



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Division of Health Benefits

ROY COOPER • Governor
KODY H. KINSLEY • Secretary
JAY LUDLAM • Deputy Secretary, NC Medicaid

SIGNATURE REQUEST MEMORANDUM

TO: Jay Ludlam 

FROM: Betty J. Staton, SPA Manager

RE: State Plan Amendment

Title XIX, Social Security Act
Transmittal #2023-0050

Purpose

Attached for your review and signature is a Medicaid State Plan amendment (Private Duty Nursing (PDN) - Addition of Near Relative) summarized below, and submitted on December 15, 2023, with a due date of December 15, 2023.

Clearance

This amendment has been reviewed for both accuracy and completeness by:

Betty J. Staton, Emma Sandoe, Melanie Bush, Lotta Crabtree, Adam Levinson

Background and Summary of Request

It is recommended that you sign this State Plan Amendment submission per Centers for Medicare and Medicaid Services (CMS) protocol as head of the Single State Agency administering the Medicaid program.

Please find attached a State Plan Amendment (SPA) that allows North Carolina to alleviate the effects of the nursing shortage on eligible Private Duty Nursing (PDN) beneficiaries. NC Medicaid provider agencies at their discretion can allow their employees who are the beneficiary’s near relative or individuals as a beneficiary’s legally responsible person to deliver PDN skilled nursing services to a PDN eligible beneficiary. In order to deliver the skilled nursing service, the near relative or legally responsible person must have a valid and current nursing license and must operate within their scope of practice.

NC Medicaid shall not cover PDN if the PDN Service provider is owned by the beneficiaries near relative (spouse, child, parent, grandparent, grandchild, or sibling, including corresponding step-and in-law relationships) or legally responsible person.

The proposed effective date is December 01, 2023.

Your approval of this State Plan Amendment is requested. If you have any questions or concerns, please contact me at (919) 538-3215.

8. Private Duty Nursing Services

Medically necessary private duty nursing (PDN) services are provided under the direction of the recipient's physician in accordance with 42 CFR 440.80 and prior approval by the Division of Medical Assistance, or its designee.

Residents who are in adult care homes are not eligible for this service. This exclusion does not violate comparability requirements as adult care home residents do not have the medical necessity for continuous nursing care. According to State regulations for adult care homes, people are not to be admitted for professional nursing care under continuous medical supervision and residents who develop a need for such care are to be placed elsewhere. In addition, recipients in hospitals, nursing facilities, intermediate care facilities for the mentally retarded, rehabilitation centers, and other institutional settings are not eligible for this service. PDN services are not covered while an individual is being observed or treated in a hospital emergency room or similar environment.

This service is only approvable based on the need for PDN services in the patient's private residence. An individual with a medical condition that necessitates this service normally is unable to leave the home without being accompanied by a licensed nurse and leaving the home requires considerable and taxing effort. An individual may utilize the approved hours of coverage outside of his/her residence during those hours when the individual's normal life activities take the patient out of the home. The need for nursing care to participate in activities outside of the home is not a basis for authorizing PDN services or expanding the hours needed for PDN services.

Medicaid will not reimburse for Personal Care Services, Skilled Nursing Visits, or Home Health Aide Services provided during the same hours of the day as PDN services.

Medicaid Payments for PDN are made only to agencies enrolled with the Division of Medical Assistance as providers for the service. An enrolled provider must be a State licensed home care agency within North Carolina that is approved in its license to provide nursing services within the State. PDN services shall be rendered by a licensed registered nurse (RN) or licensed practical nurse (LPN) who is licensed by the North Carolina Board of Nursing and employed by a licensed home care agency.

Service Limitations:

1. Up to 112 hours per week for adults,
2. Up to 112 hours per week for children. Pursuant to section 1905(r)(5) of the Social Security Act, the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit requires that states provide all medically necessary services listed in 1905(a) of the Social Security Act, for children who are covered under the Medicaid program and eligible for coverage under EPSDT. Hours above the 112 hours may be provided to children under the age of 21, through the EPSDT allowance, if they meet medical necessity criteria and all federal EPSDT guidelines.

NC Medicaid provider agencies at their discretion can allow their employees who are the beneficiary's near relative or individuals as a beneficiary's legally responsible person to deliver PDN skilled nursing services to a PDN eligible beneficiary. In order to deliver the skilled nursing service, the near relative or legally responsible person must have a valid and current nursing license and must operate within their scope of practice.

NC Medicaid shall not cover PDN if:

The PDN Service provider is owned by the beneficiaries near relative (spouse, child, parent, grandparent, grandchild, or sibling, including corresponding step-and in-law relationships) or legally responsible person.

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Supersedes

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Approval Date:

Effective Date: 12/01/2023