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State/Territory Name: NY

State Plan Amendment (SPA) #: 18-0015

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

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

January 16, 2025

Amir Bassiri
State Medicaid/CHIP Director
New York State Department of Health
99 Washington Ave- One Commerce Plaza, Suite 1605
Albany, NY 12237

RE: New York 18-0015

Dear Director Bassiri:

The Centers for Medicare & Medicaid Services (CMS) has reviewed the proposed New York state plan amendment (SPA) to Attachment 4.19-D NY-18-0015, which was submitted to CMS on March 22, 2018. This plan amendment proposes a specified increase of 3.25 percent to reimbursement rates for intermediate care facilities for the intellectually disabled) (ICF/ID).

We reviewed your SPA submission for compliance with statutory requirements, including in sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903 as it relates to the identification of an adequate source for the non-federal share of expenditures under the plan, as required by 1902(a)(2), of the Social Security Act and the applicable implementing Federal regulations.

Based upon the information provided by the state, we have approved the amendment with an effective date of January 1, 2018. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

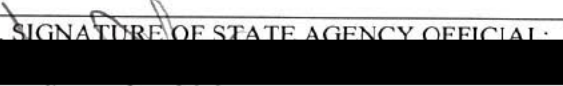

If you have any additional questions or need further assistance, please contact Novena James-Hailey at 617-565-1291 or via email at Novena.JamesHailey@cms.hhs.gov.

Sincerely,



Rory Howe
Director
Financial Management Group

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 18-0015	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 January 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: 1905(a)(15) ICF/IID §1902(a) of the Social Security Act, and 42 CFR 447-		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 01/01/18-09/30/18 \$ 1845.12 3,321,224.50 b. FFY 10/01/18-09/30/19 \$ 5503.77 5,503,768.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B Pages: 116(a), 116(b) Attachment 4.19-D Pages: 22(a), 22(a.1), 22(b.1), 22(c)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B Pages: 116(a), 116(b) Attachment 4.19-D Pages: 22(a), 22(c)	
10. SUBJECT OF AMENDMENT: OPWDD 3.25% ICFDD OPWDD 3.25% ICFIID (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 & Rate Setting 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: MAR 22 2018			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: March 22, 2018		18. DATE APPROVED: January 16, 2025	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: January 1, 2018		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Rory Howe		22. TITLE: Director, Financial Management Group	
23. REMARKS: The State authorizes the following pen and ink revisions to the HCFA 179: Box 6. Federal Statute/ Regulation Citation: 1905(a)(15) ICF/IID Box 7. Federal Budget Impact: a. FFY 01/01/18-09/30/18 \$3,321,224.50 b. FFY 10/01/18-09/30/19 \$5,503,768.00 Box 8. Page Number of the Plan Section or Attachment: Attachment 4.19-D Pages: 22(a), 22(a.1), 22(b.1), 22(c) Box 9. Page Number of the Superseding Plan Section or Attachment (If Applicable) : Attachment 4.19-D Pages: 22(a), 22(c) Box 10. Subject of Amendment: OPWDD 3.25% ICFIID			

New York
22(a)

1905(a)(15) ICF/IID

- c. A compounded trend factor will be calculated in order to bring base period costs to the appropriate rate.
- ii. **Increases for Providers that Operate ICF/IIDs.**
 - a. **January 1, 2015 Increase.** Rates for providers that operate ICF/IIDs will be revised to incorporate funding for compensation increases to direct support professional employees. The compensation increase funding will be included in the provider's rate issued for January 1, 2015. The compensation increase funding will include associated fringe benefits.
 - b. **April 1, 2015 Increase.** In addition to the compensation funding effective January 1, 2015, providers that operate ICF/IIDs will receive a compensation increase targeted to direct support professionals and clinical employees. The compensation increase funding will include associated fringe benefits. The April 1, 2015 direct support professionals' compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase.
 - c. **January 1, 2018 Increase.** Rates for eligible rate based programs will be revised to incorporate funding for compensation increases to direct support professional employees. The compensation increase funding will include associated fringe benefits and will be included in the provider's rate issued for January 1, 2018, or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact.
 - d. **April 1, 2018 Increase.** In addition to the compensation funding effective January 1, 2018, providers that operate ICF/IIDs will receive a compensation increase targeted to direct support professionals and clinical employees. The compensation increase funding will include associated fringe benefits. The April 1, 2018, direct support professional compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2018, compensation increase.

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Approval Date January 16, 2025

Supersedes TN #15-0014

Effective Date January 1, 2018

**New York
22(a.1)**

1905(a)(15) ICF/IID

- iii. **Calculations.** The basis for the calculation of provider and regional direct support and clinical salary averages and associated fringe benefit percentages will be the data reported on the providers' CFRs for July 1, 2010 through June 30, 2011 for providers reporting on a fiscal year basis or January 1, 2011 through December 31, 2011 for providers reporting on a calendar year basis.
 - a. The January 1, 2015 and April 1, 2015 Direct Support Professionals' compensation increase funding formula will be as follows:
 - 1. The annual impact of a two percent increase to 2010-11 or 2011 salaried direct support dollars and associated fringe benefits will be calculated.
 - 2. The annual impact of the two percent increase for salaried direct support dollars, and associated fringe will be added to the appropriate operating components in the rate methodology. This will result in a recalculation of provider and regional average direct support wages, provider and regional average employee-related components, provider and regional average program support components, and provider and regional average direct support hourly rates.
 - 3. The provider direct support hourly rate – adjusted for wage equalization factor will be recalculated to utilize the provider average direct support hourly rate and regional average direct support hourly rate, as calculated in subparagraph 2 of this paragraph.

New York
22(b.1)

1905(a)(15) ICF/IID

- c. The January 1, 2018 and April 1, 2018 Direct Support Professional and April 1, 2018 Clinical compensation increase funding formula will be as follows:
 - 1. Utilizing CFR 2014-15 or 2015, follow the calculation as stated in paragraph iii.a. and iii.b. with the exception of the two percent increase, which will now be a three and one quarter percent increase
 - 2. Additionally, the difference in paragraph iii.a.5. and iii.b.5 will be applied to the rate in effect on December 31, 2017.

TN #18-0015 **Approval Date** January 16, 2025

Supersedes TN NEW **Effective Date** January 1, 2018

**New York
22(c)**

d. Minimum Wage Adjustment - Effective January 1, 2017, and every January 1 thereafter until the minimum wage reaches the state statutorily described per hour wage as shown below, a minimum wage add-on will be developed and applied to all ICF/IID rates.

Minimum Wage Region	31-Dec-16	31-Dec-17	31-Dec-18	31-Dec-19	31-Dec-20	31-Dec-21
New York City	\$11.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00
Nassau, Suffolk & Westchester	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00
Remainder of State	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	\$13.20

The minimum wage adjustment will be developed and implemented as follows:

1. Minimum wage costs will mean the additional costs incurred beginning January 1, 2017 and thereafter, as a result of New York State statutory increases to minimum wages.
2. The 2017 facility specific minimum wage add-on will be developed based on collected survey data received and attested to by ICF/IID providers. If a facility does not submit a survey, the minimum wage add-on will be calculated based on the facility's Consolidated Fiscal Report wage data from the 2014 ICF/IID cost report data. In the subsequent year, the Department will survey providers, utilizing the methodology employed in year one. Once the costs are included in a CFR utilized in a base year, such reimbursement will be excluded from the add-on. If a facility fails to submit both the attested survey and the CFR cost report, the facility's minimum wage add-on will not be calculated.
 - a. Minimum wage cost development based on survey data collected.
 - i. Survey data will be collected for facility specific wage data.
 - ii. Facilities will report by wage bands, the total count of FTEs and total hours paid to all employees (contracted and non-contracted staff) earning less than the statutory minimum wage applicable for each region.
 - iii. Facilities will report an average fringe benefit percentage for the employees directly affected by the minimum wage increase.
 - iv. The minimum wage costs are calculated by multiplying the total hours paid by the difference between the statutory minimum wage and the midpoint of each wage band where the facility has reported total hours paid. To this result, the facility's average fringe benefit percentage is applied and added to the costs.
 - b. Minimum wage cost development based on the CFR cost report data.
 - i. The average hourly wages of employees where the reported average hourly wage is below the regional statutory minimum wage are identified.
 - ii. The total payroll hours of the employees identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the cost report is then subtracted from the projected payroll resulting in the expected wage costs increase.
 - iii. The facility's fringe benefit costs directly affected by the wage increase are identified, and the average fringe benefit percentage is calculated.
 - iv. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.

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