



Financial Management Group

May 26, 2020

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

Reference: TN 14-0033

Dear Ms. Frescatore:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number 14-0033. Effective July 1, 2014, this amendment proposes to update the rate methodology for private intermediate care facilities.

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 implementing Federal regulations at 42 CFR 447 Subpart C.


This letter is to inform you that Medicaid State Plan Amendment NY-14-0033 is approved effective July 1, 2014. The CMS-179 and the plan pages are attached.

If you have any additional questions or need further assistance, please contact Betsy Pinho at 518-396-3816 or betsy.pinho@cms.hhs.gov.

Sincerely,

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

Kristin Fan
Director

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 14-033	2. STATE New York
FOR: HEALTH CARE FINANCING ADMINISTRATION		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 July 1, 2014	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>): <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 (<i>Separate Transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION: §1902(a) of the Social Security Act and 42 CFR 441.304(e) and 447.205		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 07/01/14-09/30/14 S 0 b. FFY 10/01/14-09/30/15 S 0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D, Part II: Pages 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105 6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): 6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25	
10. SUBJECT OF AMENDMENT: 7/1/14 ICF Rate Rationalization (FMAP = 50%)			
11. GOVERNOR'S REVIEW (<i>Check One</i>): <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 Bureau of Federal Relations & Provider Assessments 99 Washington Ave – One Commerce Plaza Suite 1460 1432 Albany, NY 12210 Attn: Division of Finance and Rate Setting	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: Jul 30 2014			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 9/30/2014		18. DATE APPROVED: 05/26/20	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 7/1/2014		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Kristin Fan		22. TITLE: Director FMG	
23. REMARKS: On 5/21/2020, New York State authorized pen and ink changes to Box 8, 9, and 16.			

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Rates for ICF/IID services delivered by Non-Government and Voluntary ICFs/IID on and after July 1, 2014 will be determined in accordance with this section.

(1) Definitions (applicable to this section):

Active Treatment (AT) – Habilitation services provided for residents of an ICF/IID who are under the age of 21, in all areas of life and at any location. The ICF/IID can arrange for and reimburse other providers (schools or otherwise) to carry out some of the AT called for in the facility's plan of care for an individual. The purpose of AT provided during normal school hours must be habilitation, not educational.

Allowable Operating Costs – All necessary and proper costs which are appropriate and helpful in developing and maintaining the operation of ICFs/IID. Necessary and proper costs are costs which are common and accepted occurrences in the field of ICFs/IID. These costs will be determined in accordance with the cost principles described in the Medicare Provider Reimbursement Manual (HIM-15). This will include allowable program administration, direct care, support, clinical, fringe benefits, and indirect personal service/non-personal service.

Allowable Capital Costs – Are all necessary and proper capital costs that are appropriate and helpful in developing and maintaining the provision of ICF/IID services to beneficiaries determined in accordance with the cost principles described in the Medicare Provider Reimbursement Manual (HIM-15) except as further defined below. This will include, where appropriate, allowable lease/rental and ancillary costs; amortization of leasehold improvements and depreciation of real property; financing expenditures associated with the purchase of real property and related expenditures, and leasehold improvements.

Capital costs of depreciation, and lease/rental of equipment and vehicles (annual lease, depreciation and interest) will be included in the operating components of the provider's rate.

Base Year Consolidated Fiscal Report (CFR) – For Non-Government and Voluntary Providers, the CFR from which the initial target rate will be calculated. Such period will be January 1, 2011 through December 31, 2011 for providers reporting on a calendar year basis and July 1, 2010 through June 30, 2011 for providers reporting on a fiscal year basis. For subsequent periods, the base year CFR will mean the CFR used to update the methodology.

Base Operating Rate – Reimbursement amount calculated by dividing annual reimbursement by applicable annual units of service, both in effect on June 30, 2014.

Budget Neutrality Adjustment – Factor applied to adjust the proposed amount so that it is equivalent to the base amount of dollars.

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(2) Rates for Providers of ICF/IID Services

- i. There will be one provider-wide rate for each provider, except that rates for ICF/IID services provided to individuals identified as special populations by OPWDD. Adjustments may be made to the rate resulting from any final audit findings or reviews.
- ii. Rates will be computed based on a full 12-month base year CFR, adjusted in accordance with the methodology as delineated in this section. The rate will include operating cost components and capital cost components. Such base year may be updated in accordance with subsequent rate section, paragraph p)(8).

iii. Components of Rates for ICF/IID Services

- (a) **Operating Component** - The operating component will be calculated using allowable costs identified in the consolidated fiscal reports. The operating component will be inclusive of the following components:
 - 1. **Regional average direct care wage** - The quotient of base year salaried direct care dollars for each provider in a DOH region, totaled for all such providers in such region, for all residential habilitation-supervised individualized residential alternative (IRA); residential habilitation-supportive IRA; day habilitation services; and ICF/IID, divided by base year salaried direct care hours for each provider in a DOH region, totaled for all such providers in such region, for all residential habilitation- supervised IRA; residential habilitation-supportive IRA; day habilitation services; and ICF/IID services.
 - 2. **Regional average employee-related component** - The sum of the annual change in vacation leave accruals and total fringe benefits for the base year for each provider of a DOH region, totaled for all such providers in such region, with the sum to be divided by base year salaried direct care dollars for each provider of a DOH region, totaled for all such providers in such region, and then multiplied by the applicable regional average direct care wage.
 - 3. **Regional average program support component** - The sum of transportation related-participant staff travel; participant incidentals; expensed adaptive equipment; sub-contract raw materials; participant wages-non-contract; participant wages-contract; participant fringe benefits; staff development; supplies and materials-non-household; other-OTPS; lease/rental vehicle; depreciation-vehicle; interest-vehicle; other-equipment; other than to/from transportation allocation; salaried support dollars (excluding housekeeping and maintenance staff); and salaried program administration dollars for the base year for each provider of a DOH region, totaled by all such providers in such region. Such sum is divided by the total base year salaried direct care dollars for all providers in a DOH region and multiplied by the applicable regional average direct care wage.

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17. **Regional average contracted clinical hourly wage** - The quotient of base year contracted clinical dollars for each provider of a DOH region aggregated for all such providers in such region divided by the base year contracted clinical hours for each provider of a DOH region, totaled for all providers in such region.
18. **Provider contracted clinical hours** - The quotient of a provider's contracted clinical hours for the base year divided by the rate sheet capacities for the base year, this quotient is multiplied by the rate sheet capacities for the initial period.
19. **Provider direct care hourly rate-adjusted for wage equalization factor** - The sum of the provider average direct care hourly wage multiplied by .75 and the applicable regional average direct care hourly wage multiplied by .25.
20. **Provider clinical hourly wage-adjusted for wage equalization factor** - The sum of the provider average clinical hourly wage, multiplied by .75 and the applicable regional average clinical hourly wage, multiplied by .25.
21. **Provider reimbursement from direct care hourly rate** - The product of the calculated direct care hours and the provider direct care hourly wage adjusted for wage equalization factor.
22. **Provider reimbursement from clinical hourly wage** - The product of the provider salaried clinical hours and the provider clinical hourly wage – adjusted for wage equalization factor.
23. **Provider reimbursement from contracted clinical hourly wage** - The product of the provider contracted clinical hours and the applicable regional average contracted clinical hourly wage.
24. **Provider facility reimbursement** - The sum of food; repairs and maintenance; utilities; expensed equipment; household supplies; telephone; lease/rental equipment; depreciation equipment; insurance – property and casualty; housekeeping and maintenance staff; and program administration property for the base year for a provider. This sum is divided by provider rate sheet capacities for the base year and then the result is multiplied by rate sheet capacities for the initial period.
25. **Provider operating revenue** - The sum of provider reimbursement from direct care hourly rate; the provider reimbursement from clinical hourly wage; the provider reimbursement from contracted clinical hourly wage; and the provider facility reimbursement.

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- such region, divided by the rate sheet capacities, pro-rated for partial year sites for the base year for each provider of a DOH region, totaled for all providers in such region; and
- iii. The applicable regional average facility revenue, which is the quotient of the sum of food; repairs and maintenance; utilities; expensed equipment; household supplies; telephone; lease/rental equipment; depreciation; insurance – property and casualty; housekeeping and maintenance staff; and program administration property for the base year divided by the rate sheet capacities, pro-rated for partial year sites for the base year for each provider of a DOH region, totaled for all providers in such region.
- iv. This sum is then multiplied by the statewide budget neutrality adjustment factor for operating dollars and divided by 365.
- (a) This rate will be in effect until such time that the provider has submitted a cost report for a base year which will be used in the calculation of a subsequent rate period.
- (b) If a provider fails to file a cost report by the due date (including one 30 day extension, if granted by OPWDD), OPWDD will impose a penalty of 2% on the provider's Medicaid reimbursement. For cost reporting periods ending December 31, 2014 and later, if a provider fails to file a cost report by the due date (including one 30 day extension, if granted by OPWDD), OPWDD will impose a penalty of 2% on the provider's Medicaid reimbursement, effective the first day of the sixth month following the end of the cost reporting period. However, OPWDD will not impose such a penalty if it determines that there were unforeseeable circumstances beyond the provider's control (such as a natural disaster) that prevented the provider from filing the cost report by the due date.

If a provider has not filed a complete and compliant annual CFR for any CFR reporting period ending between January 1, 2013 and January 1, 2015, the provider will be considered delinquent. The State will give notice to delinquent providers that to avoid the loss of FFP effective April 1, 2016, a complete and compliant CFR must be submitted by October 1, 2015. The State will not claim FFP for any ICF/IID Service provided by the delinquent provider after April 1, 2016.

For CFR cost reporting periods beginning July 1, 2014 and thereafter, providers are required to file an annual CFR to the State within 120 days (150 with a requested extension) following the end of the provider's fiscal reporting period. If a provider fails to file a complete and compliant CFR within 60 days following the imposition of the 2% penalty, the State must provide timely notice to the delinquent provider that FFP will end 240 days following the imposition of the

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2% penalty; and the State will not claim FFP for any ICF/IID service provided by the provider with a date of service after the 240 day period.

(4) Day Program Services Component. There is a day program services component for individuals who participate in either in-house day programming or day services, or active treatment.

- i. **In-house day programming** are equal to the sum of the provider in-house day programming amount in accordance with the State Plan in effect on June 30, 2014, plus the product of the units of service for the day services providers as was used in the calculation of the rate in effect on June 30, 2014 and the day service provider's rate in effect on July 1, 2014. A fee schedule follows:

IN-HOUSE DAY PROGRAMMING	
OPWDD DDRO Region	Daily Fee
<u>1</u>	<u>\$111.02</u>
<u>2</u>	<u>\$124.89</u>
<u>3</u>	<u>\$103.39</u>

- ii. **Day Services** - Effective January 1, 2015 the new day services calculation will be equal to the reimbursement of the applicable day habilitation and/or prevocational service, less capital, as delineated in the supplemental language of the 1915c Wavier.
- iii. **Active Treatment (AT) Add-on** is equal to the AT fees, as shown below, multiplied by school days attended, less time spent by children in actual standard educational curricula.

ACTIVE TREATMENT Effective 7/1/14	
OPWDD DDRO Region	Daily Fee
<u>Downstate</u>	<u>\$192.98</u>
<u>Upstate</u>	<u>\$179.00</u>

DOH will require a signed attestation annually from Children's Residential Program (CRP) providers documenting the percentage of time spent by an individual in AT versus standard educational curricula.

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(5) Total Capital Reimbursement. Capital reimbursement will be computed as follows:

- i. For Capital Assets Approved by OPWDD on Prior Property Approvals (PPA) prior to July 1, 2014. OPWDD regulations under 14 NYCRR Subpart 635-6 establish standards and criteria that describes the Capital acquisition and lease of real property assets which require approval by OPWDD.
 - (a) Reimbursement rates will include actual straight line depreciation, amortization, interest expense, financing expenses, and lease costs.
 - (b) OPWDD will never approve lease or acquisition costs in excess of the lower of fair market value (as determined by an independent appraisal) or the provider's actual cost. However, OPWDD may limit the approved costs to a lower amount based on a review of the reasonableness of the transaction and price and a comparison of costs to those of similar facilities with the same characteristics. For example, if a provider purchases or leases a property in an area in which real estate costs are considerably higher than those in the surrounding areas, and an equally suitable property in the surrounding area was available to the provider for purchase or lease at a lower cost, OPWDD may limit the allowable costs to those of properties in the surrounding area.
 - (c) In no case will the total capital reimbursement associated with the capital asset exceed the total acquisition or renovation cost associated with a capital asset.
 - (d) The State will identify each asset by provider, and provide a schedule of these assets identifying: total actual cost, reimbursable cost and useful life, determined by the prior property approval, total financing cost, allowable depreciation and allowable interest for the remaining useful life as determined by the prior approval, and the allowable reimbursement for each year of the remaining useful lives.
 - (e) Notification to Providers. Each provider will receive supporting documentation detailing all real property to be included in the capital component of the provider's reimbursement rate.
- ii. Capital rate for capital assets approved by OPWDD on Prior Property Approvals on or after July 1, 2014. OPWDD regulations under 14 NYCRR Subpart 635-6 establish standards and criteria that describes the Capital acquisition and lease of real property assets which require approval by OPWDD.

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- (a) Reimbursement rates will include actual straight line depreciation, interest expense, financing expenses, and lease cost established using generally accepted accounting principles, comply with CMS Publication – 15 (Medicare cost and cost allocation principles) and establish useful lives using the American Hospital Association (AHA) Estimated Useful Lives of Depreciable Hospital Assets Revised 2008 Edition.
 - (b) OPWDD will never approve lease or acquisition costs in excess of the lower of fair market value (as determined by an independent appraisal) or the provider's actual cost. However, OPWDD may limit the approved costs to a lower amount based on a review of the reasonableness of the transaction and price and a comparison of costs to those of similar facilities with the same characteristics. For example, if a provider purchases or leases a property in an area in which real estate costs are considerably higher than those in the surrounding areas, and an equally suitable property in the surrounding area was available to the provider for purchase or lease at a lower cost, OPWDD may limit the allowable costs to those of properties in the surrounding area.
 - (c) In no case will the total capital reimbursement associated with the capital asset exceed the total acquisition, renovation and financing cost associated with a capital asset.
 - (d) The State will identify each asset, by provider, and provide a schedule of these assets identifying: total actual cost, reimbursable cost and useful life, determined by the prior property approval, total financing cost, allowable depreciation and allowable interest for the remaining useful life as determined by the prior approval, and the allowable reimbursement for each year of the remaining useful lives.
 - (e) Notification to Providers. Each provider will receive supporting documentation detailing all real property to be included in the capital component of the provider's reimbursement rate.
- iii. The rate will include applicable annual interest, depreciation and/or amortization of the approved appraised costs of an acquisition, or fair market value of a lease, and property associated with ICF/IID facilities, the useful life will be 25 years. Such costs will be included in the rate upon or after submission and approval of the Final Expenditure Report and completion of the property cost verification.

Estimated costs will be submitted in lieu of actual costs for a period no greater than two years. If actual costs are not submitted to the State within two years from the date of site certification, the amount of capital costs included in the rate will be zero for each period in which actual costs are not submitted. DOH will retroactively adjust the capital component; and will return FFP to CMS on the next quarterly expenditure

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report (CMS-64) following the two-year period. Once the final cost reconciliation has been received by the Department of Health, the rate will be retroactively adjusted to include reconciled costs.

DOH will verify and reconcile the costs submitted on a PPA by requiring the provider to submit to the State supporting documentation of actual costs. Actual costs will be verified by the State reviewing the supporting documentation of such costs. A provider submitting such actual costs will certify that the reimbursement requested reflects allowable capital costs and that such costs were actually expended by such provider. Under no circumstances will the amount included in the rate under this subparagraph exceed the amount authorized in the approval process. Capital costs will be amortized over a 25 year period for acquisition of properties or the life of the lease for leased sites. Capital improvements will be depreciated over the life of the asset, or the revised useful life of the asset as a result of the capital improvements, whichever is greater. The amortization of interest will not exceed the life of the loan taken. Amortization or depreciation will begin upon certification by the provider of such costs. Start-up costs will be amortized over a one year period beginning with certification of the site. If actual costs are not submitted to the State within two years from the date of site certification, the amount of capital costs included in the rate will be zero for each period in which actual costs are not submitted. The Department will retroactively adjust capital reimbursement based on the actual cost verification process as described.

- iv. DOH will annually update Capital reimbursement twice a year, January for providers filing a CFR on a calendar year and July for providers filing a CFR on a fiscal year cycle. Also, DOH will update capital to include all new and approved PPA's twice a year. The second update may require the Department to annualize the PPA, which could include more than 12 months of costs in the first year.

v. **CFR Reporting for Capital Assets**

- (a) Expenses relating to Equipment are reported in two sections of CFR-1. Expensed equipment is included under the Other Than Personal Services (OTPS) section of CFR-1 and is included in the operating portion of the rate reimbursement (Lines 27 & 28). Depreciable equipment expenses are included under the Equipment section of CFR-1 and all items in this section are included in the operating portion of the rate reimbursement (Lines 42-47).
- (b) Capital expenses related to real property are included under the Property section of the CFR-1 (Lines 49-62). With the exception of Insurance-Property or Casualty, which is reported on CFR-1, Line 55, Lines 49-62 are not included in the rates. Alternatively, providers are reimbursed for Capital in accordance with the capital schedule (iii as identified above) and the Insurance-Property or Casualty reported on CFR-1, Line 55.

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- (c) All expenses reported on CFR-1 are to be reported in accordance with Appendix X – Adjustments to Reported Costs, dated January 1, 2014, which details expenses that are considered to be non-allowable. CFR instructions for reporting depreciation and amortization are included in Appendix O of the January 1, 2014 CFR Manual, which can be found at:

http://www.oms.nysed.gov/rsu/Manuals_Forms/Manuals/CFRManual/home.html

- (d) **Capital Schedule.** Beginning with the cost reporting periods ending December 31, 2014 (calendar year filers), and July 31, 2015 (fiscal year filers), any provider required to file a CFR will submit to OPWDD, as part of the annual cost report, a Capital Schedule.

This schedule will specifically identify the differences, by capital reimbursement item, between the amounts reported on the certified cost report, and the reimbursable items, including depreciation, interest and lease cost from the schedule of approved reimbursable costs.

The provider's independent auditor will apply procedures to verify the accuracy and completeness of the capital schedule.

- (6) Tax Assessment.** The provider assessment on ICF/IID services rendered to Medicaid recipients will be considered an allowable cost and reimbursed through Medicaid service rates of payment. The amount of 5.5% assessment uniformly imposed on all ICF/IDD services of all such providers will be included in the rate.

- (7) Total Per Diem.** This will be the sum of products of paragraphs (2)(iii)(a)(28), (2)(iii)(a)(29), (4), (5) and (6) of this Section.

- (8) Computation of Subsequent Rate Period-** Beginning one year after the initial period, the methodology will rebase the costs used in the methodology described in paragraph (2) of this Section using the 1/1 – 12/31 and 7/1 – 6/30 CFR one and one half, and two years prior to the rate period, respectively. Thereafter, the Department will rebase within four years of the previous rebase utilizing the base year CFR. For years in which the Department of Health does not update the base year, the Department will update property as described in paragraph (5) of this Section.

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(9) Computation of Subsequent Rate Period for CRPs – Effective July 1, 2015

<u>Corp ID</u>	<u>Corp Name</u>	<u>CRP Operating Fee</u>
<u>11440</u>	Devereux Foundation in New York	\$392.62
<u>22270</u>	SCO Family of Services	\$413.70
<u>40640</u>	U C P Handicapped Persons of Utica	\$400.81
<u>86050</u>	Maryhaven Center of Hope, Inc.	\$347.65
<u>22460</u>	Developmental Disabilities Institute	\$488.22
<u>26050</u>	UCPA of Greater Suffolk, Inc.	\$479.06
<u>20600</u>	Heartshare Human Services of New York	\$363.60
<u>21160</u>	Birch Family Services, Inc.	\$465.20
<u>43850</u>	Brookville Center for Children's Services, Inc.	\$577.33
<u>22630</u>	UCP of Ulster County	\$258.32
<u>22620</u>	The Center for Discovery, Inc.	\$525.45
<u>21620</u>	NY Easter Seals Society, Inc.	\$422.89

- i. Total capital will be an add-on and reimbursed as computed in paragraph (5) of this Section.
- ii. Tax Assessment will be an add-on and reimbursed as computed in paragraph (6) of this Section.

(10) Reporting Requirements

- i. Providers will report costs and maintain financial and statistical records in accordance with the Financial and Audit Requirements of the New York State OPWDD.
- ii. Generally Accepted Accounting Principles (GAAP). The completion of the financial and statistical report forms are in accordance with generally accepted accounting principles as applied to the provider unless the reporting instructions authorized specific variation in such principles. The State will identify provider cost and providers will submit cost data in accordance with GAAP.

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(13) Rate Corrections

- i. Arithmetic or calculation errors will be adjusted accordingly in instances that would result in an annual change of \$5,000 or more in a provider's annual reimbursement for ICFs/IID.
- ii. In order to request a rate correction in accordance with paragraph i. of this section, the provider must send to the Department of Health its request by certified mail, return receipt requested, within ninety days of the provide receiving the rate computation or within 90 days of the first day of the rate period in question, whichever is later.

(14) Specialized Populations Funding

- i. Notwithstanding any other provisions of this Attachment, rates for individuals identified by OPWDD as qualifying for specialized populations funding will be as follows:
- ii. For individuals initially identified as qualifying for specialized populations funding, a fee schedule can be found using the link below:

https://www.health.ny.gov/health_care/medicaid/rates/mental_hygiene/2014rates.htm
- iii. The tax assessment as described in paragraph (6) will be applied to these rates.

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