

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



Center for Medicaid and CHIP Services (CMCS)

Jason A. Helgerson
State Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs
NYS Department of Health
Empire State Plaza
Corning Tower (OCP - 1211)
Albany, NY 12237

SEP 19 2012

RE: TN 12-23

Dear Mr. Helgerson:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 12-23. Effective June 20, 2012 this amendment proposes to increase Medicaid payment rates to nursing facilities that have received approval to provide services to more than 25 patients whose medical condition is HIV infection symptomatic, but are not separately certified as either an AIDS facility or an AIDS unit in a larger general facility.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2) 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the regulations at 42 CFR 447 Subpart C. This is to inform you that New York 12-23 is approved effective June 20, 2012. The CMS-179 and the approved plan page are enclosed.

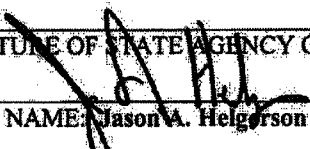

If you have any questions, please contact Tom Brady at 518-396-3810.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Mann", is written over the typed name.

Cindy Mann
Director (CMCS)

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 12-23	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 June 20, 2012	
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: Section 1902(a) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: a. FFY 06/20/12-09/30/12 \$130,435 b. FFY 10/01/12-09/30/13 \$500,000	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D: Page 110(d)(20)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-D: Page 110(d)(20)	
10. SUBJECT OF AMENDMENT: AIDS Scatter Beds (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 Corning Tower Empire State Plaza Albany, New York 12237	
13. TYPED NAME: Jason A. Helgeson			
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health			
15. DATE SUBMITTED: August 13, 2012			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: SEP 19 2012	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: JUN 20 2012		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Penny Thompson		22. TITLE: Deputy Director, CMCS	
23. REMARKS:			

**New York
110(d)(20)**

**Attachment 4.19-D
(01/12)**

- m) The non-comparable component of the price for facilities for which 2007 cost report data is unavailable or insufficient to calculate the non-comparable component as described above shall initially receive a non-comparable rate which is calculated using the most recently available certified cost report which is most proximate to 2007 and the total patient days which relate to such report and if no such report is available, the regional average non comparable price shall be utilized until such time as a certified cost report is available.
- n) Per Diem Adjustments for Dementia, Bariatric, or Traumatic Brain-Injured Patients. If applicable, and as updated pursuant to the case mix adjustments described above, the operating component of the price shall be adjusted to reflect:
- 1) A per diem add-on in the amount of \$8 for each dementia patient, defined as one who A) qualifies under both the RUG-III impaired cognition and the behavioral problems categories, or (B) has been diagnosed with Alzheimer's disease or dementia, is classified in the reduced physical functions A, B, or C or in behavioral problems A or B categories, and has an activities of daily living index score of ten or less.
 - 2) A per diem add-on in the amount of \$17 for each bariatric patient, defined as one whose body mass index is greater than thirty-five.
 - 3) A per diem add-on in the amount of \$36 for each traumatic brain-injured patient, defined as one requiring extended care as a result of that injury.
- o) [Reserved.] Effective for services provided on and after June 20, 2012, rates of payment for residential health care facilities which have received approval by the Commissioner of Health to provide services to more than 25 patients whose medical condition is HIV Infection Symptomatic, and the facility is not eligible for separate and distinct payment rates for AIDS facilities or discrete AIDS units, will receive a per diem adjustment. The adjustment is equal to the difference between (1) such facility's allowable operating cost, as described previously in this section, for 2010 extracted by the Commissioner on January 10, 2012 divided by 2010 total resident days, and (2) the daily weighted average non-capital component of the rate, calculated using 2010 Medicaid days, in effect on and after January 1, 2012, and as subsequently updated by case mix adjustments made in July and January of each calendar year as described previously in this section. Such per diem adjustment shall not result in a total operating rate that exceeds allowable total operating costs per day.

TN #12-23

Approval Date SEP 19 2012

Supersedes TN #11-23-A

Effective Date JUN 20 2012

OS Notification

State/Title/Plan Number: NY-12-023
Type of Action: SPA Approval
Required Date for State Notification: September 21, 2012
Fiscal Impact:
FY 2012 \$130,435 FFP
FY 2013 \$500,000 FFP

Number of Services Provided by Enhanced Coverage, Benefits or Retained Enrollment: 0

Number of Potential Newly Eligible People: 0

Eligibility Simplification: No

Provider Payment Increase: Yes

Delivery System Innovation: No

Number of People Losing Medicaid Eligibility: 0

Reduces Benefits: No

Detail:

Effective June 20, 2012 this SPA will increase payment rates to nursing facilities that treat a high level of AIDS patients, but are not separately certified as either an AIDS facility or an AIDS unit in a larger general facility. To qualify for this payment, a facility must treat 25 or more AIDS patients. The per diem payment adjustment will equal the difference between a facility's reported allowable daily operating costs and the weighted non-capital portion of their normal daily payment rate.

At this time, Terrace Health Care Center is the only facility that qualifies. This is a private 240 bed facility with a predominately Medicaid population. Standard funding question responses were adequate. Funding is from appropriations. With respect to private facilities, New York's rates are significantly below UPL levels.

Under separate pending amendments, New York provides supplemental payments to non-State government operated nursing facilities. These amendments and the associated UPLs are under CMS review and are expected to be acted upon shortly. No government facilities qualify for the payment in NY-12-023, but should any qualify in the future the additional payments would be accounted for in those UPL calculations.

Other Considerations:

This amendment has not generated significant outside interest. We do not recommend the Secretary contact the governor.

NY assured CMS that they are in compliance with the Affordable Care Act:

- This SPA complies with the conditions of the MOE provisions of section 1902(gg) of the Act for continued funding under the Medicaid program.
- The State does not require local political subdivisions to contribute amounts toward the non-Federal share of the State's expenditures at a greater percentage than would have been required on December 31, 2009.
- This State is not a Disaster-Recovery FMAP Adjustment State as defined in ACA
- This SPA complies with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

The State provided Tribal notification, even though no I/T/Us providers are impacted by this amendment.

CMS Contact: Tom Brady, NIRT 518-396-3810 x109