

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S3-14-28
Baltimore, Maryland 21244-1850



Financial Management Group

September 11, 2020

Donna Frescatore
Medicaid Director
NYS Department of Health
One Commerce Plaza
Suite 1211
Albany, NY 12210

Reference: TN 20-0040

Dear Ms Frescatore:

We have reviewed the proposed amendment to Attachment 4.19-A of your Medicaid State plan submitted under transmittal number (TN) 20-0040. This amendment proposes to extend the Indigent Care Pool and implement changes resulting in a net reduction.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1923 and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447.

This is to inform you that Medicaid State plan amendment 20-0040 is approved effective April 2, 2020. The CMS-179 and the amended plan pages are attached.

If you have any additional questions or need further assistance, please contact Charlene Holzbaur at 609-882-4796 or Charlene.Holzbaur@cms.hhs.gov.

Sincerely,

[Redacted Signature]

For
Rory Howe
Acting Director

Enclosures

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

1. TRANSMITTAL NUMBER

2 0 — 0 0 4 0

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

April 2, 2020

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

§1902(~~(x)(5)~~) of the Social Security Act, and 42 CFR 447
(a)

7. FEDERAL BUDGET IMPACT

a. FFY 04/02/20-09/30/20 \$ ~~(27,800,000)~~ (30,830.)

b. FFY 10/01/20-09/30/21 \$ ~~(55,200,000)~~ (51,970.)

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment: 4.19-A Page(s): 161(d), 161(g), 161(h), 161(i), 161(j)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Attachment: 4.19-A Page(s): 161(d), 161(g), 161(h), 161(i), 161(j)

10. SUBJECT OF AMENDMENT

INDIGENT CARE POOL - Extends through 3/31/2023 and implements the recommendations of MRT 2.0. (FMAP=50%)

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF REGIONAL OFFICIAL

[Redacted Signature]

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 June 30, 2020

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

June 30, 2020

18. DATE APPROVED

9/11/20

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

April 2, 2020

20. SIGNATURE OF REGIONAL OFFICIAL

[Redacted Signature] For

21. TYPED NAME

Rory Howe

22. TITLE

Acting Director, FMG

23. REMARKS

State requested pen and ink change to reflect new values to Box 7 to FFY20 (\$30,830) and FFY21 (\$51,970) in thousands

State requested pen and ink box 6 to 1902(a)

New York
161(d)

Indigent Care Pool Reform – effective January 1, 2013

The provisions of this section will be effective for the period January 1, 2013 through December 31, [2020] 2022.

(a) Indigent Care Pool Reform Methodology. Each hospital's uncompensated care nominal need will be calculated in accordance with the following:

1. Inpatient Uncompensated Care. Inpatient units of service for uninsured (self-pay and charity) patients, as reported in Exhibit 32 of the Institutional Cost Report (ICR) for the calendar year two years prior to the distribution year for each inpatient service area which has a distinct reimbursement rate, excluding hospital-based residential health care facility (RHCF) and hospice units of service, will be multiplied by the applicable Medicaid inpatient rates in effect for January 1 of the distribution year.

Medicaid inpatient rates for acute and psychiatric services will be the statewide base price adjusted for hospital-specific factors including an average case mix adjustment plus all rate add-ons except the public goods surcharge. Medicaid inpatient rates for all other inpatient services will be the per diem rate, excluding the public goods surcharge add-on. Units of service for acute care services will be uninsured patient discharges; units of service for all other inpatient services will be uninsured patient days, not including alternate level of care (ALC) days.

2. Outpatient Uncompensated Care. Outpatient units of service for those uninsured (self-pay and charity) patients reported in Exhibit 33 of the ICR for the calendar year two years prior to the distribution year, excluding referred ambulatory services and home health units of service, will be multiplied by the average paid Medicaid outpatient rates that reflect the exclusive utilization of the ambulatory patient groups (APG) rate-setting methodology; however, for those services for which APG rates are not available the applicable Medicaid rate in effect for January 1 of the distribution year will be utilized. The outpatient rates used are exclusive of the public goods surcharge.

Units of service for ambulatory surgery services will be uninsured procedures, not including those which result in inpatient admissions; units of service for all other outpatient services will be uninsured visits, not including those which result in inpatient admissions.

TN #20-0040 _____

Approval Date September 11, 2020

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Effective Date April 2, 2020

**New York
161(g)**

(b) Indigent Care Pool. Indigent care pool distributions will be made to eligible hospitals in the following amounts, as calculated on a calendar year basis which will be paid in twelve, approximately equal lump sum, monthly installments on a state fiscal year basis; except for distributions for Calendar year 2020 related to paragraph (5) which shall be made in ten approximately equal lump sum, monthly installments from June 2020 to March 2020:

- 1. Major Government General Hospital Pool Distributions.** \$139.4 million, less the amount allocated pursuant to the Financial Assistance Compliance Pool section in subparagraph 8) below, will be distributed as Medicaid disproportionate share hospital (DSH) payments to major government general hospitals, including the hospitals operated by public benefit corporations, on the basis of each hospital's relative share of uncompensated care nominal need to the aggregate uncompensated care nominal need for all major government general hospitals determined in accordance with the Indigent Care Pool Reform methodology described in [sub]paragraph [3] (a) of this section.

Major government general hospitals are defined as all State-operated general hospitals, all general hospitals operated by the New York City Health and Hospital Corporation, and all other government general hospitals having annual inpatient operating costs in excess of \$25 million. Hospitals eligible for distributions from this pool will be all such major government general hospitals which are open for all or part of the distribution year. Hospitals open for a partial year will receive a pro-rated share based on the number of months open.

- 2. Voluntary General Hospital Pool Distributions.** \$994.9 million, less the amount allocated pursuant to the Financial Assistance Compliance Pool section in subparagraph (8) below and the Voluntary ICP Pool Reduction in subparagraph (4) below, plus the Enhanced Safety Net Transition Collar Pool in subparagraph (5) below will be distributed as Medicaid disproportionate share hospital (DHS) payments to eligible voluntary general hospitals, other than major public general hospitals, on the basis of each hospital's relative share of uncompensated care nominal need to the aggregate uncompensated care nominal need for all eligible voluntary general hospitals as determined in accordance with the Indigent Care Pool Reform methodology described in paragraph (a) of this section. Distributions to voluntary general hospitals, other than major public general hospitals, relative to calendar year 2020 and calendar years thereafter made pursuant to this subparagraph shall not include transition pool distributions. Such reduced distributions shall not affect any hospital's relative share as determined in accordance with the Indigent Care Pool Reform methodology described in paragraph (a) of this section and shall reflect a reduction in the amount of the pool to \$969.9 million.

Voluntary general hospitals are defined as all voluntary non-profit, private proprietary, and government general hospitals other than major government general hospitals. Hospitals eligible for distributions from this pool will be all such voluntary hospitals which are open for all or part of the distribution year. Hospitals open for a partial year will receive a pro-rated share based on the number of months open.

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**New York
161(h)**

- 3. Transition Pool.** An eight-year transition pool utilizing a floor/ceiling model has been established to help hospitals avoid large funding swings. The transition pool funding will be generated through a redistribution of dollars from those hospitals which experience an increase in distributions using the new Indigent Care Reform Methodology to those that experience a decrease. Transition amounts will be determined based on a comparison of the distributions for the applicable calendar year 2013 through 2020 to an average of the annual distributions for the three year period January 1, 2010 through December 31, 2012.

A separate transition pool will be established for major government general hospitals and voluntary general hospitals. Individual hospital gains and losses in each pool will be capped by means of the following transition adjustments. Any adjustments provided pursuant to this subparagraph shall not apply to distributions relative to calendar years beyond 2019.

- a. Distribution Amount.** A hospital's distribution will be determined by means of a comparison between their allocation as calculated in accordance with the Indigent Care Reform Methodology described in section (a)(1) through (a)(7), the Floor Amount in 3(c) below, and the Ceiling Amount in 3(d) below. If the Indigent Care Reform Methodology allocation is:
- i. less than or equal to the Floor Amount, the hospital will receive the Floor Amount.
 - ii. greater than or equal to the Ceiling Amount, the hospital will receive the Ceiling Amount.
 - iii. greater than the Floor Amount but less than the Ceiling Amount, the hospital will receive the Indigent Care Reform Methodology allocation payment.
- b.** Separate uniform Floor percentages and uniform Ceiling percentages are calculated for each of the major governmental and voluntary pools.
- c.** The Floor Amount for each hospital is equal to the average payment received in the three year period between 1/1/10 and 12/31/12 multiplied by the Floor Percentage for its respective pool. The Floor percentage is:
- i. 97.5% for 2013
 - ii. 95.0% for 2014
 - iii. 92.5% for 2015
 - iv. 90.0% for 2016
 - v. 87.5% for 2017
 - vi. 85.0% for 2018
 - vii. 82.5% for 2019
 - [viii. 80.0% for 2020]
- d.** The Ceiling Amount for each hospital is equal to the average payment received in the three year period between 1/1/10 and 12/31/12 multiplied by the Ceiling Percentage for its respective pool. The ceiling percentage is calculated using an iterative process to obtain the unique percentage value such that:
- i. The total payments to all providers in each pool equals the amount of the respective pool in subdivision (b)(1) or (b)(2) and
 - ii. The individual hospital payments will comply with the requirements described in paragraphs 3(a) through (c) above
- e.** For 2014 through [2020]2019, these amounts will be further adjusted to carve out amounts used to fund the Financial Assistance Compliance Pool payments in paragraph[6]8

TN #20-0040 _____ **Approval Date** September 11, 2020

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New York
161(i)

RESERVED

	A	B	C	D	E	F	G	H	I	J	K	L	M
1	Sample Transition Period DSH Pool Payment Calculations												
2				<u>Floor Pct.</u>	<u>Ceiling Pct.</u>								
3	CY 2014			95.0%	109.9%								
4				(i)	(ii)								
5	<u>Hospital Name</u>	<u>Indigent Care Pool Payment Before Transition Period Adjustment</u>	<u>Three Year Historical Average of Pool Payments (2010-2012)</u>	<u>Floor Amount</u>	<u>Ceiling Amount</u>	<u>Tentative Transition Period Payment</u>	<u>Financial Assistance Compliance Pool Carve-out (2014-2015)</u>	<u>Actual Transition Period Payment</u>			<u>Allocation Before Adjustment as Pct. of Three Year Avg</u>	<u>Tentative Transition Period Payment as Pct. of Three Year Avg</u>	
6	(a)	(b)	(c)	(d)	(e)	(f)							
7													
8	Hospital A	\$25,000,000	\$18,000,000	\$17,100,000	\$19,782,000	\$19,782,000	\$454,106	\$19,327,894			138.9%	109.9%	
9	Hospital B	\$14,000,000	\$12,000,000	\$11,400,000	\$13,188,000	\$13,188,000	\$302,737	\$12,885,263			116.7%	109.9%	
10	Hospital C	\$20,000,000	\$19,600,000	\$18,620,000	\$21,540,400	\$20,000,000	\$459,110	\$19,540,890			102.0%	102.0%	
11	Hospital D	\$30,000,000	\$30,400,000	\$28,880,000	\$33,409,600	\$30,000,000	\$688,666	\$29,311,334			98.7%	98.7%	
12	Hospital E	\$27,000,000	\$31,000,000	\$29,450,000	\$34,069,000	\$29,450,000	\$676,040	\$28,773,960			87.1%	95.0%	
13	Hospital F	\$19,000,000	\$23,000,000	\$21,850,000	\$25,277,000	\$21,850,000	\$501,578	\$21,348,422			82.6%	95.0%	
14	Hospital G	\$4,400,000	\$5,400,000	\$5,130,000	\$5,934,600	\$5,130,000	\$117,762	\$5,012,238			81.5%	95.0%	
15													
16	Statewide Totals	\$139,400,000	\$139,400,000	\$132,430,000	\$153,200,600	\$139,400,000	\$3,200,000	\$136,200,000					
17													
18		(1) Tentative Transition Period Payment:											
19		(a) Hospital name											
20		(b) The unadjusted amount that would otherwise be paid to each hospital under the new DSH pool allocation methodology beginning 1/1/2013											
21		(c) The actual average amount paid to each hospital under the prior DSH pool allocation methodology in CY's 2010 - 2012											
22		(d) The amount for each hospital in (c) multiplied by the Floor Percentage in (i)											
23		(e) The amount for each hospital in (c) multiplied by the Ceiling Percentage in (ii)											
24		(f) For each individual hospital, if the Indigent Care Pool Actual Transition Period Payment is:											
25		(1) < the Floor Amount, the Transition Period Payment is the Floor Amount											
26		(2) > the Ceiling Amount, the Transition Period Payment is the Ceiling Amount											
27		(3) Otherwise it is the amount in (b), calculated using the new DSH pool allocation methodology effective 1/1/2013.											
28		Using the formula = F(Bn<Dn,Dn, F(Bn>En,En,Bn))											
29													
30		(2) Percentages:											
31		(i) The Floor Percentage equals 97.5% in 2013, 95.0% in 2014, and 92.5% in 2015											
32		(ii) A unique Ceiling Percentage is calculated using an iterative set of calculations where both:											
33		(1) the total transition payments equal the respective pool amounts, and											
34		(2) all the constraints in (f) are respected											
35		For instance, using the Excel Goal Seek data tool:											
36		Set Cell F15											
37		Equal to \$139,400,000											
38		By Changing Cell E2											
39													
40		(3) Financial Assistance Compliance Pool Carve-out for 2014 & 2015:											
41		The carve out will be calculated by using each hospital's share of the \$139.4M allocation and											
42		applying that percentage to the \$3.2M in compliance pool funds.											
43													
44		(4) This same process would apply to the Voluntary Allocations of \$994.9M											

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**New York
161(j)**

4. Voluntary ICP Pool Reduction. For calendar years 2020 through 2022, total distributions made to eligible voluntary general hospitals shall reflect a reduction of one hundred fifty million dollars annually. Hospitals that qualify as Enhanced Safety Net hospitals under §2807-c(34) of the Public Health Law in State Fiscal Year 2019-2020 are exempt from such reductions. The methodology to allocate the reduction will take into account the payor mix of each voluntary hospital, including the percentage of inpatient days paid by Medicaid. Such methodology will calculate the total public payor mix of each facility and calculate a statewide average public payor mix. For the purposes of this subparagraph, public payor mix means the percentage of total reported Medicaid and Medicare inpatient days, as reported in Exhibit 32 of the Institutional Cost Report (ICR) for the reporting period two years prior to the distribution year, where Medicaid and Medicare were the primary payors, out of total reported inpatient days which includes all inpatient services but excludes Alternate Level of Care days. Hospitals exceeding the calculated average of public payor mix will be exempt from reductions pursuant to this subparagraph. Hospitals that fall below the calculated average of public payor mix will be subject to a proportionate reduction pursuant to this subparagraph.

5. Enhanced Safety Net Transition Collar Pool. For calendar years 2020 through 2022, sixty-four million six hundred thousand dollars will be distributed to voluntary hospitals qualifying as Enhanced Safety Net Hospitals under §2807-c(34) of the Public Health Law in State Fiscal Year 2019-2020 that experience a reduction in their distribution year Indigent Care Pool payments when compared to their 2019 ICP payments. The methodology to allocate this funding will be proportional to the reduction received by the facility. The proportionate allocation shall be equal to each qualifying Enhanced Safety Net Hospital's percentage share of total ICP losses when compared to CY 2019 distributions for all qualifying Enhanced Safety Net Hospitals.

[4.]6. Voluntary UPL Payment Reductions. The distributions in this section will be reduced by the final payment amounts paid to the eligible voluntary general hospitals, excluding government general hospitals, made in accordance with the Voluntary Supplemental Inpatient and Outpatient Payments section.

[5.]7. DSH Payment Limits. The distributions in this section are subject to the provisions of the Disproportionate share limitations section.

[6]8. Financial Assistance Compliance Pool. For calendar years 2014 through [2020] 2022, an amount equivalent to one percent of total DSH funds will be segregated into the Financial Assistance Compliance Pool (FACP) and allocated to all hospitals which prior to December 31, 2015 demonstrate substantial compliance with §2807-k(5-d)(b)(iv) of the Public Health Law (New York State Financial Aid Law) as in effect on January 1, 2013. There will be separate pool amounts for major governmental and voluntary hospitals. The DSH funds in the FACP will be proportionately allocated to all compliant hospitals using the Indigent Care Methodology described in paragraph (a) of this section. Compliance will be on a pass/fail basis. When a hospital is deemed compliant, one hundred percent of its share of the FACP funds will be released; there will be no partial payment for partial compliance. Any unallocated funds resulting from hospitals being non-compliant will be proportionally reallocated to compliant hospitals in each respective group based on their relative share of the distributions calculated in paragraph (a).

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