

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



---

**Financial Management Group**

April 24, 2020

Ms. Donna Frescatore  
State Medicaid Director  
Office of Health Insurance Programs  
NYS Department of Health  
One Commerce Plaza, Suite 1211  
Albany, NY 12210

RE: State Plan Amendment (SPA) TN 18-0024

Dear Ms. Frescatore:

We have reviewed the proposed amendment to Attachment 4.19-A and 4.19-C of your Medicaid State Plan submitted under transmittal number (TN) 18-0024. Effective July 1, 2018, this amendment updates existing policy on the minimum utilization percentage and therapy leave days for psychiatric residential treatment facilities (PRTF).

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a), and 1923 of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C. This letter is to inform you that New York 18-0024 is approved effective July 1, 2018. The CMS-179 and approved plan pages are enclosed.

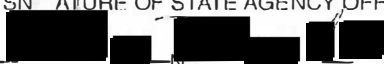
If you have any questions, please contact Betsy Pinho at 518-396-3816.

Sincerely,

A solid black rectangular box redacting the signature of Kristin Fan.

Kristin Fan  
Director

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>		1. TRANSMITTAL NUMBER 1 8 — 0 0 2 4	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2018	
5. TYPE OF PLAN MATERIAL (Check One)			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION 42 CFR § 447.272(a)		7. FEDERAL BUDGET IMPACT a. FFY 07/01/18-09/30/18N \$ 107.96 b. FFY 10/01/18-09/30/19 \$ 431.83	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  Attachment 4.19-A Part III Page: 3 Attachment 4.19-C Page 2, 3		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  Attachment 4.19-A Part III Page: 3 Attachment 4.19-C Page 2, 3	
10. SUBJECT OF AMENDMENT Minimum Utilization Residential Treatment Facilities For Children And Youth (FMAP=50%)			
11. GOVERNOR'S REVIEW (Check One)			
<input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL 		16. 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	
13. TYPED NAME Donna Frescatore			
14. TITLE Medicaid Director, Department of Health			
15. DATE SUBMITTED September 28, 2018			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED 9/28/2018		18. DATE APPROVED 04/24/20	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL 7/1/2018		20. SIGNATURE OF REGIONAL OFFICIAL	
21. TYPED NAME Todd McMillon		22. TITLE Director Division Reimbursement Review	
23. REMARKS			

New York  
3

**B. RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN AND YOUTH**

Medicaid rates for Residential Treatment Facilities for Children and Youth ("RTFs") are established prospectively, based upon actual costs and patient days as reported on cost reports for the fiscal year two years prior to the rate year. The RTF fiscal year and rate year are for the twelve months July 1 through June 30. Actual patient days are subject to a maximum utilization of 96 percent and a minimum utilization of ~~93~~90 percent. For the rate years July 1, 1994 through June 30, 1995 and July 1, 1995 through June 30, 1996 the base year for both rate years for the purpose of setting rates will be July 1, 1992 through June 30, 1993.

Effective July 1, 2011 through June 30, 2012, the rate of payment [shall] will be that which was in effect June 30, 2011.

Effective July 1, 2012 through June 30, 2013, the rate of payment [shall] will be that which was in effect June 30, 2011.

Effective July 1, 2015, such rate of payment will be lowered to reflect the removal of pharmaceutical costs, except as provided for in Section 1, below.

**1. OPERATING COSTS**

Allowable operating costs are subject to the review and approval of the Office of Mental Health, and will exclude eligible pharmaceuticals which will be reimbursed using the Fee-for-Service Program through the Medicaid formulary administered by the New York State Department of Health. The Fee-for-Service Program will be utilized for the purchase of eligible pharmaceuticals commencing on the date the child is determined to be Medicaid eligible. The cost of medications provided to the child before the determination of Medicaid eligibility will be the responsibility of the RTF, and considered an allowable cost in the development of the provider's reimbursement rate for inpatient stays. In determining the allowability of costs, the Office of Mental Health reviews the categories of cost, described below, with consideration given to the special needs of the patient population to be served by the RTF. The categories of costs include:

- (i) Clinical Care. This category of costs includes salaries and fringe benefits for clinical staff.
- (ii) Other than Clinical Care. This category of costs includes the costs associated with administration, maintenance and child support.

Allowable per diem operating costs in the category of clinical care are limited to the lesser of the reported costs or the amount derived from the number of clinical staff approved by the Commissioner multiplied by a standard salary and fringe benefit amount. Clinical services such as dental services, purchased on a contractual basis will be considered allowable and not subject to the clinical standard if the services are not uniformly provided by all RTFs and thus not considered by the Commissioner in the establishment of the approved staffing levels.

**TN #18-0024** \_\_\_\_\_

**Supersedes TN #15-0004** \_\_\_\_\_

**Approval Date** \_\_\_\_\_ 04/24/20 \_\_\_\_\_

**Effective Date** \_\_\_\_\_ **7/1/2018** \_\_\_\_\_

**New York**  
**2**

**Residential Treatment Facilities for Children and Youth (RTFs)**

All recipients eligible who have been institutionalized for 15 days during a current spell of illness, in the facility. [subject to a vacancy rate, on the first day of a resident's absence of no more than 5% for 2 vacant beds, whichever is greater, in the distinct part of the RTF to which the recipient is to return. Leaves of absence carry a general limitation of no more than 75 days in any 12 month period, and 4 days per any single absence. Limitations may be waived when justified by recipient's physician, subject to prior approval by a designee of the Commissioner of the Office of Mental Health.] There is no limitation on the number of therapy days a recipient may be absent. A therapy day is a day when the individual is away from the RTF and is not receiving services from the RTF and the absence is for the purpose of visiting with family or friends, or a vacation. Absences from all RTFs, other than for hospitalization, including therapy days, must be provided for in an individual's plan of care to be eligible for payment and the person may not receive another Medicaid-funded residential or inpatient service on that day.

(i) payments for reserved bed days for RTFs are paid at the same rate as occupied days.

The 15 day requirement may be waived with prior approval by a designee of the Commissioner of the Office of Mental Health.

**B. RESERVED BEDS DURING PERIODS OF HOSPITALIZATION**

All recipients eligible after 30 days in:

- 1) an NF;
- 2) an ICF/MR;
- 3) a specialty hospital;
- 4) a rehabilitation facility or rehabilitation units of general hospitals;
- 5) a hospice

All recipients eligible who have been institutionalized for at least 15 consecutive days in:

- 1) a psychiatric facility or psychiatric units of general hospitals;
- 2) an RTF

The 15 day requirement may be waived [if] with prior approval by a designee of the Commissioner of the Office of Mental Health.

For other than Residential Treatment Facilities:

Without prior approval, not to exceed 15 days during period of hospitalization for acute conditions, for any single hospital stay, when patient returns immediately following a period during which their bed was reserved to his/her originating facility in 15 days or less.

TN #18-0024

Approval Date 04/24/20

Supersedes TN #94-0041

Effective Date 7/1/2018

New York

3

With prior approval, not to exceed 20 days during period of hospitalization for acute conditions, for any single hospital stay, when patient does not return to his/her originating facility immediately following a period during which their bed was reserved or does not return in 15 days or less.

**For Residential Treatment Facilities:**

Without prior approval, not to exceed 15 days during period of hospitalization for acute conditions, for any single hospital stay, when patient returns immediately following a period during which their bed was reserved to his/her originating facility in 15 days or less.

With prior approval, not to exceed 20 days during period of hospitalization for acute medical (non-psychiatric) conditions for any single hospital stay, when patient does not return to his/her originating facility immediately following a period during which their bed was reserved, or does not return in 15 days or less.

With prior approval not to exceed 30 days during period of hospitalization for acute psychiatric conditions, for any single hospital stay, when patient does not return to his/her originating facility immediately following a period during which their bed was reserved, or does not return in 15 days or less.

All of the above provisions subject to a facility vacancy rate of no more than 5% on the first day of patient's/resident's absence. For RTFs, the above is subject to a vacancy rate, on the first day of a resident's absence of no more than 5% or 2 vacant beds, whichever is greater, in the distinct [part] unit of the RTF to which the recipient is to return. A distinct unit will require specific admission criteria listed on the RTF's operating certificate but will not require a separate reimbursement rate for the unit.

(i) payments for reserved bed days for RTFs are paid at the same rate as occupied days.

Special broader limits, subject to approval of the State Commissioner of Social Services, may be established for residents of institutions for the mentally retarded/developmentally disabled on an individual case basis, and for residents of RTFs on an individual basis.

TN   #18-0024  

Approval Date           04/24/20          

Supersedes TN   #94-0041  

Effective Date           7/1/2018