

**DEPARTMENT OF HEALTH & HUMAN SERVICES**  
Centers for Medicare & Medicaid Services  
601 E. 12th St., Room 355  
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

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September 25, 2024

Dana Flannery  
Director,  
Medical Assistance Division  
New Mexico Human Services Department  
2025 South Pacheco Drive  
Santa Fe, New Mexico 87504-2348

Re: New Mexico State Plan Amendment (SPA) – 24-0001

Dear Director Flannery:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 24-0001. This amendment establishes coverage for Biomarker Tests that are medically necessary.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 42 CFR 440.30. This letter informs you that New Mexico's Medicaid SPA TN 24-0001 was approved on September 25, 2024, with an effective date of January 5, 2024.

Enclosed are copies of Form CMS-179 and approved SPA pages to be incorporated into the New Mexico State Plan.

If you have any questions, please contact Dana Brown at (410) 786-0421 or via email at [Dana.Brown@cms.hhs.gov](mailto:Dana.Brown@cms.hhs.gov).

Sincerely,

James G. Scott, Director  
Division of Program Operations

Enclosures

cc: [Valerie.Tapia@hca.nm.gov](mailto:Valerie.Tapia@hca.nm.gov)  
[Dana.Flannery@hca.nm.gov](mailto:Dana.Flannery@hca.nm.gov)  
[LaRisa.Rodges@hca.nm.gov](mailto:LaRisa.Rodges@hca.nm.gov)

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

1. TRANSMITTAL NUMBER

2 4 — 0 0 0 1

2. STATE

NM

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

January 5, 2024

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR § 440.30

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a FFY 2024 \$ 919,401  
b FFY 2025 \$ 1,323,917

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

State Supplement A to Attachment 3.1 A Page 5 Item 3 (g)  
Attachment 4.19-B Page 6c

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

State Supplement A to Attachment 3.1 A Page 5 Item 3 (g)  
(HCF 179 91-11)  
Attachment 4.19-B Page 6c (TN HCFA 179 11/01)

9. SUBJECT OF AMENDMENT

This State Plan Amendment Establishes Coverage for Biomarker Test that are Medically Necessary.

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



12. TYPED NAME  
Dana Flannery

13. TITLE  
Medicaid Director

14. DATE SUBMITTED  
3/22/2024

15. RETURN TO

Dana Flannery  
Medical Assistance Division  
P.O Box 2348  
Santa Fe, NM 87504-2348

**FOR CMS USE ONLY**

16. DATE RECEIVED  
03/22/2024

17. DATE APPROVED  
September 25, 2024

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
01/05/2024

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL  
James G. Scott

21. TITLE OF APPROVING OFFICIAL  
Director, Division of Program Operations

22. REMARKS

## State Supplement A to Attachment 3.1 A

### Item 3 Other Laboratory and X-ray Services

- a. A professional component associated with laboratory services is covered only when the work is actually performed by a pathologist who is not billing for the complete procedure and is covered only for anatomic and surgical pathology (includes cytopathology and histopathology).
- b. Specimen collection fees are covered when drawn by venipuncture or collected by catheterization unless the patient is in a nursing home. Specimen collection fees are not payable for nursing home recipients.
- c. Laboratory tests are not covered if the tests are conveyed from an ordering physician's office to a different physician's office, office laboratory, or non-certified laboratory, or non-certified laboratory. Physicians and other private practitioners may not bill for laboratory tests which are sent to an outside laboratory or other facility.
- d. Laboratory specimen handling or mailing charges are not a benefit of the program.
- e. Individual lab procedures that are routinely considered to be included in a profile or panel must be billed as a panel.
- f. The following services require prior approval (or retrospective approval following an emergency or retrospective eligibility):
  1. Cryogenic service.
  2. Outpatient Magnetic Resource Imaging.
- g. Biomarker tests shall be for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of an insured's disease or condition when the test is supported by medical and scientific evidence. Coverage will be to the same extent as covered by Medicare.

### Item 4b ESDT Services in Excess of Federal Requirements

Nutritional assessment and nutritional counseling.

## VL Clinical Diagnostic Lab Services

Laboratory services are covered under the laboratory benefit. Payment for clinical diagnostic laboratory services does not exceed payment levels specified by Section 1903(i) of the Social Security Act which is the Medicare fee schedule on a per test basis.

Beginning July 1, 2001, the Medicare fee schedule, as updated, is implemented as the Medicaid fee schedule.

For items and services for which there is not a Medicare fee schedule amount, the fee schedule is established by the state agency with consideration given to payment practices of other third-party payers, comments from providers and appropriate professional societies, typical invoice costs from providers, comparison of fee schedule amounts for similar services and items, and/or the usual charges of the providers for services to non-Medicaid patients.

The agency's fee schedule rates for services and items for which there is not an established Medicare fee were set as of March 21, 2011, and are effective for services provided on or after that date.

All rates and any updates or periodic adjustments to the fee schedule are published on the New Mexico Medicaid website.

Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

Changes to the fee schedule are made with public notice, following the requirements of 42 CFR 447.205.

1. **Biomarker:** In accordance with approved Biomarker testing coverage, Biomarker testing will be reimbursed in accordance with the Medicare fee schedule published each year under the Medicare regulations. Where there is not a Medicare fee schedule amount the fee schedule is established by the state agency with consideration given to payment practices of other third-party payers, comments from providers and appropriate professional societies, typical invoice costs from providers, comparison of fee schedule amounts for similar services and items, and/or the usual charges of the providers for services to non-Medicaid patients. Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers. The agency's fee schedule rate was set as of January 5, 2024, and is effective for services provided on or after that date.

All rates are published on the New Mexico Medicaid website. Changes to the fee schedule are made with public notice, following the requirements of 42 CFR 447.205.

## VII. Prescribed dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist:

### (1) Dentures

Dentures are covered under the service benefit of "Prescribed Drugs, Dentures, and Prosthetic Devices; and Eyeglasses Prescribed by a Physician Skilled in Diseases of the Eye or by an Optometrist". Payment for dentures is made at the lesser of the provider's billed charge or the current Medicaid fee schedule.

The Medicaid fee schedule is established by the state agency with consideration given to payment practices of other third-party payers, comments from providers and appropriate professional societies, typical invoice costs from providers, comparison of fee schedule amounts for similar services and items and/or the usual charges of the providers for services to non-Medicaid patients.

The agency's fee schedule rates were set as of March 21, 2011, and are effective for services provided on or after that date. All rates and any updates or periodic adjustments to the fee schedule are published on the New Mexico Medicaid website.