
10. SUBJECT OF AMENDMENT: Coverage of Benzodiazepines and Barbiturates as a Part D Drug (FMAP = 50%)			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input 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			
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO:	
13. TYPED NAME: Jason A. Helgerson		New York State Department of Health Bureau of HCRA Oper & Financial Analysis 99 Washington Ave - One Commerce Plaza Suite 810 Albany, NY 12210	
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: January 28, 2013			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: March 15, 2013	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: January 01, 2013		20. SIGNATURE OF REGIONAL OFFICIAL: <i>Michael Melendez</i>	
21. TYPED NAME: Michael Melendez		22. TITLE: Associate Regional Administrator Division of Medicaid and State Operations	
23. REMARKS: **This amendment proposed to remove coverage of benzodiazepines, as well as barbiturates, used in the treatment of epilepsy, cancer, or a chronic mental health disorder for dually eligible beneficiaries effective January 1, 2013. Since the coverage of barbiturates under Part D is limited to the treatment of epilepsy, cancer, or a chronic mental health disorder. NYS proposes to continue to cover barbiturates for conditions other than the three covered by Part D. The coverage of benzodiazepines under Part D is inclusive of all indications, so NYS proposes to provide coverage for only non-dually eligible beneficiaries.			

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6. Effective January 1, 2006, the Medicaid agency will not cover any Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B.
7. The Medicaid agency provides coverage for the following excluded or otherwise restricted drugs or classes of drugs or their medical uses to all Medicaid recipients, including full benefit dual eligible beneficiaries under the Medicare Prescription Drug Benefit –Part D.
- The following excluded drugs are covered:**
- (a) agents when used for anorexia, weight loss, weight gain
 - (b) agents when used to promote fertility
 - (c) agents when used for cosmetic purposes or hair growth
 - (d) agents when used for the symptomatic relief cough and colds: Some - benzonatate only
 - (e) prescription vitamins and mineral products, except prenatal vitamins and fluoride: Some - select B Vitamins (niacin, pyridoxine, thiamine, cyanocobalamin); Folic Acid; Vitamin K; Vitamin D (ergocalciferol, cholecalciferol); Iron (including polysaccharide iron complex); Iodine
 - (f) nonprescription drugs: Some - select allergy, asthma and sinus products; analgesics; cough and cold preparations; digestive products; insulin; feminine products; topical products; smoking cessation products, minerals and vitamin combinations
 - (g) covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee
 - (h) barbiturates: All (Except for dual eligible individuals, effective January 1, 2013, when used in the treatment of epilepsy, cancer or a chronic mental health disorder, as Part D will cover those indications.)
 - (i) benzodiazepines: All (Except for dual eligible individuals, effective January 1, 2013, as Part D will cover all indications.)
 - (j) smoking cessation for non-dual eligibles as Part D will cover: All
- 12b. Prior approval is required for all dentures.
- 12c. Prior approval is required for prosthetic and orthotic devices over a dollar amount established by the State Department of Health and identified for providers in the MMIS DME Provider Manual.
- Prior approval is required for artificial eyes as specified in the MMIS Ophthalmic Provider Manual.
- Program also includes coverage of orthotic appliances including hearing aids. All hearing aids require prior approval.
- 12d. Prior approval is required for certain special lenses and unlisted eye services as specified for providers in the MMIS Ophthalmic Provider Manual.
- 13a. Diagnostic Services (see 13.d Rehabilitative Services – Early Intervention).
- 13b. Screening Services (see 13.d Rehabilitative Services – Early Intervention).
- 13c. Preventive Services (see 13.d Rehabilitative Services – Early Intervention).
- 13d. Rehabilitative Services
- (1) Directly Observed Therapy (DOT) – Clients must be assessed as medically appropriate for DOT based upon the client's risk of non adherence to a medication regimen necessary to cure an active, infectious, potentially fatal disease process and to prevent the development and spread of an infectious, potentially fatal disease which may not respond to conventional therapies.

TN#: 12-35

Approval Date: MAR 15 2013

Supersedes TN#: 06-12

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New York
Page 2c

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