

## **Table of Contents**

### **State Plan Amendment (SPA) #: 18-0001**

#### **Supplemental Drug Rebates Agreement** *(Effective February 15, 2018)*

This file contains the following documents in order listed:

1. CMS Approval Letter
2. CMS Form 179
3. Superseding Page Listing (Attachment to Blocks 8 & 9 of CMS Form 179)
4. 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**

May 15, 2018

Ms Stephanie Muth  
State Medicaid Director  
Post Office Box 13247, MC: H-100  
Austin, TX 78711

Dear Ms Muth:

We have reviewed Texas's State Plan Amendment (SPA) 18-0001, Prescribed Drugs, received in the Dallas Regional Office on February 20, 2018. This SPA updates the section of the State Plan that addresses the State Medicaid Supplemental Drug Rebate Agreements.

Section 1927 of the Social Security Act authorizes Texas Health & Human Services to enter into Supplemental Rebate Agreements with drug manufacturers to obtain rebates for covered drugs in addition to the rebates already collected under the Medicaid Drug Rebate Program.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 18-0001 is approved with an effective date of February 15, 2018. A copy of the signed CMS-179 form, as well as the pages approved for incorporation into Texas's state plan will be forwarded by the Dallas Regional Office.



If you have any questions regarding this amendment, please contact Pamela Schweitzer at (410) 786-2832 or [pamela.schweitzer@cms.hhs.gov](mailto:pamela.schweitzer@cms.hhs.gov).

Sincerely,

A black rectangular box redacts the signature of John M. Coster.

John M. Coster, Ph.D., R.Ph.  
Director, Division of Pharmacy

CC: Bill Brooks, ARA, CMS, Dallas Regional Office  
Billy Bob Farrell, CMS, Dallas Regional Office  
Ford Blunt, CMS, Dallas Regional Office  
Beren Dutra, Texas Health & Human Services

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b> <b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		1. TRANSMITTAL NUMBER: <b>18-0001</b>	2. STATE: <b>TEXAS</b>
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE: <b>February 15, 2018</b>	
5. TYPE OF PLAN MATERIAL (Circle 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: Section 1927 of the Social Security Act authorizes the Texas Medicaid program to enter into Supplemental Rebate Agreements with drug manufacturers to obtain rebates for covered drugs in addition those already collected under the Medicaid Drug Rebate Program, subject to federal approval.		7. FEDERAL BUDGET IMPACT: <b>SEE ATTACHMENT</b> a. FFY 2018      \$0 b. FFY 2019      \$0 c. FFY 2020      \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>SEE ATTACHMENT TO BLOCKS 8 &amp; 9</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>SEE ATTACHMENT TO BLOCKS 8 &amp; 9</b>	
10. SUBJECT OF AMENDMENT: The proposed amendment updates the section of the State Plan that address State Medicaid Supplemental Drug Rebate Agreements. The changes are generally updates and clarifications.			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. <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: Stephanie Muth State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711	
13. TYPED NAME: <b>Stephanie Muth</b>			
14. TITLE: <b>State Medicaid Director</b>			
15. DATE SUBMITTED: <b>February 20, 2018</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: <b>February 20, 2018</b>		18. DATE APPROVED: <b>May 15, 2018</b>	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>February 15, 2018</b>		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: <b>Bill Brooks</b>		22. TITLE: <b>Associate Regional Administrator Division of Medicaid and Children's Health</b>	
23. REMARKS:			

**Attachment to Blocks 8 & 9 of CMS Form 179**

**Transmittal Number 18-0001**

**Number of the  
Plan Section or Attachment**

**Number of the Superseded  
Plan Section or Attachment**

Appendix 1 to Attachment 3.1-A  
Page 24a

Appendix 1 to Attachment 3.1-A  
Page 24a (TN 15-0022)

Appendix 1 to Attachment 3.1-B  
Page 24a

Appendix 1 to Attachment 3.1-B  
Page 24a (TN 15-0022)

State: Texas  
Date Received: 02-20-18  
Date Approved: 05-15-18  
Date Effective: 02-15-18  
Transmittal Number: 18-0001

## 12a. Prescribed Drugs

- (4) A program benefit offered by the manufacturer or labeler of the drug partially or wholly in lieu of a supplemental rebate and accepted by the state; and
- (5) Written evidence offered by a manufacturer or labeler supporting the inclusion of a product on the PDL.

The state will examine information from any or all of these sources when considering the drugs to be included in the PDL.

The state will only include on the PDL drugs provided by a manufacturer or labeler that: (1) has reached an agreement with the state for supplemental rebates for drugs provided to Medicaid recipients; or (2) has not reached an agreement for supplemental rebates, if the state determines that inclusion of the drug on the PDL will have no negative cost impact. Manufacturers or labelers that offer a program benefit must first have a supplemental rebate agreement.

- (f) Supplemental Medicaid Drug Rebate Agreement: Pursuant to Section 1927 of the Act, the state has the following policies for Medicaid supplemental rebates and program benefits:
  - (1) A model agreement between the state and a drug manufacturer for drugs provided to the Medicaid population, effective February 15, 2018, and entitled "Texas Health and Human Services Commission, Title XIX Vendor Drug Program, Supplemental Rebate Agreement," has been authorized by CMS.
  - (2) Supplemental rebates received by the state in excess of those required under the national drug rebate agreement will be shared with the federal government on the same percentage basis as applied under the national rebate agreement.
  - (3) A model program benefit agreement between the state and the drug manufacturer for program benefits provided to the Medicaid program, submitted to CMS on September 14, 2004 and entitled "Texas Health and Human Services Commission Title XIX Vendor Drug Program Benefit Agreement" has been authorized by CMS.
  - (4) Program benefits will consist of benefits, services, or expenditures that the state would otherwise bear under its state plan as medical or administrative expense.

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TN: 18-0001      Approval Date: 05-15-18  
Supersedes TN: 15-0022      Effective Date: 02-15-18

State: Texas  
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