

## **Table of Contents**

**State/Territory Name: Texas**

**State Plan Amendment (SPA)#: TX-23-0009**

This file contains the following documents in the order listed

- 1) Approval Letter
- 2) CMS 179 Form
- 3) 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**

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June 23, 2023

Stephanie Stephens  
State Medicaid Director  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711-3247

Dear Stephanie Stephens,

The CMS Division of Pharmacy team has reviewed Texas' State Plan Amendment (SPA) 23-0009 received in the CMS Medicaid & CHIP Operations Group on March 31, 2023. This SPA proposes to update the state's excluded drug list to include selective non-prescription drugs and other excluded drugs and list them on the state's website.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that TX-23-0009 is approved with an effective date of January 1, 2023. We are attaching a copy of the signed CMS-179 form, as well as the pages approved for incorporation into Texas' state plan.

If you have any questions regarding this request, please contact Lisa Shochet at 410-786-5445 or [lisa.shochet@cms.hhs.gov](mailto:lisa.shochet@cms.hhs.gov).

Sincerely,

Cynthia R. Denemark, R.Ph.  
Acting Director  
Division of Pharmacy

cc: Kathi Montalbano, Texas, Director of Federal Coordination, Rules and Committees  
Ford Blunt, CMS, Medicaid and CHIP Operations Group  
Mandy Strom, CMS, Acting Branch Chief

<p><b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b> <b>FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b></p>	1. TRANSMITTAL NUMBER <b>2 3 0 0 0 9</b>	2. STATE <b>T X</b>
	3. PROGRAM IDENTIFICATION: TITLE <u>XIX</u> OF THE SOCIAL SECURITY ACT	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE <b>January 1, 2023</b>	
5. FEDERAL STATUTE/REGULATION CITATION  <b>1927(d)(2) and 1935(d)(2) Social Security Act</b>	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <b>2023</b> \$ <b>0</b> b. FFY <b>2024</b> \$ <b>0</b>	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  <b>Appendix 1 to Attachment 3.1-A Page 24e</b>  <b>Appendix 1 to Attachment 3.1-B Page 24e</b>	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  <b>Appendix 1 to Attachment 3.1-A Page 24e (TN 14-07)</b>  <b>Appendix 1 to Attachment 3.1-B Page 24e (TN 14-07)</b>	

9. SUBJECT OF AMENDMENT  
**The purpose of this amendment is to move the details of covered drugs in several excluded categories from the Medicaid State Plan to the Vendor Drug Program's (VDP) website at txvendordrug.com. The move will include the FDA's change of Naloxone from prescription to OTC status. The change would allow VDP to make prompt changes for drugs in other categories of excludable drugs, such as certain drugs used for weight loss.**

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: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.

11. SIGNATURE OF STATE AGENCY OFFICIAL  <b>Stephanie Stephens</b> <small>Digitally signed by Stephanie Stephens Date: 2023.03.31 15:39:21 -0500</small>	15. RETURN TO  <b>Stephanie Stephens State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711</b>
12. TYPED NAME <b>Stephanie Stephens</b>	
13. TITLE <b>State Medicaid Director</b>	
14. DATE SUBMITTED <b>March 31, 2023</b>	

<b>FOR CMS USE ONLY</b>	
16. DATE RECEIVED <b>March 31, 2023</b>	17. DATE APPROVED <b>June 23, 2023</b>
<b>PLAN APPROVED - ONE COPY ATTACHED</b>	
18. EFFECTIVE DATE OF APPROVED MATERIAL <b>January 1, 2023</b>	19. SIGNATURE OF APPROVING OFFICIAL
20. TYPED NAME OF APPROVING OFFICIAL <b>Cynthia R. Denemark, R.Ph.</b>	21. TITLE OF APPROVING OFFICIAL <b>Acting Director, Division of Pharmacy</b>
22. REMARKS	

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Agency Texas

MEDICAID PROGRAM: REQUIREMENTS RELATING TO PAYMENT FOR COVERED  
OUTPATIENT DRUGS FOR THE CATEGORICALLY NEEDY

Citation(s): 1927(d)(2) and 1935(d)(2)

Provision(s):

1. 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) selective agents when used for anorexia, weight loss, weight gain (see note below)
- (b) agents when used to promote fertility
- (c) selective agents when used for the symptomatic relief of cough and colds (see note below)
- (d) selective prescription vitamins and mineral products, except prenatal vitamins and fluoride (see note below)
- (e) selective non-prescription drugs (see note below)
- (f) 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

**No excluded drugs are covered**

Selective noted excluded drugs above will be covered as listed on the state's website.

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TN: 23-0009

Approval Date: 06-23-2023

Supersedes TN: 14-07

Effective Date: 01-01-2023

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Agency Texas

**MEDICAID PROGRAM: REQUIREMENTS RELATING TO PAYMENT FOR COVERED  
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