



# Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

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

JUN 29 2017

RE: SPA #17-0038  
Institutional Services

Dear Mr. Melendez:


The State requests approval of the enclosed amendment #17-0038 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective April 1, 2017 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

The State of New York reimburses these services through the use of rates that are consistent with and promote efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area as required by §1902(a)(30) of the Social Security Act and 42 CFR §447.204.

Copies of pertinent sections of proposed State statute are enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register on March 29, 2017 is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

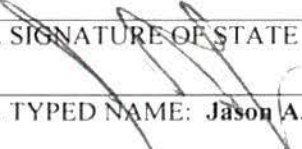
If you have any questions regarding this State Plan Amendment submission, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 474-6350.

Sincerely,



Jason A. Helgerson  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: <b>17-0038</b>	2. STATE <b>New York</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>April 1, 2017</b>	
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)(5) of the Social Security Act, and 42 CFR 447</b>		7. FEDERAL BUDGET IMPACT: <i>(in thousands)</i> a. FFY 04/01/17-09/30/17 \$ 250,000.00 b. FFY 10/01/17-09/30/18 \$ 250,000.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-D: Page 47(x)(2)(b)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT <i>(If Applicable)</i> :  <b>Attachment 4.19-D: Page 47(x)(2)(b)</b>	
10. SUBJECT OF AMENDMENT: <b>2017 NH UPL Payments (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 Bureau of Federal Relations &amp; Provider Assessments 99 Washington Ave – One Commerce Plaza Suite 1460 Albany, NY 12210</b>	
13. TYPED NAME: <b>Jason A. Helgerson</b>			
14. TITLE: <b>Medicaid Director Department of Health</b>			
15. DATE SUBMITTED: <b>JUN 29 2017</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**  
**2017 Title XIX State Plan**  
**Second Quarter Amendment**  
**Amended SPA Pages**

**New York  
47(x)(2)(b)**

For the period April 1, 1997 through March 31, 1999, proportionate share payments in an annual aggregate amount of \$631.1 million will be made under the medical assistance program to non-state public operated residential health care facilities, excluding public residential health care facilities operated by a town or city within a county. For the period April 1, 1999 through March 31, 2000, proportionate share payments in an annual aggregate amount of \$982 million will be made under the medical assistance program to non-state operated public residential health care facilities, excluding public residential health care facilities operated by a town or city within a county. For annual state fiscal year periods commencing April 1, 2000 and ending March 31, 2005, and April 1, 2005, through March 31, 2009, proportionate share payments in an annual aggregate amount of up to \$991.5 million and \$150.0 million, respectively, for state fiscal year April 1, 2009 through March 31, 2010, \$167 million, and for state fiscal years commencing April 1, 2010 through March 31, 2011, \$189 million in an annual aggregate amount, and for the period April 1, 2011 through March 31, 2012 an aggregate amount of \$172.5 million and for state fiscal years commencing April 1, 2012 through March 31, 2013, an aggregate amount of \$293,147,494, and for the period April 1, 2013 through March 31, 2014, \$246,522,355, and for the period April 1, 2014 through March 31, 2015, [\$500 million] \$305,254,832, and for the period April 1, 2015 through March 31, 2016, [\$500 million] \$255,208,911, [and] for the period April 1, 2016 through March 31, 2017, \$500 million, and April 1, 2017 through March 31, 2018, \$500 million in an annual aggregate amount will be made under the medical assistance program to non-state operated public residential health care facilities, including public residential health care facilities located in the counties of Erie, Nassau and Westchester, but excluding public residential health care facilities operated by a town or city within a county.

The amount allocated to each eligible public residential health care facility for the period April 1, 1997 through March 31, 1998 will be calculated as the result of \$631.1 million multiplied by the ratio of their 1995 Medicaid days relative to the sum of 1995 Medicaid days for all eligible public residential health care facilities. The amount allocated to each eligible public residential health care facility for the period April 1, 1998 through March 31, 1999 will be calculated as the result of \$631.1 million multiplied by the ratio of their 1996 Medicaid days relative to the sum of 1996 Medicaid days for all eligible public residential health care facilities. The amount allocated to each public residential health care facility for the period April 1, 1999 through March 31, 2000 will be calculated as the result of \$982 million multiplied by the ratio of their 1997 Medicaid days relative to the sum of 1997 Medicaid days for all eligible public residential health care facilities. The amount allocated to each public residential health care facility for annual state fiscal year periods commencing April 1, 2000 and ending March 31, 2005, and for annual state fiscal year periods commencing April 1, 2005 through March 31, 2009, and for state fiscal years commencing April 1, 2009 through March 31, 2011; April 1, 2011 through March 31, 2012; April 1, 2012 through March 31, 2013; April 1, 2013 through March 31, 2014; and April 1, 2014 through March 31, 2015; April 1, 2015 through March 31, 2016; [and] April 1, 2016 through March 31, 2017[,]; and April 1, 2017 through March 31, 2018, will be calculated as the result of the respective annual aggregate amount multiplied by the ratio of their Medicaid days relative to the sum of Medicaid days for all eligible public residential health care facilities for the calendar year period two years prior provided, however, that an additional amount of \$26,531,995 for the April 1, 2013 through March 2014 period will be distributed to those public residential health care facilities in the list which follows.

**TN #17-0038** \_\_\_\_\_

**Approval Date** \_\_\_\_\_

**Supersedes TN #16-0038** \_\_\_\_\_

**Effective Date** \_\_\_\_\_

**Appendix II**  
**2017 Title XIX State Plan**  
**Second Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #17-0038**

This State Plan Amendment proposes to make additional payments to non-state government operated nursing homes, including government nursing homes located in the counties of Erie, Nassau, and Westchester, but excluding government nursing homes operated by a town or city within a county in aggregate amounts of \$500 million for state fiscal year April 1, 2017 through March 31, 2018.

**Appendix III**  
**2017 Title XIX State Plan**  
**Second Quarter Amendment**  
**Authorizing Provisions**

**Chapter 57 of the Laws of 2017 – Part I**

(e-1) Notwithstanding any inconsistent provision of law or regulation, the commissioner shall provide, in addition to payments established pursuant to this article prior to application of this section, additional payments under the medical assistance program pursuant to title eleven of article five of the social services law for non-state operated public residential health care facilities, including public residential health care facilities located in the county of Nassau, the county of Westchester and the county of Erie, but excluding public residential health care facilities operated by a town or city within a county, in aggregate annual amounts of up to one hundred fifty million dollars in additional payments for the state fiscal year beginning April first, two thousand six and for the state fiscal year beginning April first, two thousand seven and for the state fiscal year beginning April first, two thousand eight and of up to three hundred million dollars in such aggregate annual additional payments for the state fiscal year beginning April first, two thousand nine, and for the state fiscal year beginning April first, two thousand ten and for the state fiscal year beginning April first, two thousand eleven, and for the state fiscal years beginning April first, two thousand twelve and April first, two thousand thirteen, and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand fourteen, April first, two thousand fifteen and April first, two thousand sixteen and of up to five hundred million dollars in such aggregate annual additional payments for the state fiscal years beginning April first, two thousand seventeen, April first, two thousand eighteen, and April first, two thousand nineteen. The amount allocated to each eligible public residential health care facility for this period shall be computed in accordance with the provisions of paragraph (f) of this subdivision, provided, however, that patient days shall be utilized for such computation reflecting actual reported data for two thousand three and each representative succeeding year as applicable, and provided further, however, that, in consultation with impacted providers, of the funds allocated for distribution in the state fiscal year beginning April first, two thousand thirteen, up to thirty-two million dollars may be allocated in accordance with paragraph (f-1) of this subdivision.



**Appendix IV  
2017 Title XIX State Plan  
Second Quarter Amendment  
Public Notice**

established by such social services districts pursuant to a rate-setting exemption granted by the Department, and assisted living program services.

The annual decrease in gross Medicaid expenditures for state fiscal year 2017/2018 is (\$208.8) million.

#### Institutional Services

- For the state fiscal year beginning April 1, 2017 through March 31, 2018, continues specialty hospital adjustments for hospital inpatient services provided on and after April 1, 2012, to public general hospitals, other than those operated by the State of New York or the State University of New York, located in a city with a population of over one million and receiving reimbursement of up to \$1.08 billion annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Payments to eligible public general hospitals may be added to rates of payment or made as aggregate payments.

- Extends current provisions for services on and after April 1, 2017 through March 30, 2020, the reimbursable operating cost component for general hospital inpatient rates will be established with the 2006 final trend factor equal to the final Consumer Price Index (CPI) for all urban consumers less 0.25%.

The estimated annual net decrease in gross Medicaid expenditures attributable to these cost containment initiatives contained in the budget for state fiscal year 2017/2018 is (\$114.5) million.

- Effective April 1, 2017, continues the supplemental upper payment limit payments made to general hospitals, other than major public general hospitals under institutional services of \$339 million annually.

- Capital related costs of a general hospital excluding 44% of the major movable costs and excluding staff housing costs will continue effective April 1, 2017 through March 31, 2020.

The estimated gross annual decrease in Medicaid expenditures for state fiscal year 2017/2018 for this initiative is (\$48.4) million.

- Budgeted capital inpatient costs of a general hospital applicable to the rate year will be decreased to reflect the percentage amount by which the budget for the base year two years prior to the rate year for capital related inpatient expenses of the hospital exceeded actual expenses will continue effective April 1, 2017 through March 31, 2020.

The estimated gross annual decrease in Medicaid expenditures for state fiscal year 2017/2018 for this initiative is (\$15.9) million.

#### Long Term Care Services

- For state fiscal year beginning April 1, 2017, continues additional payments to non-state government operated public residential health care facilities, including public residential health care facilities located in Nassau, Westchester, and Erie counties, but excluding public residential health care facilities operated by a town or city within a county, in aggregate amounts of up to \$500 million. The amount allocated to each eligible public RHCF will be in accordance with the previously approved methodology, provided, however that patient days shall be utilized for such computation reflecting actual reported data for 2014 and each representative succeeding year as applicable. Payments to eligible RHCF's may be added to rates of payment or made as aggregate payments.

- The quality incentive program for non-specialty nursing homes will continue for the 2017 rate year to recognize improvement in performance as an element in the program and provide for other minor modifications.

There is no additional estimated annual change to gross Medicaid expenditures attributable to this initiative for state fiscal year 2017/2018.

- This proposal eliminates the reimbursement to Nursing Homes for bed hold days through the repeal of PHL § 2808(25).

The estimated annual net decrease in gross Medicaid expenditures attributable to these cost containment initiatives contained in the budget for state fiscal year 2017/2018 is (\$22) million.

- Continues, effective for periods on and after April 1, 2017, the

total reimbursable state assessment on each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for inpatient or health-related services, including adult day service, but excluding gross receipts attributable to payments received pursuant to Title XVIII of the federal Social Security Act (Medicare), at six percent. The extent to which a facility is reimbursed for the additional cost of the assessment is dependent upon Medicaid volume of services.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2017/2018 is \$513 million.

- The following is notice of the continuation of the Advanced Training Program (ATI). First introduced in State fiscal year 2015/2016, ATI is a training program aimed at teaching staff to detect early changes in a resident's physical, mental, or functional status that could lead to hospitalization. Clinical findings show early detection of patient decline by front line workers, couple with clinical care models aimed at fostering consistent and continuous care between care givers and patients results in better care outcomes.

Training programs and their curricula from the previous ATI program may be used by facilities, new training programs will be submitted for Department review. In addition to offering a training program, eligible facilities must also have direct care staff retention above the statewide median. Hospital-based facilities and those receiving VAP funds will not be eligible to participate.

The estimated net aggregate cost contained in the budget for the continuation of the ATI program for 2017/2018 is \$46 million.

- The rates of payment for RHCFs shall not reflect trend factor projections or adjustments for the period April 1, 1996 through March 31, 1997 and continues the provision effective on and after April 1, 2017 through March 31, 2020.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2017/2018 is (\$12,749,000) million.

- Extends current provisions to services on and after April 1, 2017, the reimbursable operating cost component for RHCFs rates will be established with the final 2006 trend factor equal to the final Consumer Price Index (CPI) for all urban consumers less 0.25%.

The estimated annual net decrease in gross Medicaid expenditures attributable to these cost containment initiatives contained in the budget for state fiscal year 2017/2018 is (\$15,355,637) million.

#### Non-Institutional Services

- For state fiscal year beginning April 1, 2017 through March 31, 2018, continues hospital outpatient payment adjustments that increase the operating cost components of rates of payment for hospital outpatient and emergency departments on and after April 1, 2011, for public general hospitals other than those operated by the State of New York or the State University of New York, which are located in a city with a population of over one million. The amount to be paid will be up to \$287 million annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Payments may be added to rates of payment or made as aggregate payments.

- For the state fiscal year beginning April 1, 2017 through March 31, 2018, continues upon the election of the social services district in which an eligible diagnostic and treatment center (DTC) is physically located, up to \$12.6 million in additional annual Medicaid payments may be paid to public DTCs operated by the New York City Health and Hospitals Corporation. Such payments will be based on each DTC's proportionate share of the sum of all clinic visits for all facilities eligible for an adjustment for the base year two years prior to the rate year. The proportionate share payments may be added to rates of payment or made as aggregate payments to eligible DTCs.

- For the state fiscal year beginning April 1, 2017 through March 31, 2018, continues up to \$5.4 million in additional annual Medicaid payments may be paid to county operated free-standing clinics, not including facilities operated by the New York City Health and Hospitals Corporation, for services provided by such DTC and those

# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE Office of General Services

Pursuant to Section 30-a of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the Office of General Services has determined that the vacant parcel of land located on the southwest corner of Bronx River Road and Midland Avenue, City of Yonkers, Westchester County, consisting of 7,705± square feet, is no longer useful or necessary for their purposes and has declared the same abandoned for sale or other disposition as Unappropriated State land.

*For further information, please contact:* Frank Pallante, Esq., Office of General Services, Legal Services, 41st Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831, (518) 473-4973 fax

## PUBLIC NOTICE Department of Health Certification

Section 1198 of the New York State Vehicle and Traffic Law authorizes me, as delegated by the Commissioner of Health, to approve ignition interlock devices for installation in the vehicles of persons required or otherwise ordered by a court as a condition of probation to install and operate such devices in any vehicle that he or she owns or operates. Ignition interlock devices must meet or exceed minimum performance specifications established by the Department of Health, as set forth in Sections 59.10, 59.11 and 59.12 of 10 NYCRR.

This is to certify that the L250 model ignition interlock, manufactured by #1 A LifeSafer, Inc., has met device performance specifications and is in compliance with all requirements of 10 NYCRR Part 59.

This certification is effective May 12, 2017, and notice thereof will be published in the New York State Register.

Jill Taylor, Ph.D.  
Director, Wadsworth Center  
New York State Department of Health

## PUBLIC NOTICE Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for long term care services to comply with enacted statutory provisions. The following changes are proposed:

### Institutional Services

The following is a clarification to the March 29, 2017 noticed provision for additional payments to non-state government operated public residential health care facilities, including public residential health care facilities located in Nassau, Westchester, and Erie Counties, but excluding public residential health care facilities operated by a town or city within a county, in aggregate amounts of up to \$500 million. This notice clarifies that the patient days shall be utilized for such computation reflecting actual reported data for 2015 and each representative succeeding year as applicable.

There is no additional estimated annual change to gross Medicaid expenditures as a result of this clarification.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status). In addition, approved SPA's beginning in 2011, are also available for viewing on this website.

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County  
250 Church Street  
New York, New York 10018

Queens County, Queens Center  
3220 Northern Boulevard  
Long Island City, New York 11101

Kings County, Fulton Center  
114 Willoughby Street  
Brooklyn, New York 11201

Bronx County, Tremont Center  
1916 Monterey Avenue  
Bronx, New York 10457

Richmond County, Richmond Center  
95 Central Avenue, St. George  
Staten Island, New York 10301

*For further information and to review and comment, please contact:*

Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, e-mail: spa\_inquiries@health.ny.gov

## PUBLIC NOTICE

Department of State

F-2017-0132; F-2017-0300; F-2017-0309; F-2017-0321; and  
F-2017-0346

Date of Issuance – May 31, 2017

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicants below have certified that proposed activities comply with and will be conducted in a manner consistent with the approved New York State Coastal Management Program (NYSCMP). The applicants' consistency certifications and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2017-0132, "Hart Island Shoreline Restoration", the applicant – NYC Department of Corrections – proposes implementation of a shoreline stabilization plan for Hart Island, Bronx, situated in the Long Island Sound. The island has historic and archaeological significance due to the former uses of the site dating back to the Civil War to support a prison, asylum, hospital, and reformatory. It is presently used as a graveyard for the poor and for unidentified citizens from New York City. The shoreline plan is composed of three focus areas – East, West, and North shorelines. Existing, historic stone and mortar walls located along the East and West shorelines will be repaired in kind and in place where there are localized damages. On the West shoreline, where the structure has locally failed, the shore will be graded and sloped and a rip rap revetment will be emplaced. The North shoreline is fully exposed to wave and wind energy as no protective structures are present. To mitigate this exposure, the applicant proposes installation of 1,630 linear feet of riprap revetment. All activities are proposed in the interest of protecting historic, archaeologically and culturally significant features comprising the site and any disturbance of these resources will be avoided. The proposed work includes prior removal of debris and trash from the island.

In F-2017-0300, "Pier 42 Redevelopment, Phases 1a and 1b", the applicant – NYC Economic Development Corporation – proposes, as 1a, demolition of a vacant, 106,900 square foot, one-story, steel frame warehouse structure. The facility sits on a concrete deck supported by concrete piles. This phase of work involves lead and asbestos abatement of the warehouse structure and partial demolition of the building. An existing reinforced concrete deck bulkhead and piles will remain in place in current condition. No filling, dredging, or work below mean high water is associated with phase 1a. Phase 1b involves maintenance of an existing 240 linear foot concrete and granite block seawall. Work involves re-grouting, resetting, or replacing missing or loose granite blocks, repairing spalling concrete, and installing a new capstone. Areas of maintenance below mean high water will be repaired during low tide cycles. The site is located south of the FDR drive and north of the East River, between Montgomery Street and East River Park. An asphalt bike path that is part of the Manhattan Greenway runs alongside the northern border of the parcel, within the Project site. The remainder of the Project area consists of paved parking.

In F-2017-0309, the applicant – Peckham Materials Corporation – proposes maintenance dredging to restore and preserve safe draft depths along an existing industrial site bulkhead for commercial barges entering and leaving the site. The proposed dredge area is 60' x 690' (41,400 square feet) with a maximum depth of 12' below mean low water. The estimated volume of material to be removed is estimated to be between 10,000 and 15,000 cubic yards to accomplish the first dredging event. Future maintenance will involve less material – approximately 1,000 cubic yards per dredging event with an anticipated frequency of one dredging event to occur each year

depending on conditions at the site. The project also includes maintenance/ repair of the existing bulkhead. The site is located at 3966 Provost Avenue, Bronx on the Cowanus Canal.

In F-2017-0321, "Mill Basin Bulkhead Replacement", the applicant –KIOP, Mill Basin, LLP – proposes replacement of an existing, severely deteriorated, anchored, steel sheet pile bulkhead to a safe condition and prevent further loss of material into the adjacent water body. Numerous corrosion holes exist in the sheet piling causing loss of fill from behind the bulkhead with potential impacts to the supporting pedestrian walkway and vehicle roadway. The horizontal wale anchoring the bulkhead is completely corroded in several locations. The replacement involves installation of a new cantilever steel bulkhead, approximately 5'-6' outboard of the existing bulkhead face, and placement of approximately 3,160 cubic yards of clean, granular fill within the gap. Of this fill material, 1,735 cubic yards would be below mean high water. The project plan includes proposed removal of approximately 3,220 square feet of riprap along the south side of the site adjacent to the existing bulkhead, resulting in 602 cubic yards of fill removed below the mean high water line. A new concrete walkway will be installed atop the new bulkhead as well as a pedestrian railing and the vehicle roadway will be paved. The site is located at 5702 Avenue U, Brooklyn, NY on the Mill Basin.

In F-2017-0346, the applicant –Nick's Lobster House – proposes to install a 6' x 100' floating dock, a 6' x 150' floating dock, (5) 3' x 20' finger floats, and (4) 12' x 50' mooring piles within an existing marina servicing access to Nick's Lobster House – a fish market and seafood restaurant open to the public. The business and marina facility are located at 2777 Flatbush Avenue, Brooklyn, NY on the Mill Basin.

Interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice or June 15, 2017. Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning and Development, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

### Susquehanna River Basin Commission

#### Commission Meeting

**SUMMARY:** The Susquehanna River Basin Commission will hold its regular business meeting on June 16, 2017, in Entriken, Pennsylvania. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice.

**DATES:** The meeting will be held on Friday, June 16, 2017, at 9 a.m.

**ADDRESSES:** The meeting will be held at the Lake Raystown Resort, River Birch Ballroom, 3101 Chipmunk Crossing, Entriken, PA 16638.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel, 717-238-0423, ext. 1312.

**SUPPLEMENTARY INFORMATION:** The business meeting will include actions or presentations on the following items: (1) informational presentation of interest to the Juniata Subbasin area; (2) election of officers for FY2018; (3) the proposed Water Resources Program for fiscal years 2018 and 2019; (4) amendment of the Comprehensive Plan for the Water Resources of the Susquehanna River Basin; (5) the proposed FY2018 Regulatory Program Fee Schedule; (6) adoption of a preliminary FY2019 budget; (7) treasury management services agreement with First National Bank; (8) ratification/approval of contracts/grants; (9) rulemaking action to amend Commission regulations to clarify application requirements and standards for review of projects, amend the rules dealing with the mitigation of consumptive uses, add a subpart to provide for registration of grandfathered projects, and revise requirements dealing with hearings and enforcement

**Appendix V**  
**2017 Title XIX State Plan**  
**Second Quarter Amendment**  
**Responses to Standard Funding Questions**

**LONG TERM CARE SERVICES  
State Plan Amendment #17-0038**

**CMS Standard Funding Questions (NIRT Standard Funding Questions)**

The following questions are being asked and should be answered in relation to all payments made to all providers under Attachment 4.19-D of your state plan.

- 1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)**

**Response:** Providers do retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular A-87 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

- 2. Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem,**

supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local government entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:

- (i) a complete list of the names of entities transferring or certifying funds;
- (ii) the operational nature of the entity (state, county, city, other);
- (iii) the total amounts transferred or certified by each entity;
- (iv) clarify whether the certifying or transferring entity has general taxing authority; and,
- (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).

**Response:** Payments made to service providers under the provisions of this SPA are funded with federal and local funding through an Intergovernmental Transfer (IGT). For these payments, the non-Federal share totals of up to \$250 million and is transferred from the sponsoring local county governments, who do have general taxing authority. There are no State appropriations for these governments for this purpose.

Regarding your question on the matching arrangement when the state receives the transferred amounts from the local government entity, please refer to the October 23, 2006 letter from Nicholas Meister, previously provided to CMS, whereby instructions are provided to local government entities when transferring funds for this purpose.

3. **Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.**

**Response:** For the period April 1, 2017 through March 31, 2018 supplemental payments authorized in this Attachment will be paid to providers of services in an

amount totaling \$500 million. These payments will be made to the non-state government owned or operated provider category.

- 4. Please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated, non-state government owned or operated, and privately owned or operated). Please provide a current (i.e. applicable to the current rate year) UPL demonstration. Under regulations at 42 CFR 4447.272, States are prohibited from setting payment rates for Medicaid inpatient services that exceed a reasonable estimate of the amount that would be paid under Medicare payment principals.**

**Response:** The State and CMS are having ongoing discussion regarding the 2016 NH UPL demonstration upon which the current years are contingent on.

- 5. Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?**

**Response:** Effective January 1, 2012, the rate methodology included in the approved State Plan for non-specialty nursing facility services for the operating component of the rate is a blended statewide/peer group price adjusted for case mix and wage differentials (WEF). Specialty nursing facility and units are paid the operating rate in effect on January 1, 2009. The capital component of the rate for all specialty and non-specialty facilities is based upon a cost based methodology.

We are unaware of any requirement under current federal law or regulation that limits individual provider payments to their actual costs.

#### **ACA Assurances:**

- 1. Maintenance of Effort (MOE). Under section 1902(gg) of the Social Security Act (the Act), as amended by the Affordable Care Act, as a condition of receiving any Federal payments under the Medicaid program during the MOE period indicated below, the State shall not have in effect any eligibility standards, methodologies, or procedures in its Medicaid program which are more restrictive than such eligibility provisions as in effect in its Medicaid program on March 10, 2010.**

#### **MOE Period.**

- **Begins on: March 10, 2010, and**
- **Ends on: The date the Secretary of the Federal Department of Health and Human Services determines an Exchange established by a State under the provisions of section 1311 of the Affordable Care Act is fully operational.**



**Response:** This SPA complies with the conditions of the MOE provision of section 1902(gg) of the Act for continued funding under the Medicaid program.

2. **Section 1905(y) and (z) of the Act provides for increased FMAPs for expenditures made on or after January 1, 2014 for individuals determined eligible under section 1902(a)(10)(A)(i)(VIII) of the Act. Under section 1905(cc) of the Act, the increased FMAP under sections 1905(y) and (z) would not be available for States that 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.**

**Prior to January 1, 2014 States may potentially require contributions by local political subdivisions toward the non-Federal share of the States' expenditures at percentages greater than were required on December 31, 2009. However, because of the provisions of section 1905(cc) of the Act, it is important to determine and document/flag any SPAs/State plans which have such greater percentages prior to the January 1, 2014 date in order to anticipate potential violations and/or appropriate corrective actions by the States and the Federal government.**

**Response:** This SPA would [ ] / would not [✓] violate these provisions, if they remained in effect on or after January 1, 2014.

3. **Please indicate whether the State is currently in conformance with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.**

**Response:** The State does comply with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

**Tribal Assurance:**

**Section 1902(a)(73) of the Social Security Act the Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular ongoing basis from designees of Indian health programs whether operated by the Indian Health Service HIS Tribes or Tribal organizations under the Indian Self Determination and Education Assistance Act ISDEAA or Urban Indian Organizations under the Indian Health Care Improvement Act.**

**IHCIA Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program CHIP. Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.**

- a) **Please describe the process the State uses to seek advice on a regular ongoing basis from federally recognized tribes Indian Health Programs and Urban Indian Organizations on matters related to**

**Medicaid and CHIP programs and for consultation on State Plan Amendments waiver proposals waiver extensions waiver amendments waiver renewals and proposals for demonstration projects prior to submission to CMS.**

- b) Please include information about the frequency inclusiveness and process for seeking such advice.**
- c) Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment when it occurred and who was involved.**

**Response:** Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 11-06, and documentation of such is included with this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.