NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

December 24, 2013

Mr. Michael Melendez
Associate Regional Administrator
Department of Health & Human Services
Centers for Medicare & Medicaid Services
New York Regional Office
Division of Medicaid and Children's Health Operations
26 Federal Plaza - Room 37-100 North
New York, New York 10278

RE: SPA #13-14

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #13-14 to the Title XIX (Medicaid) State Plan effective January 1, 2014.

The plan amendment along with appropriate attachments and the CMS-179 form is enclosed and is being submitted as requested by CMS.

If you or your staff have any questions or need any assistance, please contact Karla Knuth of my staff at (518) 474-1673.

Sincerely,

Jason A. Helgerson
Medicaid Director
Office of Health Insurance Programs

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: **13-14**	2. STATE **New York**
	3. PROGRAM IDENTIFICATION: **TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)**	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE **01/01/14**	

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION: **42 CFR 435.119**	7. FEDERAL BUDGET IMPACT: **a. FFY 01/01/14-09/30/14 $ 352.4 Million** **b. FFY 10/01/14-09/30/15 $1.1 Billion**
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: **Supplement 18 to Attachment 2.6-A: Pages 1, 2, 3, 4, 5, 6**	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:

10. SUBJECT OF AMENDMENT:
Methodology for Identification of Applicable FMAP Rates

11. 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:

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO: **New York State Department of Health** **Bureau of Federal Relations & Provider Assessments** **99 Washington Ave – One Commerce Plaza** **Suite 1430** **Albany, NY 12210**
13. TYPED NAME: **Jason A. Helgerson**	
14. TITLE: **Medicaid Director** **Department of Health**	
15. DATE SUBMITTED: December 24, 2013	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED:
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME:	22. TITLE:

23. REMARKS:

Appendix I
2013 Title XIX State Plan
Third Quarter Amendment
Amended SPA Pages

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State Plan under Title XIX of the Social Security Act

METHODOLOGY FOR IDENTIFICATION OF APPLICABLE FMAP RATES

The State will determine the appropriate FMAP rate for expenditures for individuals enrolled in the adult group described in 42 CFR 435.119 and receiving benefits in accordance with 42 CFR Part 440 Subpart C. The adult group FMAP methodology consists of two parts: an individual-based determination related to enrolled individuals, and as applicable, appropriate population-based adjustments.

Part 1 – Adult Group Individual Income-Based Determinations

For individuals eligible in the adult group, the state will make an individual income-based determination for purposes of the adult group FMAP methodology by comparing individual income to the relevant converted income eligibility standards in effect on December 1, 2009, and included in the MAGI Conversion Plan (Part 2) approved by CMS on **--Date to be determined by CMS-Conversion in Process--**. In general, and subject to any adjustments described in this SPA, under the adult group FMAP methodology, the expenditures of individuals with incomes below the relevant converted income standards for the applicable subgroup are considered as those for which the newly eligible FMAP is not available. The relevant MAGI-converted standards for each population group in the new adult group are described in Table 1.

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Table 1: Adult Group Eligibility Standards and FMAP Methodology Features

Covered Populations Within New Adult Group		Applicable Population Adjustment			
Population Group	Relevant Population Group Income Standard For each population group, indicate the lower of: • The reference in the MAGI Conversion Plan (Part 2) to the relevant income standard and the appropriate cross-reference, or • 133% FPL. If a population group was not covered as of 12/1/09, enter "Not covered".	Resource Proxy	Enrollment Cap	Special Circumstances	Other Adjustments
		Enter "Y" (Yes), "N" (No), or "NA" in the appropriate column to indicate if the population adjustment will apply to each population group. Provide additional information in corresponding attachments.			
A	B	C	D	E	F
Parents/Caretaker Relatives	133%	No	No	No	No
Disabled Persons, non-institutionalized	Medically needy level – to be converted	No	No	No	No
Disabled Persons, institutionalized	Medically needy level – to be converted	No	No	No	No
Children Age 19 or 20 (Living with Parents)	133%	No	No	No	No
Children Age 19 or 20 (Living Alone)	100%	No	No	No	No
Childless Adults	100%	No	No	No	No

Aged, Blind and Disabled medically needy levels being converted:
$767 – Household of 1 $1,117 – Household of 2

TN #13-14 **Approval Date** _____

Supersedes TN NEW **Effective Date** _____

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Part 2 – Population-based Adjustments to the Newly Eligible Population Based on Resource Test, Enrollment Cap or Special Circumstances

A. Optional Resource Criteria Proxy Adjustment (42 CFR 433.206(d))

1. ____ New York applies a resource proxy adjustment to a population group(s) that was subject to a resource test that was applicable on December 1, 2009.

   ✓ New York does **NOT** apply a resource proxy adjustment (Skip items 2 through 3 and go to Section B).

   Table 1 indicates the group or groups for which New York applies a resource proxy adjustment to the expenditures applicable for individuals eligible and enrolled under 42 CFR 435.119. A resource proxy adjustment is only permitted for a population group(s) that was subject to a resource test that was applicable on December 1, 2009.

   The effective date(s) for application of the resource proxy adjustment is specified and described in Attachment B.

2. Data source used for resource proxy adjustments:

   New York:

   ___ Applies existing state data from periods before January 1, 2014.

   ___ Applies data obtained through a post-eligibility statistically valid sample of individuals.

   Data used in resource proxy adjustments is described in Attachment B.

3. Resource Proxy Methodology: Attachment B describes the sampling approach or other methodology used for calculating the adjustment.

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B. Enrollment Cap Adjustment (42 CFR 433.206(e))

1. ____ An enrollment cap adjustment is applied (complete items 2 through 4).
   ✓ An enrollment cap adjustment is not applied (skip items 2 through 4 and go to Section C).

2. Attachment C describes any enrollment caps authorized in section 1115 demonstrations as of December 1, 2009 that are applicable to populations that New York covers in the eligibility group described at 42 CFR 435.119 and received full benefits, benchmark benefits, or benchmark equivalent benefits as determined by CMS. The enrollment cap or caps are as specified in the applicable section 1115 demonstration special terms and conditions as confirmed by CMS, or in alternative authorized cap or caps as confirmed by CMS. Attach CMS correspondence confirming the applicable enrollment cap(s).

3. New York applies a combined enrollment cap adjustment for purposes of claiming FMAP in the adult group:

   ____ Yes. The combined enrollment cap adjustment is described in Attachment C.

   ___ No.

4. Enrollment Cap Methodology: Attachment C describes the methodology for calculating the enrollment cap adjustment, including the use of combined enrollment caps, if applicable.

C. Special Circumstances (42 CFR 433.206(g)) and Other Adjustments to the Adult Group FMAP Methodology

1. ____ New York applies special circumstances adjustment(s).
   ✓ New York does **not** apply a special circumstances adjustment.

2. ____ New York applies additional adjustment(s) to the adult group FMAP methodology (complete item 3).
   ✓ New York does **not** apply any additional adjustment(s) to the adult group FMAP methodology (skip item 3 and go to Part 3).

3. Attachment D describes the special circumstances and other proxy adjustment(s) that are applied, including the population groups to which the adjustments apply and the methodology for calculating the adjustments.

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Part 3 – One-Time Transitions of Previously Covered Populations into the New Adult Group

A. Transitioning Previous Section 1115 and State Plan Populations to the New Adult Group

✓ Individuals previously eligible for Medicaid coverage through a section 1115 demonstration program or a mandatory or optional state plan eligibility category will be transitioned to the new adult group described in 42 CFR 435.119 in accordance with a CMS-approved transition plan and/or a section 1902(e)(14)(A) waiver. For purposes of claiming federal funding at the appropriate FMAP for the populations transitioned to new adult group, the adult group FMAP methodology is applied pursuant to and as described in Attachment E, and where applicable, is subject to any special circumstances or other adjustments described in Attachment D.

___ New York does not have any relevant populations requiring such transitions.

Part 4 - Applicability of Special FMAP Rates

A. Expansion State Designation

New York:

___ Does **NOT** meet the definition of expansion state in 42 CFR 433.204(b). (Skip section B and go to Part 4).

✓ Meets the definition of expansion state as defined in 42 CFR 433.204(b), determined in accordance with the CMS letter confirming expansion state status, dated June 18, 2013.

B. Qualification for Temporary 2.2 Percentage Point Increase in FMAP.

New York:

✓ Does **NOT** qualify for temporary 2.2 percentage point increase in FMAP under 42 CFR 433.10(c)(7).

___ Qualifies for temporary 2.2 percentage point increase in FMAP under 42 CFR 433.10(c)(7), determined in accordance with the CMS letter confirming eligibility for the temporary FMAP increase, dated _____ (insert date). New York will not claim any federal funding for individuals determined eligible under 42 CFR 435.119 at the FMAP rate described in 42 CFR 433.10(c)(6).

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Part 5 - State Attestations

The State attests to the following:

A. The application of the adult group FMAP methodology will not affect the timing or approval of any individual's eligibility for Medicaid.

B. The application of the adult group FMAP methodology will not be biased in such a manner as to inappropriately establish the numbers of, or medical assistance expenditures for, individuals determined to be newly or not newly eligible.

ATTACHMENTS

Not all of the attachments indicated below will apply to all states; some attachments may describe methodologies for multiple population groups within the new adult group. Indicate those of the following attachments which are included with this SPA:

✓	Attachment A – Conversion Plan Standards Referenced in Table 1 (for medically needy levels, refer to the note on Table 1)
____	Attachment B – Resource Criteria Proxy Methodology
____	Attachment C – Enrollment Cap Methodology
____	Attachment D – Special Circumstances Adjustment and Other Adjustments to the Adult Group FMAP Methodology
✓	Attachment E – Transition Methodologies
✓	Attachment F – CMS letter to DOH confirming New York State is an expansion State.

Appendix II
2013 Title XIX State Plan
Third Quarter Amendment
Summary

SUMMARY
SPA #13-14

This State Plan Amendment proposes to determine the appropriate FMAP rate for expenditures for individuals enrolled in the adult group described in 42 CFR 435.119 and receiving benefits in accordance with 42 CFR Part 440 Subpart C. The adult group FMAP methodology consists of two parts: an individual-based determination related to enrolled individuals, and as applicable, appropriate population-based adjustments.

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Financial Management Group

JUN 18 2013

Jason A. Helgerson
State Medicaid Director, Deputy Commissioner
Office of Health Insurance Programs
Department of Health
Empire State Plaza, Corning Tower, Room 1466
Albany, New York 12237

Dear Mr. Helgerson

Thank you for the analysis you submitted on May 13, 2013 regarding the benefits provided under New York's Partnership Plan demonstration (Project Number 11-W-00114/2) as of December 1, 2009. We have reviewed your submission and, based on the information provided by the state, are able to confirm your analysis that the Family Health Plus program provided a benchmark equivalent benefit package to non-pregnant, childless adults age 19-64 with incomes up to 100 percent of the federal poverty level (FPL) and uninsured parents/caretakers with incomes up to 150 percent FPL. Therefore, as you concluded, such individuals who could have been eligible for the demonstration as of December 1, 2009 and who are enrolled in the new low income adult Medicaid group in 2014 and beyond will not be considered to be newly eligible individuals and the increased newly eligible federal medical assistance percentage (FMAP) will not apply to their expenditures.

This letter also confirms that New York is an expansion state, as defined in section 1905(z)(3) of the Social Security Act (the Act). As you described in your letter, the state provided specified coverage to both parents and childless adults with incomes up to 100 percent of poverty as of March 23, 2013. Therefore, expenditures for childless adults with incomes up to 100 percent FPL who are enrolled in the new adult group will be matched at the expansion state FMAP described in section 1905(z)(2) of the Act. Expenditures for parents enrolled in the new adult group will be matched at the regular FMAP. Finally, childless adults over 100 percent FPL who are enrolled in the new adult group will be considered to be newly eligible individuals and expenditures for these childless adults may be matched at the increased newly eligible FMAP described in section 1905(y)(1) of Act.

Additional guidance about the method states will use to distinguish among populations for purposes of applying the appropriate FMAP is included in CMS' FMAP final rule, published in the Federal Register on April 2, 2013. We are already working with you and your colleagues to assist you in converting the income thresholds from the current methodologies to methodologies based on modified adjusted gross income (MAGI). When the state implements the threshold methodology to determine which populations

will be enrolled in the new adult coverage group and matched at the newly eligible FMAP, the FPL levels cited above will be replaced by the converted levels. If you have any questions, please contact Allison Orris (Allison.Orris@cms.hhs.gov).

Sincerely,

Kristin Fan
Acting Director
Financial Management Group

cc:

Michael Melendez, Associate Regional Administrator, Division of Medicaid and Children's Health Operations

Barbara Edwards, Director, Disabled and Elderly Health Programs Group

Jennifer Ryan, Acting Director, Children and Adults Health Programs Group

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

December 4, 2013

Eliot Fishman, Director
Children and Adult Health Program Group
Centers for Medicare and Medicaid Services
Center for Medicaid and CHIP Services
Mail Stop S2-01-16
7500 Security Boulevard
Baltimore, Maryland 23244-1850

Re: Request for authority under section 1902(e)(14)(A) to waiver certain requirements

Dear Mr. Fishman:

In response to CMS' guidance regarding targeted enrollment strategies that are available to states to help support a streamlined enrollment process in implementing the Affordable Care Act (ACA), and to establish income and eligibility determination systems that protect beneficiaries, New York requests a waiver under section 1902(e)(14)(A) of the Social Security Act in three areas: 1) compliance with grandfathering protections, 2) delayed application of full MAGI-based methods to current beneficiaries and 3) transition of 1115 demonstration beneficiaries into the adult group.

Waiver of Compliance with Grandfathering Protections

New York seeks to waive full compliance with the grandfathering protections afforded under section 435.603 (a)(3) of the regulations. With respect to Medicaid individuals eligible as of December 31, 2013 who are renewed based on 2013 standards and methodologies prior to April 1, 2014, the State is requesting waiver authority to not apply an income test using MAGI-based methodologies until the next renewal in 2015. If on or after April 1, 2014, there is a reported change in income or a family member is added to or removed from a case, methodologies and standards that approximate the MAGI-based rules (MAGI-like) would apply to the re-determination of eligibility. This will enable the State to operate only one set of rules on the legacy system for months leading up to February 2014 (months when renewals are completed for new authorization periods starting January, February and March 2014). This will ensure continuity of care and protect beneficiaries.

The State seeks the same waiver authority for the Children's Health Insurance Program.

Delayed Application of Full MAGI-Based Methods

For individuals eligible in Medicaid and CHIP as of December 31, 2013, renewals will be conducted in the legacy systems using methodologies and standards as close to MAGI as possible ("MAGI-like"). As such, New York seeks to waive the requirement to apply an income test to these individuals.

For individuals eligible as of December 31, 2013 whose renewals are processed on or after February 18, 2014 (with a new authorization period starting April or later), based on methodologies and standards that approximate the MAGI-based rules (MAGI-like), the State is requesting to not apply an income test to these individuals until the next renewal in 2015, when these beneficiaries will transition to New York's Marketplace. Other Medicaid beneficiaries who will be affected by the use of MAGI-like rules are: MAGI individuals who require a separate Medicaid eligibility determination following a denial/discontinuance on their combined Temporary Assistance and Medicaid application/case and applications filed on or after January 1, 2014 by a qualified provider for a pregnant woman or child (Presumptive Eligibility). The State will be maintaining current Medicaid enrollees and the individuals noted above on our legacy system until the new eligibility system is fully automated and can absorb 3 million additional enrollees without a disruption in coverage. Because the legacy system cannot reasonably be reconfigured to reflect all MAGI-based methodologies and rules, beginning February 18, 2014 the State will apply methodologies that are close to, but not exactly the same as, the MAGI-based methodologies described in the regulations at 435.603.

MAGI-like rules differ from the MAGI-based methodologies by use of 2013 Medicaid household size rules (a pregnant woman counts as a household of two). Also, the determination of when a child's income is counted is based on 2013 rules instead of IRS rules. Beneficiaries will begin to transition to the Marketplace in 2015, sooner if feasible. It is anticipated that this transition will take 12 months to complete (thru December 31, 2015) and will affect approximately 3 million enrollees.

New York seeks the same waiver authority to delay the full application of MAGI-methodologies and waive the requirement to apply an income test to CHIP enrollees with coverage authorization on or after April 1, 2014. In addition, for those children renewed on the legacy system, any additions of household members will be processed on the legacy system to avoid splitting children in one household between two eligibility systems. CHIP enrollees will transition to the Marketplace in 2015. The transition will take 12 months to complete and affect approximately 300,000 enrollees.

Transition of 1115 Demonstration Beneficiaries into the Adult Group

The State also seeks waiver authority to transition 1115 demonstration beneficiaries into the adult group under the state plan prior to our ability to make a formal MAGI determination. This would apply to adults who are identified, based on 2013 methods, to very likely have MAGI-based income at or below 133% of the FPL once a formal MAGI determination is made.

New York also requests waiver authority to facilitate the streamlined application of the FMAP methodology when determining the availability of increased match for current 1115 demonstration beneficiaries administratively transferred to the state plan adult group without a prior formal MAGI determination. The waiver will enable the State to maintain the current MAGI Medicaid population in the legacy system until the new eligibility system is fully automated and stable and provide for a later transition to New York's Marketplace without a disruption in coverage.

We appreciate the guidance that your staff has provided and look forward to your response. If you have any questions regarding any of the information in this letter, please feel free to contact me.

Sincerely,

Judith Arnold, Director
Division of Eligibility and Marketplace Integration
Office of Health Insurance Programs

cc: Jason Helgerson, Medicaid Director