

## **Table of Contents**

**State/Territory Name: New York**

**State Plan Amendment (SPA)#: ~~22-0050~~ 23-0050**

This file contains the following documents in the order listed below:

- 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**  
**Medical Benefits and Health Programs Group**

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August 22, 2023

Amir Bassiri  
New York State Department of Health  
Division of Finance and Rate Setting  
99 Washington Ave-One Commerce Plaza  
Suite 1432  
Albany, NY 12210

Dear Amir Bassiri:

The CMS Division of Pharmacy has reviewed New York's State Plan Amendment (SPA) 23-0050 received in the CMS Medicaid & CHIP Operation Group on June 30, 2023. This SPA proposes to modify language on the excluded drug coverage pages to reflect coverage of selective medications by referencing the state's webpage resources instead of listing specific covered medications.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that NY SPA 23-0050 is approved with an effective date of April 1, 2023.

We are attaching a copy of the signed CMS-179 form, as well as the page approved for incorporation into New York's state plan. If you have any questions regarding this amendment, please contact Whitney Swears at [Whitney.Swears@cms.hhs.gov](mailto:Whitney.Swears@cms.hhs.gov).

Sincerely,



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

cc: Kimberly Leonard, New York State Department of Health  
Michelle Levesque, New York State Department of Health  
Bonny DeCastro, New York State Department of Health  
Melvina Harrison, CMS, Medicaid and CHIP Operations Group

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER <u>2 3</u> — <u>0 0 5 0</u>	2. STATE <u>NY</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR  
CENTERS FOR MEDICAID & CHIP SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE  
**April 1, 2023**

5. FEDERAL STATUTE/REGULATION CITATION  
**\$1905(a)(12) Presc. Drugs, Dentures, Prosthetic Dev, & Eyeglasses**

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)  
a. FFY 04/01/23-09/30/23 \$ 0  
b. FFY 10/01/23-09/30/24 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  
  
**Attachment 3.1-A Supplement: Page 2(c)**  
**Attachment 3.1-B Supplement: Page 2(c)**

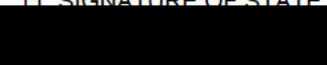
8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  
  
**Attachment 3.1-A Supplement: Page 2(c)**  
**Attachment 3.1-B Supplement: Page 2(c)**

9. SUBJECT OF AMENDMENT  
  
**Excluded Drug Coverage**

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:

11. SIGNATURE OF STATE AGENCY OFFICIAL  


12. TYPED NAME  
**Amir Bassiri**

13. TITLE  
**Medicaid Director**

14. DATE SUBMITTED **June 30, 2023**

15. RETURN TO  
New York State Department of Health  
Division of Finance and Rate Setting  
99 Washington Ave – One Commerce Plaza  
Suite 1432  
Albany, NY 12210


**FOR CMS USE ONLY**

16. DATE RECEIVED  
**June 30, 2023**

17. DATE APPROVED  
**August 22, 2023**

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
**April 1, 2023**

19. SIGNATURE OF APPROVING OFFICIAL  


20. TYPED NAME OF APPROVING OFFICIAL  
**Cynthia Denmark**

21. TITLE OF APPROVING OFFICIAL  
**Director, Division of Pharmacy**

22. REMARKS

**New York  
2(c)**

**1905(a)(12) Prescribed Drugs, Dentures, and Prosthetic Devices; and Eyeglasses**

6. Effective January 1, 2006, the Medicaid agency will not cover any Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B.
7. 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) agents when used for anorexia, weight loss, weight gain
  - (b) agents when used to promote fertility: State law allows for coverage of select drugs which are FDA indicated or compendia supported to promote fertility, only when they meet program policy and coverage criteria. Drugs covered by the program are outlined on the New York State Medicaid Pharmacy List of Reimbursable Drugs found on the state’s website.
  - (c) agents when used for the symptomatic relief cough and colds: Select drugs are covered as outlined on the New York State Medicaid Pharmacy List of Reimbursable Drugs found on the state’s website.
  - (d) prescription vitamins and mineral products, except prenatal vitamins and fluoride: Select products are covered as outlined on the New York State Medicaid Pharmacy List of Reimbursable Drugs found on the state’s website.
  - (e) nonprescription drugs: Select drugs are covered as outlined on the New York State Medicaid Pharmacy List of Reimbursable Drugs found on the state’s website.
  - (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

**TN: #23-0050** \_\_\_\_\_

**Approval Date: August 22, 2023** \_\_\_\_\_

**Supersedes TN: #17-0058** \_\_\_\_\_

**Effective Date: April 1, 2023** \_\_\_\_\_

**New York  
2(c)**

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