



North Carolina Department of Health and Human Services
Division of Medical Assistance

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Robin Gary Cummings, M.D.
Deputy Secretary for Health Services
Director, Division of Medical Assistance

MEMORANDUM

TO: DMA Management & State Plan E-mail Subscribers

FROM: Teresa J. Smith, Administrative Service Manager

SUBJECT: Update to State Plan for Medical Assistance (265)

DATE: April 30, 2015

.....

The Centers of Medicare and Medicaid has issued a disapproval letter for State Plan Amendment 14-048 for the Special Assistance Program.

SPA# 14-048 (Special Assistance). The purpose of the state plan amendment (SPA) 14-048 was to implement changes to the State/County Special Assistance (SA) program required under Section 12D.1. Session Law (S.L.) 2014-100. SA is an "optional state supplement" that assists eligible aged, blind, and disabled individuals pay for care in adult care homes.

OLD PAGE(S): N/A

NEW PAGE(S): N/A

TJS

www.ncdhhs.gov

Tel 919-855-4100 • Fax 919-733-6608

Location: 1985 Umstead Drive • Kirby Building • Raleigh, NC 27603

Mailing Address: 2501 Mail Service Center • Raleigh, NC 27699-2501

An Equal Opportunity / Affirmative Action Employer





Administrator
Washington, DC 20201

APR 29 2015

Robin Gary Cummings, MD
Deputy Secretary for Health Services
North Carolina Department of Health and Human Services
1985 Umstead Drive
Raleigh, NC 27699-2501

Dear Dr. Cummings:

I am responding to your request to approve North Carolina's Medicaid state plan amendment (SPA) 14-0048, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on October 30, 2014. This SPA proposes to reduce the income standard applied to determine eligibility for North Carolina's optional state supplement program for people who are 65 years old or older or who have disabilities, except for recipients who were receiving assistance as of November 2014, when the state law reducing the income standard for the optional state supplement program was enacted.

I am unable to approve this SPA because it is inconsistent with the Medicaid comparability requirements described at section 1902(a)(17) of the Social Security Act (the Act), which require that states establish standards for determining eligibility that are comparable for all beneficiaries. This proposal would, if approved, result in different income eligibility standards for similarly situated North Carolina residents whose Medicaid eligibility is tied to their receipt of the optional state supplement.

The regulations at 42 C.F.R. 435.232 implement the Medicaid eligibility category for optional state supplement recipients. Subsection (a) of this regulation permits states to provide Medicaid to certain classifications of individuals, including "reasonable groups of individuals, as specified by the State, receiving State-administered supplementary payments." 42 C.F.R. 435.232(a)(9) (emphasis added). The group of recipients identified by the State as those applying for assistance after November 2014 does not fall into any of the classifications enumerated in 42 C.F.R. 435.232(a), including the classification at 42 C.F.R. 435.232(a)(9). Differentiating applicants who apply after November 2014 from individuals who applied before this arbitrary date is not a reasonable basis for establishing a new classification under the regulations, as the needs and characteristics of this group of individuals do not differ based on the date of the initial application.

Additionally, 42 C.F.R. 435.232(b) requires that the income standard used to establish eligibility for the supplement must be the same for each classification of supplement recipients. There is only one exception, which states that the income standard used to establish eligibility for individuals in the same classification may be different based on political subdivisions, where

there are cost-of-living differences between subdivisions. North Carolina's proposal does not fall within this exception.

CMS staff consulted with the state on the intent of this proposal and potential policy alternatives. We informed North Carolina that this SPA violates the Medicaid comparability requirements and as such we would not be able to approve the SPA. CMS provided the state with the opportunity to withdraw or amend the SPA. North Carolina specifically requested CMS consideration of this proposal.

Based on the statutory and regulatory requirements for the optional state supplement program, and after consultation with the Secretary as required by federal regulations at 42 CFR 430.15, I am disapproving SPA 13-0048.

If you are dissatisfied with this determination, you may petition for reconsideration within 60 days after receipt of this letter in accordance with the procedures set forth in 42 CFR 430.18. Your request for reconsideration should be sent to Ms. Barbara Washington, Centers for Medicare & Medicaid Services, Center for Medicaid and CHIP Services, 7500 Security Boulevard, Mailstop S2-26-12, Baltimore, MD 21244-1850.

If you have any questions or wish to discuss this determination further, please contact Ms. Jackie Glaze, Associate Regional Administrator, Centers for Medicare & Medicaid Services, Region IV, 61 Forsyth Street, S.W., Suite 4T20, Atlanta, Georgia, 30303-8909.

Sincerely,



Andrew M. Slavitt
Acting Administrator