

**NEW YORK**  
*state department of*  
**HEALTH**

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

December 1, 2011

Mr. Michael Melendez  
Associate Regional Administrator  
Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
New York Regional Office  
Division of Medicaid and Children's Health Operations  
26 Federal Plaza - Room 37-100 North  
New York, New York 10278

RE: SPA #11-79

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #11-79 to the Title XIX (Medicaid) State Plan effective October 1, 2011 (Appendix I).

A summary of the plan amendment is provided in Appendix II. Copies of pertinent sections of proposed State statute are enclosed for your information (Appendix III).

In keeping with our continued agreement, this amendment is being sent to you prior to the end of the fourth quarter.

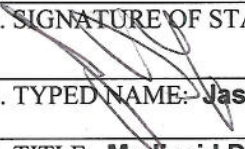
If you or your staff have any questions or need any assistance, please contact Karla Knuth, of my staff, at (518) 473-8822.

Sincerely,



Jason A. Helgerson  
Medicaid Director  
Deputy Commissioner  
Office of Health Insurance Programs

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>11-79</b>	2. STATE <b>New York</b>
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
		4. PROPOSED EFFECTIVE DATE <b>October 1, 2011</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES			
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: <b>1902 (r)(2) of the Social Security Act 42 CFR 435.840 and 42 CFR 435.841</b>		7. FEDERAL BUDGET IMPACT: <b>a. FFY 10/01/10 - 9/30/11 \$ 0 b. FFY 10/01/11 - 9/30/12 \$ 0</b>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Supplement 8b to Attachment 2.6-A: Page 3</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT <i>(If Applicable)</i> :  <b>Supplement 8b to Attachment 2.6-A: Page 3</b>	
10. SUBJECT OF AMENDMENT: <b>Addition of 2/4/50 Partnership total asset protection plan and that the New York State Partnership Program enter into reciprocity agreement with (currently) 40 other states. (FMAP = 50%)</b>			
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: <b>New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237</b>	
13. TYPED NAME: <b>Jason A. Helgerson</b>			
14. TITLE: <b>Medicaid Director &amp; Deputy Commissioner Department of Health</b>			
15. DATE SUBMITTED: <b>December 1, 2011</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED:	
<b>PLAN APPROVED – ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

**Appendix I**  
**2011 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Amended SPA Pages**



**Appendix II  
2011 Title XIX State Plan  
Fourth Quarter Amendment  
Summary**

**SUMMARY**  
**SPA #11-79**

This State Plan Amendment proposes to add a Partnership for Long-Term Care 2/4/50 total asset protection plan. Currently, two Partnership total asset protection plans are available in New York, the 3/6/50 plan and the 4/4/100 plan. In order for a participating consumer holding a 3/6/50 plan to receive Medicaid Extended Coverage, he or she must meet the durational requirement by utilizing three years of nursing home benefits or six years of home care benefits or some combination of the two under the policy/certificate. In order for a participating consumer holding a 4/4/100 plan to receive Medicaid Extended Coverage, he or she must meet the durational requirement by utilizing four years of nursing home benefits or four years of home care benefits or some combination of the two under the policy/certificate. These two total asset protection plans account for approximately 98% of all Partnership policy sales. The two available dollar-for-dollar asset protection plans (1.5/3/50 and 2/2/100) account for the remaining 2%.

Under the proposed 2/4/50 total asset plan design, a participating consumer must meet the durational requirement by utilizing two years of nursing home benefits or four years of home care benefits or some combination of the two under the policy/certificate in order to receive Medicaid Extended Coverage. Such a plan would offer policyholders a lower premium option, making policies more affordable, while still protecting New York State Medicaid. This would be especially helpful to older applicants and applicants in regions where the cost of care is less, and where current total asset policy structures may result in over insurance.

This State Plan Amendment also proposes that the New York State Partnership Program enter into the federal reciprocity agreement with the 40 other states that currently participate. While the insurance benefits under the Partnership are always portable between states, the Medicaid Asset disregard is recognized only by the state where the policy is purchased. In response to consumer concerns that other states' Medicaid programs would not offer them the Medicaid asset disregard offered by their home state and the perception that lack of portability inhibits sales, most states have opted to join federal reciprocity.

**Appendix III**  
**2011 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Authorizing Provisions**

Chapter 59 of the Laws of 2011  
S.2809-D/A.4009-D

§ 82. Paragraph (a) of subdivision 1 of section 367-f of the social services law, as amended by section 37 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

(a) "Medicaid extended coverage" shall mean eligibility for medical assistance (i) without regard to the resource requirements of section three hundred sixty-six of this title, or in the case of an individual covered under an insurance policy or certificate described in subdivision two of this section that provided a residential health care facility benefit less than [~~three~~] two years in duration, without consideration of an amount of resources equivalent to the value of benefits received by the individual under such policy or certificate, as determined under the rules of the partnership for long-term care program; (ii) without regard to the recovery of medical assistance from the estates of individuals and the imposition of liens on the homes of persons pursuant to section three hundred sixty-nine of this title, with respect to resources exempt from consideration pursuant to subparagraph (i) of this paragraph; provided, however, that nothing in this section shall prevent the imposition of a lien or recovery against property of an individual on account of medical assistance incorrectly paid; and (iii) based on an income eligibility standard for married couples equal to the amount of the minimum monthly maintenance needs allowance defined in paragraph (h) of subdivision two of section three hundred sixty-six-c of this title, and for single individuals equal to one-half of such amount; provided, however, that the commissioner of health shall not be required to implement the provisions of this subparagraph if the use of such income eligibility standards will result in a loss of federal financial participation in the costs of Medicaid extended coverage furnished in accordance with subparagraphs (i) and (ii) of this paragraph.