

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Nebraska

LIMITATIONS – PRESCRIBED DRUGS

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The Nebraska Medicaid Program covers outpatient drugs, in accordance with Sections 1902(a)(54) and 1927 of the Social Security Act, which are covered by a national or State agreement, with the following restrictions or exceptions (as indicated by checkmark).

- A. Prior authorization program which complies with Section 1927(d)(5) of the Social Security Act.
- B. The following drugs are covered, or restricted, as indicated by the checkmark:
  - 1. Certain drugs are not covered if the prescribed use is not for a medically accepted indication, as defined by Section 1927(k)(6)
  - 2. Drugs subject to restrictions pursuant to an agreement between a manufacturer and this State authorized by the Secretary under 1927(a)(1) or 1927(a)(4).

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State Agency Nebraska

MEDICAID PROGRAM: REQUIREMENTS RELATING TO COVERED OUTPATIENT DRUGS FOR BOTH THE CATEGORICALLY NEEDY AND MEDICALLY NEEDY

12.a. Prescribed Drugs: Description of Service Limitation

Citation(s)	Provision(s)
1935(d)(1)	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.
1927(d)(2) and 1935(d)(2)	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.
	<p><b>X      The following excluded drugs are covered:</b></p> <p><i>(“All” drugs categories covered under the drug class)    <input type="checkbox"/></i></p> <p><i>(“Some” drugs categories covered under the drug class X -List the covered common drug categories not individual drug products directly under the appropriate drug class)</i></p> <p><i>(“None” of the drugs under this drug class are covered)    <input type="checkbox"/></i></p> <p>X      (a) agents when used for anorexia, weight loss, weight gain (limited to weight gain only)</p> <p><input type="checkbox"/>      (b) agents when used to promote fertility</p> <p><input type="checkbox"/>      (c) agents when used for cosmetic purposes or hair growth</p> <p>X      (d) agents when used for the symptomatic relief of cough and colds</p>

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MEDICAID PROGRAM: REQUIREMENTS RELATING TO COVERED OUTPATIENT DRUGS  
FOR BOTH THE CATEGORICALLY NEEDY AND MEDICALLY NEEDY

12.a. Prescribed Drugs: Description of Service Limitation

Citation(s)	Provision(s)
X	(e) prescription vitamins and mineral products, except prenatal vitamins and fluoride
X	(f) nonprescription drugs (All drugs in this category are potential benefits, subject to medical necessity). Covered over the counter (OTC) classes include analgesics, anesthetics, anti-inflammatory products, anti-asthmatics, antihistamines, anti-infectives, cough and cold preparations, eye, ear and nose preparations, gastrointestinal products, hypoglycemic, and topicals.
X	(g) 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.

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LIMITATIONS – PRESCRIBED DRUGS

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Supplemental Rebate Program:

The state is in compliance with Section 1927 of the Social Security Act. Based on the requirements of Section 1927 of the act, the state has the following policies for the supplemental rebate program for Medicaid recipients:

- a) All covered drugs of federal participating manufacturers remain available to the Medicaid program but may require prior authorization.
- b) CMS has authorized the State of Nebraska to enter into the TOP\$<sup>sm</sup>, *The Optimal PDL Solution* (“TOP\$<sup>sm</sup>”) multi state pooling agreement to collect supplemental rebates through the TOP\$<sup>sm</sup> program. The Supplemental Drug Rebate Agreement was submitted to CMS on October 5, 2016 and has been authorized by CMS, effective January 1, 2017.
- c) Any contracts not authorized by CMS will be submitted to CMS for authorization.
- d) Any changes to the contracts for the TOP\$<sup>SM</sup> program will be submitted to CMS for approval.
- e) All drugs covered by this program irrespective of a supplemental agreement, will comply with the provisions of the National Drug Rebate Agreement.
- f) The State will negotiate supplemental rebates in addition to federal rebates provided for in Title XIX.
- g) Supplemental rebates received by Nebraska 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 Drug Rebate Agreement.
- h) Supplemental rebate agreements would apply to the drug benefit, both fee-for-service and those paid by contracted managed care organizations (MCOs).
- i) The unit rebate amount is confidential and cannot be disclosed for purposes other than rebate invoicing and verification, in accordance with Section 1927(b)(3)(D).
- j) Rebates paid under the CMS-authorized TOP\$<sup>sm</sup> for the Nebraska Medicaid population do not affect AMP or best price under the Medicaid program.
- k) The CMS-authorized TOP\$<sup>sm</sup> Agreement for the Nebraska Medicaid population only covers supplemental rebates for Medicaid programs. It does not cover non-Medicaid programs.
- l) Pharmaceutical manufacturers are allowed to audit utilization rates.

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