



KATHY HOCHUL
Governor

Department
of Health

MARY T. BASSETT, M.D., M.P.H.
Acting Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

December 30, 2021

Todd McMillion
Director
Department of Health and Human Services
Centers for Medicare and Medicaid Services
233 North Michigan Ave, Suite 600
Chicago, IL 60601

RE: SPA #21-0062
Long Term Care Facility Services

Dear Mr. McMillion:

The State requests approval of the enclosed amendment #21-0062 the Title XIX (Medicaid) State Plan for long term care facility services to be effective October 1, 2021 (Appendix I). This amendment is being submitted based on the Federal stimulus funding under the American Rescue Act to aid providers in the recovery of the COVID emergency. 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). A copy of the public notice of this proposed amendment, which was given in the New York State Register on September 29, 2021, 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,

Brett R. Friedman
Acting Medicaid Director
Office of Health Insurance Programs

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: 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

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

7. FEDERAL BUDGET IMPACT

a. FFY _____ \$ _____

b. FFY _____ \$ _____

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

10. SUBJECT OF AMENDMENT

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 OF STATE AGENCY OFFICIAL

16. RETURN TO

13. TYPED NAME Brett R. Friedman

14. TITLE

15. DATE SUBMITTED December 30, 2021

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED

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
2021 Title XIX State Plan
Fourth Quarter Amendment
Amended SPA Pages

**New York
110(d)(29)**

Nursing Home Advanced Training Incentive Payments

Advanced Training Incentive Payments to Eligible Facilities. Effective June 1, 2015, the state will annually distribute \$46 million to eligible nursing facilities in State Fiscal Years 2016, 2017, 2020, and thereafter. The purpose of these incentive payments is to reduce avoidable hospital admissions for nursing home residents. New York will incentivize and encourage facilities to develop training programs aimed at early detection of patient decline. Such programs will allow frontline caregivers to provide staff with the training/tools needed to identify resident characteristics that may signify clinical complications. A comprehensive training program will lead to consistent staff assignment to ensure that families and residents can rely on highly trained caregivers to provide effective, high quality, individualized care.

Patient decline detection programs will assist caregivers with identifying residents who are exhibiting warning signs for worsening clinical conditions and allow for rapid intervention to avoid the decline and possible hospitalization. The goal of such training programs will be to reign in the high costs of avoidable hospitalizations, improving the quality of life for New York's nursing home residents. This initiative will reward eligible nursing home providers who are those that have shown a commitment to giving direct care staff the tools to help lower resident hospitalization rates.

In State Fiscal Year 2022, an additional \$150 million will be provided for a one year expansion of the existing advanced training programs that have proven effective at assisting caregivers in identifying patient decline and avoiding hospitalizations. These new programs will offer frontline caregivers with the opportunity to receive training and tools needed to identify resident characteristics indicative of readiness for community transition and reintegration through the receipt of HCBS. Moreover, these programs that encourage consistent staff assignments can train caregivers to identify improvements in clinical conditions that may suggest the ability to be discharged from nursing home and long-term care facilities with appropriate HCBS support, including for residents who are receiving rehabilitative services in a nursing facility.

The annual amount for both original and enhanced ATI will be distributed proportionally to each eligible facility based on its relative share of Medicaid bed days to total Medicaid bed days of all such eligible facilities. Incentive payments will be paid in two lump sum adjustments to supplement nursing facility rates. 75% will be paid in the October - December quarter and the 25% will be paid in the January - March quarter.

To be eligible for this incentive payment, in each state fiscal year a facility must:

- 1) Provide a training program to direct care staff that has been reviewed and approved by the Department to assist direct care staff identify changes in a resident's physical, mental, or functional status that could lead to hospitalization. The training program will be subject to Department of Health oversight; and
- 2) Have a direct care staff retention rate above the statewide median; and
- 3) Not be excluded from participating in this program.

TN #21-0062
Supersedes TN #20-0030

Approval Date _____
Effective Date October 1, 2021

Appendix II
2021 Title XIX State Plan
Fourth Quarter Amendment
Summary

SUMMARY
SPA #21-0062

This amendment proposes to revise the State Plan to enhance (increase) state nursing facilities' incentive payments to provide training in order to avoid hospitalization and improve community discharge rates. These funds will be provided for the period October 1, 2021 through March 31, 2022 to aid providers in the recovery of the COVID emergency.

This one time \$150 million enhancement will use the enhanced FMAP for HCBS to expand and enhance advanced training programs incentives for direct care workers to recognize signs of patient clinical improvement and the potential for HCBS programs and services to allow for community discharge and reintegration. This program would continue New York's work toward ensuring that individuals receive Medicaid-funded services in the least restrictive setting and permitting facility discharge when appropriate HCBS services and supports are identified. This program will also reward eligible nursing home providers that have shown a commitment to giving direct care staff tools to help assist in appropriate discharge to community-based settings.

Appendix III
2021 Title XIX State Plan
Fourth Quarter Amendment
Authorizing Provisions

21-0062 Authorizing Language

The American Rescue Plan Act (ARPA) was signed into law on March 11, 2021. Section 9817 of ARPA provides a 10 percent increase in Federal Medical Assistance Percentage (FMAP) to state Medicaid programs from April 1, 2021 to March 30, 2022 to supplement existing state expenditures on home and community-based services (HCBS). As detailed in State Medicaid Direct Letter #21-003, issued by the Centers for Medicare & Medicaid Services (CMS) on May 13, 2021 (the SMDL), CMS affords states the ability to invest or reinvest these funds in a variety of ways that expand and enhance investments in Medicaid-covered HCBS, address COVID-related needs, and build HCBS capacity. While these enhanced funds are generated until April 1, 2022, states may expend these funds any time before March 31, 2024.

Expand Advanced Training Incentive (ATI) Program for HCBS Transitions from Nursing Homes

Background: Since 2015, New York has provided funding to eligible providers to reduce avoidable hospital admissions for nursing home residents through the development of advanced training programs aimed at early detection of patient decline. Such comprehensive advanced training programs allow frontline caregivers to provide staff with the training/tools needed to identify resident characteristics that may signify clinical complications.

These comprehensive training programs have resulted in consistent staff assignment to ensure that families and Medicaid members can rely on highly trained caregivers to provide effective, high quality, individualized care. Patient decline detection programs also assist caregivers with identifying individuals who are exhibiting warning signs for worsening clinical conditions and allow for rapid intervention to avoid the decline and possible hospitalization. The goal of such training programs is to rein in the high costs of avoidable hospitalizations, improving the quality of life for these individuals.

Similar to existing advanced training programs that have proven effective at assisting caregivers in identifying patient decline and avoiding hospitalizations, these programs have the strong potential for efficacy at offering frontline caregivers with the opportunity to receive training and tools needed to identify resident characteristics indicative of readiness for community transition and reintegration through the receipt of HCBS. Moreover, these programs that encourage consistent staff assignments can train caregivers to identify *improvements* in clinical conditions that may suggest the ability to be discharged from nursing home and long-term care facilities with appropriate HCBS support, including for residents who are receiving rehabilitative services in a nursing facility.

Proposal:

Eligible Providers: Eligible providers are nursing facilities that have shown a commitment to giving direct care staff the tools to help improve community discharge rates. This commitment is based on the following:

- Offers a training program to direct care staff that has been reviewed and approved by the Department to assist direct care staff identify changes in a recipient's physical, mental, or functional status that could suggest clinical improvement for nursing facility discharge to the community with appropriate HBCS support.
- Have a direct care staff retention rate above the statewide average.

Description: New York proposes to use the enhanced FMAP for HCBS to expand and enhance advanced training programs incentives for direct care workers to recognize signs of patient clinical improvement and the potential for HCBS programs and services to allow for community discharge and reintegration. This program would continue New York's work toward ensuring that individuals receive Medicaid-funded services in the least restrictive setting and permitting facility discharge when appropriate HBCS services and supports are identified. This program will also reward eligible nursing home providers that have shown a commitment to giving direct care staff tools to help assist in appropriate discharge to community-based settings.

Appendix IV
2021 Title XIX State Plan
Fourth 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 Civil Service

PURSUANT to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for October 2021 will be conducted on October 13 and October 14 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at <https://www.cs.ny.gov/commission/>

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. One, Albany, NY 12239, (518) 473-6598

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 federal statutory provisions of Section 9817 of the American Rescue Plan Act of 2021 (ARP) which, subject to approval of the state's initial spending plan and narrative (Spending Plan) by the Centers for Medicare and Medicaid Services (CMS), provides a ten percent increase in Federal Medical Assistance Percentage (FMAP) to state Medicaid programs from April 1, 2021 to March 31, 2022 to supplement existing state expenditures on home and community-based services (HCBS). The following changes are proposed:

Long Term Care

Contingent upon CMS approval of the Spending Plan submitted by the state, effective on or after October 1, 2021, this notice proposes to enhance (increase) state nursing facilities' incentive payments to provide training to improve community discharge rates. These funds

will be provided for the period October 1, 2021 through March 31, 2022 to aid providers in the recovery of the COVID emergency.

The estimated annual net aggregate increase in gross Medicaid expenditures of the proposed nursing home training enhancement is \$150,000,000.

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, 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 long term care services to comply with enacted statutory provisions. The following changes are proposed:

Long Term Care Services

Effective on or after October 1, 2021, the Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional services related to temporary rate adjustments to long term care providers that are undergoing closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are authorized by current State statutory and regulatory provisions. The temporary rate adjustments will be reviewed and approved by the CINERGY Collaborative.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2021-2022 is \$5.4 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, Division of Finance and Rate Setting, 99
Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY
12210, spa_inquiries@health.ny.gov

PUBLIC NOTICE

Public Service Commission
NOTICE OF ADOPTION

Phase 2 Local Transmission and Distribution Project Proposals

I.D. No. PSC-46-20-00008-A

Filing Date: 2021-09-09

Effective Date: 2021-09-09

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: On 9/9/21, the PSC adopted an order establishing the process and providing direction for Phase 2 Local Transmission and Distribution Project Proposals.

Statutory authority: Public Service Law, sections: 4(1), 5(1), 5(2) and 66

Subject: Phase 2 Local Transmission and Distribution Project Proposals.

Purpose: To establish the process and provide direction for Phase 2 Local Transmission and Distribution Project Proposals.

Text or summary was published in the November 18, 2020 issue of the Register, I.D. No. PSC-46-20-00008-P.

Final rule as compared with last published rule: No changes.

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0197SA3)

PUBLIC NOTICE

Department of State
F-2021-0482

Date of Issuance – September 29, 2021

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 applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2021-0482, The Village of Sackets Harbor is proposing to replace an existing boat ramp, rehabilitate an existing sheet pile bulkhead by installing new sheet piling within 10" of the existing and increasing the elevation to 250' NAVD. Additionally, the proposal includes installing a 16' x 18' kayak launch, floating docks secured with concrete anchor blocks, concrete dock abutments, up to 20 dock slips, power, water and waste pump-out. The project will also include upland grading, enhancement of the picnic area, repair the electrical system, rehabilitate a pavilion roof and lighting, and green-space and landscaping improvements.

The project is located at Market Square Park located off of Main Street in the Village of Sackets Harbor, Jefferson County on Back River Bay/Lake Ontario.

The stated purpose of the proposal is to, "Improve resiliency in response to high-water levels." and "rehabilitate and protect the site from future high-water damage."

This proposal is part of the New York State Lake Ontario Resiliency & Economic Development Initiative (REDI). REDI is a program created to increase the resilience of shoreline communities and bolster economic development throughout the Lake Ontario and St. Lawrence River regions of New York State. Additional information about the REDI program including project profiles can be found at: <https://www.governor.ny.gov/programs/lake-ontario-resiliency-and-economic-development-initiative-redi>

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2021/09/f-2021-0482publicnotice.pdf>

Original copies of public information and data submitted by the applicant 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.

Any 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 October 14, 2021.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, 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

Department of State
F-2021-0700

Date of Issuance – September 29, 2021

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 applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

Appendix V
2021 Title XIX State Plan
Fourth Quarter Amendment
Responses to Standard Funding Questions

**APPENDIX V
LONG TERM CARE SERVICES
State Plan Amendment #21-0062**

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 general 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: This represents a one-time \$150 million enhancement to the existing supplemental Advanced Training Initiative to support frontline nursing facility caregivers in receiving training to identify resident readiness for community transition and integration.

- 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 current year UPL has been approved by CMS.

- 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: There are various state agencies that perform audits each year to determine the appropriateness of Medicaid payments. In the event that inappropriate payments are determined, recoupments would be initiated and the Federal share would be returned to CMS within the associated quarterly expenditure report.

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.