



Department of Health

ANDREW M. CUOMO
Governor

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

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

March 27, 2020

National Institutional Reimbursement Team
Attention: Mark Cooley
CMS, CMCS
7500 Security Boulevard, M/S S3-14-28
Baltimore, MD 21244-1850

RE: SPA #20-0013
Long Term Care Facility Services

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #20-0013 to the Title XIX (Medicaid) State Plan for long term care facility services to be effective January 1, 2020 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the proposed amendment is provided in Appendix II.

This amendment is submitted pursuant to §1902(a) of the Social Security Act (42 USC 1396a(a)) and Title 42 of the Code of Federal Regulations, Part 447, Subpart C, (42 CFR §447).

A copy of the pertinent section of enacted legislation is enclosed for your information (Appendix III). Copies of the public notice of this proposed amendment, which was given in the New York State Register on December 31st, 2019 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 Regina Deyette, Medicaid State Plan Coordinator, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 473-3658.

Sincerely,


Donna Frescatore
Medicaid Director
Office of Health Insurance Programs

Enclosures
cc: Mr. Ricardo Holligan

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>2 0 — 0 0 1 3</u>	2. STATE New York
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1, 2020	

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT


COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION §1902(a)(30) of the Social Security Act and 42 CFR 447	7. FEDERAL BUDGET IMPACT a. FFY <u>01/01/20-09/30/20</u> \$ <u>6151.39</u> b. FFY <u>10/1/20-9/30/21</u> \$ <u>9842.22</u>
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment: Page number TBD	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>) Attachment: Page number TBD

10. SUBJECT OF AMENDMENT
2% DSP Clinical Compensation Increase
(FMAP=50%)

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE 	16. RETURN TO New York State Department of Health Division of Finance and Rate Setting 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210
13. TYPED NAME Donna Frescatore	
14. TITLE Medicaid Director, Department of Health	
15. DATE SUBMITTED March 27, 2020	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED	18. DATE APPROVED
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME	22. TITLE

23. REMARKS

Appendix I
2020 Title XIX State Plan
First Quarter Amendment
Amended SPA Pages

Appendix II
2020 Title XIX State Plan
First Quarter Amendment
Summary

SUMMARY
SPA #20-0013

This State Plan Amendment proposes to change the methods and standards for determining payment rates for all qualifying Mental Hygiene Services to provide funding to support a two percent increase in annual salary and salary-related fringe benefits to direct care staff and direct support professionals, effective January 1, 2020.

A new two percent increase in annual salary and salary-related fringe benefits will be applied to direct care staff, direct support professionals and clinical staff for all qualifying Mental Hygiene Services, effective April 1, 2020.

Appendix III
2020 Title XIX State Plan
First Quarter Amendment
Authorizing Provisions

1 fraud, identifies medical assistance overpayments made by a managed care
2 provider or managed long term care plan to its subcontractor or subcon-
3 tractors or provider or providers, the state shall have the right to
4 recover the overpayment from the subcontractor or subcontractors,
5 provider or providers, or the managed care provider or managed long term
6 care plan; provided, however, in no event shall the state duplicate the
7 recovery of an overpayment from a provider or subcontractor.

8 (b) Where the state is unsuccessful in recovering an overpayment from
9 the subcontractor or subcontractors or provider or providers, the Medi-
10 caid inspector general may require the managed care provider or managed
11 long term care plan to recover the medical assistance overpayment iden-
12 tified in paragraph (a) of this subdivision on behalf of the state. The
13 managed care provider or managed long term care plan shall remit to the
14 state the full amount of the identified overpayment no later than six
15 months after receiving notice of the overpayment from the state.

16 § 7. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after April 1, 2019; provided,
18 however, that the amendments to section 364-j of the social services law
19 made by sections one, two, three, and six of this act shall not affect
20 the repeal of such section and shall be deemed repealed therewith;
21 provided further, that section three of this act shall apply to a
22 contract or contracts in effect as of January 1, 2015 or thereafter and
23 any review period in section three of this act shall not begin before
24 January 1, 2018.

25

PART W

26 Section 1. Section 1 of part D of chapter 111 of the laws of 2010
27 relating to the recovery of exempt income by the office of mental health
28 for community residences and family-based treatment programs, as amended
29 by section 1 of part H of chapter 59 of the laws of 2016, is amended to
30 read as follows:

31 Section 1. The office of mental health is authorized to recover fund-
32 ing from community residences and family-based treatment providers
33 licensed by the office of mental health, consistent with contractual
34 obligations of such providers, and notwithstanding any other inconsis-
35 tent provision of law to the contrary, in an amount equal to 50 percent
36 of the income received by such providers which exceeds the fixed amount
37 of annual Medicaid revenue limitations, as established by the commis-
38 sioner of mental health. Recovery of such excess income shall be for the
39 following fiscal periods: for programs in counties located outside of
40 the city of New York, the applicable fiscal periods shall be January 1,
41 2003 through December 31, 2009 and January 1, 2011 through December 31,
42 ~~2019~~ 2022; and for programs located within the city of New York, the
43 applicable fiscal periods shall be July 1, 2003 through June 30, 2010
44 and July 1, 2011 through June 30, ~~2019~~ 2022.

45 § 2. This act shall take effect immediately.

46

PART X

47

Intentionally Omitted

48

PART Y

49 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
50 57 of the laws of 2006, relating to establishing a cost of living

1 adjustment for designated human services programs, as amended by section
2 1 of part AA of chapter 57 of the laws of 2018, are amended to read as
3 follows:

4 3-b. Notwithstanding any inconsistent provision of law, beginning
5 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and
6 ending March 31, ~~2019~~ 2020, the commissioners shall not include a COLA
7 for the purpose of establishing rates of payments, contracts or any
8 other form of reimbursement, provided that the commissioners of the
9 office for people with developmental disabilities, the office of mental
10 health, and the office of alcoholism and substance abuse services shall
11 not include a COLA beginning April 1, 2017 and ending March 31, ~~2019~~
12 2021.

13 3-c. Notwithstanding any inconsistent provision of law, beginning
14 April 1, ~~2019~~ 2020 and ending March 31, ~~2022~~ 2023, the commissioners
15 shall develop the COLA under this section using the actual U.S. consumer
16 price index for all urban consumers (CPI-U) published by the United
17 States department of labor, bureau of labor statistics for the twelve
18 month period ending in July of the budget year prior to such state
19 fiscal year, for the purpose of establishing rates of payments,
20 contracts or any other form of reimbursement.

21 § 2. Section 1 of part C of chapter 57 of the laws of 2006, relating
22 to establishing a cost of living adjustment for designated human
23 services programs, is amended by adding a new subdivision 3-f to read as
24 follows:

25 3-f. (i) Notwithstanding the provisions of subdivision 3-b of this
26 section or any other inconsistent provision of law, and subject to the
27 availability of the appropriation therefor, for the programs listed in
28 paragraphs (i), (ii), and (iii) of subdivision 4 of this section, the
29 commissioners shall provide funding to support (1) an overall average
30 two percent (2.00%) increase to total salaries for direct care staff,
31 direct support professionals for each eligible state-funded program
32 beginning January 1, 2020; and (2) an overall average two percent
33 (2.00%) increase to total salaries for direct care staff and direct
34 support professionals, and clinical staff for each eligible state-funded
35 program beginning April 1, 2020. For the purpose of this funding
36 increase, direct support professionals are individuals employed in
37 consolidated fiscal reporting position title codes ranging from 100 to
38 199; direct care staff are individuals employed in consolidated fiscal
39 reporting position title codes ranging from 200 to 299; and clinical
40 staff are individuals employed in consolidated fiscal reporting position
41 title codes ranging from 300 to 399.

42 (ii) The funding made available pursuant to paragraph (i) of this
43 subdivision shall be used: (1) to help alleviate the recruitment and
44 retention challenges of direct care staff, direct support professionals
45 and clinical staff employed in eligible programs; and (2) to continue
46 and to expand efforts to support the professionalism of the direct care
47 workforce. Each local government unit or direct contract provider
48 receiving such funding shall have flexibility in allocating such funding
49 to support salary increases to particular job titles to best address the
50 needs of its direct care staff, direct support professionals and clin-
51 ical staff. Each local government unit or direct contract provider
52 receiving such funding shall also submit a written certification, in
53 such form and at such time as each commissioner shall prescribe, attest-
54 ing to how such funding will be or was used for purposes eligible under
55 this section. Further, providers shall submit a resolution from their
56 governing body to the appropriate commissioner, attesting that the fund-

1 ing received will be used solely to support salary and salary-related
2 fringe benefit increases for direct care staff, direct support profes-
3 sionals and clinical staff, pursuant to paragraph (i) of this subdivi-
4 sion. Salary increases that take effect on and after April 1, 2019 may
5 be used to demonstrate compliance with the January 1, 2020 funding
6 increase authorized by this section, except for salary increases neces-
7 sary to comply with state minimum wage requirements. Such commissioners
8 shall be authorized to recoup any funds as appropriated herein deter-
9 mined to have been used in a manner inconsistent with such standards or
10 inconsistent with the provisions of this subdivision, and such commis-
11 sioners shall be authorized to employ any legal mechanism to recoup such
12 funds, including an offset of other funds that are owed to such local
13 governmental unit or provider.

14 (iii) Where appropriate transfers to the department of health shall be
15 made as reimbursement for the state share of medical assistance.

16 § 3. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after April 1, 2019; provided,
18 however, that the amendments to section 1 of part C of chapter 57 of the
19 laws of 2006 made by sections one and two of this act shall not affect
20 the repeal of such section and shall be deemed repealed therewith.

21

PART Z

22 Section 1. Subdivision 1 of section 2801 of the public health law, as
23 amended by section 1 of subpart B of part S of chapter 57 of the laws of
24 2018, is amended to read as follows:

25 1. "Hospital" means a facility or institution engaged principally in
26 providing services by or under the supervision of a physician or, in the
27 case of a dental clinic or dental dispensary, of a dentist, or, in the
28 case of a midwifery birth center, of a midwife, for the prevention,
29 diagnosis or treatment of human disease, pain, injury, deformity or
30 physical condition, including, but not limited to, a general hospital,
31 public health center, diagnostic center, treatment center, dental clinic,
32 dental dispensary, rehabilitation center other than a facility used
33 solely for vocational rehabilitation, nursing home, tuberculosis hospital,
34 chronic disease hospital, maternity hospital, midwifery birth
35 center, lying-in-asylum, out-patient department, out-patient lodge,
36 dispensary and a laboratory or central service facility serving one or
37 more such institutions, but the term hospital shall not include an
38 institution, sanitarium or other facility engaged principally in provid-
39 ing services for the prevention, diagnosis or treatment of mental disa-
40 bility and which is subject to the powers of visitation, examination,
41 inspection and investigation of the department of mental hygiene except
42 for those distinct parts of such a facility which provide hospital
43 service. The provisions of this article shall not apply to a facility or
44 institution engaged principally in providing services by or under the
45 supervision of the bona fide members and adherents of a recognized reli-
46 gious organization whose teachings include reliance on spiritual means
47 through prayer alone for healing in the practice of the religion of such
48 organization and where services are provided in accordance with those
49 teachings. No provision of this article or any other provision of law
50 shall be construed to: (a) limit the volume of mental health ~~or~~,
51 substance use disorder services or developmental disability services
52 that can be provided by a provider of primary care services licensed
53 under this article and authorized to provide integrated services in
54 accordance with regulations issued by the commissioner in consultation

**Appendix IV
2020 Title XIX State Plan
First Quarter Amendment
Public Notice**

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

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 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 institutional, non-institutional and long term care services to comply with proposed statutory provisions. The following changes are proposed:

All Services

Effective for dates of service on or after January 1, 2020, through March 31, 2020, and each State Fiscal Year thereafter, all non-exempt Department of Health state funds Medicaid payments will be uniformly reduced by 1.0%. Medicaid payments that will be exempted from the uniform reduction include:

Payments based on federal law prohibitions include, but are not limited to, the following:

- Federally Qualified Health Center services;
- Indian Health Services and services provided to Native Americans;
- Supplemental Medical Insurance – Part A and Part B;
- State Contribution for Prescription Drug Benefit (aka Medicare Part D payments);
- Any local share cap payment required by the Federal Medical Assistance Percentage (FMAP) increase legislation;
- Required payments related to the School Supportive Health Services Program and Preschool Supportive Health Services Program;
- Services provided to American citizen repatriates;
- Payments pursuant to the mental hygiene law;
- Court orders and judgments; and
- Hospice Services.

Payments funded exclusively with federal and/or local funds include, but are not limited to the following:

- Upper payment limit payments to non-state owned or operated governmental providers certified under Article 28 of the NYS Public Health Law;
- Certified public expenditure payments to the NYC Health and Hospital Corporation;
- Certain disproportionate share payments to non-state operated or owned governmental hospitals;
- Certain managed care payments pursuant to section 3-d of Part B of the Chapter 58 of the Laws of 2010; and
- Services provided to inmates of local correctional facilities.

Payments where applying the reduction would result in a lower FMAP as determined by the Commissioner of Health and the Director of the Budget will also be exempt.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 2019-20 is (\$124,000,000) and (\$496,000,000) for each State Fiscal Year thereafter.

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. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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 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 all qualifying Mental Hygiene services to comply with enacted statutory provisions. The following changes are proposed:

Long Term Care

Effective on or after January 1, 2020, the State will change the methods and standards for determining payment rates for all qualifying Mental Hygiene Services to provide funding to support a two percent increase in annual salary and salary-related fringe benefits to direct care staff and direct support professionals.

Effective on or after April 1, 2020, a new two percent increase in annual salary and salary-related fringe benefits will be applied to direct care staff, direct support professionals and clinical staff for all qualifying Mental Hygiene Services. For the purposes of the January 1 and April 1, 2020, funding increases, direct support professionals are individuals employed in consolidated fiscal reporting position title codes ranging from 100 to 199; direct care staff are individuals employed in consolidated fiscal reporting position title codes ranging from 200 to 299; and clinical staff are individuals employed in consolidated fiscal reporting position title codes ranging from 300 to 399.

The estimated annual net aggregate increase in gross Medicaid expenditure attributable to this initiative enacted into law as part of the budget for SFY 2019/2020 is \$140 million.

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. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave., One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, Fax (518) 473-8825, spa_inquiries@health.state.ny.us

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 non-institutional services to revise provisions of the Ambulatory Patient Group (APG) reimbursement methodology and Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) fees. The following changes are proposed:

Non-Institutional

For the effective period January 1, 2020 through December 31, 2020, the Ambulatory Patient Group (APG) reimbursement methodology is extended.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative is \$0.

Effective on or after January 1, 2020, the Ambulatory Patient Group (APG) reimbursement methodology is revised to include recalculated weight and component updates.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative is \$3.87 million.

Effective on or after January 1, 2020, the Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) fees are revised.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative is \$0.

The public is invited to review and comment on this proposed State Plan Amendment. Copies of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status.

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, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave., One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, Fax (518) 473-8825, spa_inquiries@health.state.ny.us

PUBLIC NOTICE

Nassau County

The Deferred Compensation Plan for Employees of Nassau Health Care Corporation (the "Plan"), a 457(b) plan created under the laws of the State of New York and pursuant to Section 457(b) of the Internal Revenue Code, is seeking proposals from qualified firms to:

Provide consulting services to the Plan regarding monitoring the performance of the current plan record keeper/administrative service agent, investment manager, and trustee, and overall plan investment performance.

Proposals will be accepted until 4:00 p.m. on Monday, February 10, 2020.

A copy of the Request for Proposals may be obtained during normal business hours (9:00 a.m. to 5:00 p.m. – Weekdays) from: Richard

Appendix V
2020 Title XIX State Plan
First Quarter Amendment
Responses to Standard Funding Questions

**APPENDIX V
LONG TERM CARE SERVICES
State Plan Amendment #20-0013**

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 the 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 2 CFR 200 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 through a budget appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Medicaid General Fund Local Assistance Account, which is part of the Global Cap. The Global Cap is funded by General Fund and HCRA resources. There have been no new provider taxes and no existing taxes have been modified.

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: The payments authorized for this provision are not supplemental or enhanced payments.

- 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 447.272, 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 working toward completing and approval of the current year UPL.

- 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 equalization factor (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, 2015.

- 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 17-0065, and documentation of such is included with the original submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.
