



Division of Medicaid & Children's Health, Region VI

March 15, 2011

Our Reference: SPA LA 10-69

Mr. Don Gregory, State Medicaid Director
Department of Health and Hospitals
Bienville Building
628 North 4th Street
Post Office Box 91030
Baton Rouge, LA 70821-9030

Dear Mr. Gregory:

This letter is being sent as a companion to our approval to Louisiana State Plan Amendment 10-69. During our review of that SPA, the Centers for Medicare & Medicaid Services (CMS) performed an analysis of the section in the plan associated with over the counter (OTC) drugs. Based on that review, it was determined that certain areas in the coverage section were not consistent with current guidance and regulations at section 1927(d)(2) and (k)(2) of the Social Security Act (the Act) regarding the definition of covered outpatient drug.

In order to ensure compliance with current regulations and policy related to the above provisions, the State is responsible for the following:

1. Other Items Covered as Pharmacy Services which are not Covered Under 1927(d)(2) of the Act).

On Page 3c. Item F. - the current State plan specifies various Over-the-Counter (OTC) preparations, supplies, items and agents, etc. that do not meet the definition of a covered outpatient drug in accordance with section 1927(k) of the Act. Please remove the following items from the Pharmacy section of the State plan:

OTC Vitamin D preparations; OTC Vitamin E preparations; OTC Niacin preparations; OTC Calcium Replacement Agents; OTC Magnesium Replacement Agents; OTC Phosphate Replacement Agents; OTC Iron Replacement Agents; Normal Saline and Heparin flushes; Diabetic Supplies; Family Planning Agents

While these products are not eligible for Medicaid coverage under the Medicaid Drug Rebate program, they may be eligible for coverage under other Medicaid benefit categories such as home health services or Early and Periodic, Screening, Diagnosis and Treatment (EPSDT) Program, depending on whether such coverage is consistent with the State plan.

It is allowable for the State to specify “contraceptive jellies and foams” instead of “Family Planning Items” in the Pharmacy section of the State plan. Please revise this section of the State plan.

The State has 90 days from the date of this letter to address the issues described above. Within that period the State may submit SPAs to address the inconsistencies or submit a corrective action plan describing in detail how the State will resolve the issues identified above in a timely manner. Failure to respond will result in the initiation of a formal compliance process. During the 90 days, CMS will provide any required technical assistance.

If you have any questions about this request, please contact Ford Blunt of my staff at either 214-767-6381 or by E-mail at ford.blunt@cms.hhs.gov.

Sincerely,

/s/

Bill Brooks
Associate Regional Administrator

Cc: Allyson Lamy