



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Executive Deputy Commissioner

March 29, 2024

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 #24-0027
Long Term Care Facility Services

Dear Mr. McMillion:

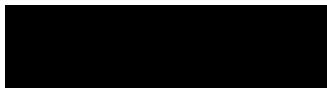
The State requests approval of the enclosed amendment #24-0027 to the Title XIX (Medicaid) State Plan for long term care facility services to be effective January 1, 2024 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the proposed amendment is provided in Appendix 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). A copy of the public notices of this proposed amendment, which is given in the New York State Register on December 27, 2023, and clarified on March 27, 2024, are 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,



Amir Bassiri
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 4 — 0 0 2 7

2. STATE

NY

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

January 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION

§ 1905(a)(4)(A) Nursing Facility Services

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 01/01/24-09/30/24 \$ 1,565,152

b. FFY 10/01/24-09/30/25 \$ 2,606,382

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-D Part I - Page: 110(d)(28.1)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

NEW

9. SUBJECT OF AMENDMENT

Nursing Home Minimum Wage 2024

10. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL

[Redacted Signature]

12. TYPED NAME

Amir Bassiri

13. TITLE

Medicaid Director

14. DATE SUBMITTED

March 29, 2024

15. 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

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

Appendix I
2024 Title XIX State Plan
First Quarter Amendment
Amended SPA Pages

**New York
110(d)(28.1)**

1905(a)(4)(A) Nursing Facility Services

Adjustment for Minimum Wage Increases. Effective January 1, 2024, and every January 1 thereafter until the minimum wage reaches the state statutorily described per hour wage as shown below, a minimum wage add-on will be developed and applied to the specialty and non-specialty Nursing Home rate. The methodology remains consistent with the minimum wage methodology outlined in SPA.

<u>Minimum Wage Region</u>	<u>January 1, 2024</u>	<u>January 1, 2025</u>	<u>January 1, 2026</u>
<u>New York City</u>	<u>\$16.00</u>	<u>\$16.50</u>	<u>\$17.00</u>
<u>Nassau, Suffolk & Westchester</u>	<u>\$16.00</u>	<u>\$16.50</u>	<u>\$17.00</u>
<u>Remainder of State</u>	<u>\$15.00</u>	<u>\$15.50</u>	<u>\$16.00</u>

For January 1, 2027, and each January 1 thereafter, the adjusted minimum wage rate will be determined by increasing the then current year's minimum wage rate by the rate of change in the average of the three most recent consecutive twelve-month periods between the first of August and the thirty-first of July, each over their preceding twelve-month periods published by the United States department of labor non-seasonally adjusted consumer price index or northeast region urban wage earners and clerical workers (CPI-W) or any successor index as calculated by the United States department of labor, plus applicable fringe, with the result rounded to the nearest five cents.

However, effective January 1, 2027, no increase in minimum wage will be effectuated if any of the following conditions are met:

- Rate of change in the average of the most recent period of the first of August to the 31st of July over the preceding period of the 1st of August to the 31st of July published by the US Department of Labor non-seasonally adjusted consumer price index for the northeast region urban wage earners and clerical workers (CPI-W) or any successor index as calculated by the US Department of Labor is negative.
- 3 month moving average of the seasonally adjusted NYS unemployment rate as determined by the U-3 measure of labor underutilization for the most recent period ending 31st of July as calculated by the US Department of Labor rises by 1/2 percentage point or more relative to its low during the previous 12 months.
- Seasonally adjusted, total non-farm employment for NYS in July, calculated by the US Department of Labor, decreased from the seasonally adjusted total non-farm employment for NYS in July, calculated by the US Department of Labor decreased from the seasonally adjusted total non-farm employment for NYS in January.

Rates of payments to Nursing Home programs are available at:

https://www.health.ny.gov/facilities/long_term_care/reimbursement/nhr/

TN #24-0027

Approval Date _____

Supersedes TN #NEW

Effective Date January 1, 2024

Appendix II
2024 Title XIX State Plan
First Quarter Amendment
Summary

SUMMARY
SPA #24-0027

This State Plan Amendment proposes to update minimum wage for all regions of the State to account for increased labor costs resulting from statutorily required increases in the New York State minimum wage.

Appendix III
2024 Title XIX State Plan
First Quarter Amendment
Authorizing Provisions

Section 652 of the New York State Labor Law- Minimum wage.

1-a. Annual minimum wage from January 1, 2024 to December 31, 2026.

(a) New York city. Notwithstanding subdivision one of this section, every employer regardless of size shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

\$16.00 on and after January 1, 2024,

\$16.50 on and after January 1, 2025,

\$17.00 on and after January 1, 2026, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(b) Remainder of downstate. Notwithstanding subdivision one of this section, every employer shall pay to each of its employees for each hour worked in the counties of Nassau, Suffolk, and Westchester, a wage of not less than:

\$16.00 on and after January 1, 2024,

\$16.50 on and after January 1, 2025,

\$17.00 on and after January 1, 2026, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(c) Remainder of state. Notwithstanding subdivision one of this section, every employer shall pay to each of its employees for each hour worked outside the city of New York and the counties of Nassau, Suffolk, and Westchester, a wage of not less than:

\$15.00 on and after January 1, 2024,

\$15.50 on and after January 1, 2025,

\$16.00 on and after January 1, 2026, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

1-b. Annual minimum wage increase beginning on January first, two thousand twenty-seven. (a) New York city. On and after January first, two thousand twenty-seven, every employer regardless of size shall pay to each of its employees for each hour worked in the city of New York, a wage of not less than the adjusted minimum wage rate established annually by the commissioner. Such adjusted minimum wage rate shall be determined by increasing the then current year's minimum wage rate by the rate of change in the average of the three most recent consecutive twelve-month periods between the first of August and the thirty-first of July, each over their preceding twelve-month periods published by the United States department of labor non-seasonally adjusted consumer price index for northeast region urban wage earners and clerical workers (CPI-W) or any successor index as calculated by the United States department of labor, with the result rounded to the nearest five cents.

(b) Remainder of downstate. On and after January first, two thousand twenty-seven, every employer shall pay to each of its employees for each hour worked in the counties of Nassau, Suffolk, and Westchester, a wage of not less than the adjusted minimum wage rate established annually by the commissioner. Such adjusted minimum wage rate shall be determined by increasing the then current year's minimum wage rate by the rate of change in the average of the three most recent consecutive twelve-month periods between the first of August and the thirty-first of July, each

over their preceding twelve-month periods published by the United States department of labor non-seasonally adjusted consumer price index for the northeast region urban wage earners and clerical workers (CPI-W) or any successor index as calculated by the United States department of labor, with the result rounded to the nearest five cents.

(c) Remainder of state. On and after January first, two thousand twenty-seven, every employer shall pay to each of its employees for each hour worked outside of the city of New York and the counties of Nassau, Suffolk, and Westchester a wage of not less than the adjusted minimum wage rate established annually by the commissioner. Such adjusted minimum wage rate shall be determined by increasing the then current year's minimum wage rate by the rate of change in the average of the three most recent consecutive twelve-month periods between the first of August and the thirty-first of July, each over their preceding twelve-month periods published by the United States department of labor non-seasonally adjusted consumer price index for northeast region urban wage earners and clerical workers (CPI-W) or any successor index as calculated by the United States department of labor, with the result rounded to the nearest five cents.

(d) Exceptions. Effective January first, two thousand twenty-seven and thereafter, notwithstanding paragraphs (a), (b) and (c) of this subdivision, there shall be no increase in the minimum wage in the state for the following year if any of the following conditions are met, provided, however, that such exception shall be limited to no more than two consecutive years:

(i) the rate of change in the average of the most recent period of the first of August to the thirty-first of July over the preceding period of the first of August to the thirty-first of July published by the United States department of labor non-seasonally adjusted consumer price index for the northeast region urban wage earners and clerical workers (CPI-W), or any successor index as calculated by the United States department of labor, is negative;

(ii) the three-month moving average of the seasonally adjusted New York state unemployment rate as determined by the U-3 measure of labor underutilization for the most recent period ending the thirty-first of July as calculated by the United States department of labor rises by one-half percentage point or more relative to its low during the previous twelve months; or

(iii) seasonally adjusted, total non-farm employment for New York state in July, calculated by the United States department of labor, decreased from the seasonally adjusted, total non-farm employment for New York state in April, and seasonally adjusted, total non-farm employment for New York state in July, calculated by the United States department of labor, decreased from the seasonally adjusted, total non-farm employment for New York state in January.

(e) The commissioner shall publish the adjusted minimum wage rates no later than the first of October of each year to take effect on the following first day of January.

Appendix IV
2024 Title XIX State Plan
First Quarter Amendment
Public Notice

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 institutional and non-institutional services to comply with subparagraph (iv-a) of paragraph (b) of subdivision 35 of section 2807-c of the Public Health Law. The following changes are proposed:

Institutional Services

Effective on or after January 1, 2024, the Department of Health will invest in Medicaid inpatient reimbursement rates, through the development of acute and specialty hospital rate add-ons based on Medicaid patient days and discharges, for public hospitals in a city with a population of one million or more.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative is \$325 million.

Non-Institutional Services

Effective on or after January 1, 2024, the Department of Health will invest in Medicaid outpatient reimbursement rates, through the development of general clinic, emergency department and ambulatory surgery rate add-ons based on Medicaid patient visits, for public hospitals in a city with a population of one million or more.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget is \$80 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

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 Section 652 of Article 19 of the New York State Labor Law. The following changes are proposed:

All Services

Effective on or after January 1, 2024, the Department of Health will adjust Medicaid rates for all regions of the State to account for increased labor costs resulting from statutorily required increases in the New York State minimum wage as well as the statutorily required decreases in wage parity.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024 is \$6 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.

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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 Institutional Services in accordance with Chapter 53 of the Laws of 2023 and Subdivision 5 of section 365-m of the Social Services Law. The following changes are proposed:

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 1460, 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 non-institutional services to comply with the 2023-24 enacted State budget. The following changes are proposed:

Non-Institutional Services

Effective on or after April 1, 2024, supplemental payments will be made to Health Home care managers who are employed by a State-designated Specialty Mental Health Care Management Agency and provide Health Home Plus services to adults receiving Assisted Outpatient Treatment.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget is \$2.5 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.

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1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
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Staten Island, New York 10301

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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 institutional, non-institutional and long-term care services to comply with Section 652 of Article 19 of the New York State Labor Law. The following changes are proposed:

All Services

The following is a clarification to the December 27, 2023 noticed provision to adjust Medicaid rates resulting from increases in New York State minimum wage and a decrease in wage parity. With clarification, this provision will only address minimum wage.

It is further clarified that the estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal years 2024, 2025 and 2026 will now be \$18 million, \$85 million, and \$132 million respectively.

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:

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New York, New York 10018

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

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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

New York City Deferred Compensation Plan

The New York City Deferred Compensation Plan (the "Plan") is seeking qualified vendors to provide active Intermediate Fixed Income investment management services for the Stable Income Fund ("the Fund") investment option of the Plan. The Plan is seeking qualified vendors to manage a portfolio against the Barclays Intermediate Aggregate Index. The objective of the Fund is to provide an opportunity to invest in high quality fixed income securities with an emphasis on safety of principal and consistency of returns. To be considered, vendors must submit their product information to Segal Marco Advisors at the following e-mail address: nycdcp.procurement@segalmarco.com. Please complete the submission of product information no later than 4:30 P.M. Eastern Time on April 1, 2024.

Consistent with the policies expressed by the City, proposals from certified minority-owned and/or women-owned businesses or proposals that include partnering arrangements with certified minority-owned and/or women-owned firms are encouraged. Additionally, proposals from small and New York City-based businesses are also encouraged.

Appendix V
2024 Title XIX State Plan
First Quarter Amendment
Responses to Standard Funding Questions

LONG-TERM SERVICES
State Plan Amendment #24-0027

CMS Standard Funding Questions

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in 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 payments, a complete listing of providers that return a portion of their payments, 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 (except for OPWDD's ICF/DD) receive and retain 100 percent of total Medicaid expenditures claimed by the State and the State does not require any provider to return any portion of such payments to the State, local government entities, or any other intermediary organization.

OPWDD's ICF/DD facilities are subject to a 5.5% Medicaid-reimbursable tax on gross receipts that are not kept by the provider but remitted to the state general fund for both voluntary and State-operated ICF/DDs. This assessment is authorized by Public Law 102-234, Section 43.04 of the New York State Mental Hygiene Law, Federal Medicaid regulations at 42 CFR 433.68. OPWDD recoups the assessment from the ICF/DD Medicaid payment before the payment is sent to the voluntary provider. For State operated ICF/DDs, the legislature appropriates an amount for payment of the assessment. Aside from the assessments, providers receive and retain all the Medicaid payments for ICF/DD services.

- 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 through 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 governmental 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: The Non-Federal share Medicaid provider payment (normal per diem and supplemental) is funded by a combination of the following funds/funding sources through enacted appropriations authority to the Department of Health (DOH) for the New York State Medicaid program or is funded by an IGT transferred from the counties.

Payment Type	Non-Federal Share Funding	4/1/23 – 3/31/24	
		Non-Federal	Gross
Nursing Homes Normal Per Diem	General Fund; Special Revenue Funds; County Contribution	\$3.545B	\$7.089B
Intermediate Care Facilities Normal Per Diem	General Fund; County Contribution	\$438M	\$877M
Nursing Homes Supplemental	General Fund	\$159M	\$318M
Intermediate Care Facilities Supplemental	General Fund	\$0	\$0
Nursing Homes UPL	IGT	\$92M	\$184M
Totals		\$4.234B	\$8.468B

A. **General Fund:** Revenue resources for the State’s General Fund includes taxes (e.g., income, sales, etc.), and miscellaneous fees (including audit recoveries and provider assessments). Medicaid expenditures from the State’s General Fund are authorized from Department of Health Medicaid.

- 1) New York State Audit Recoveries: The Department of Health collaborates with the Office of the Medical Inspector General (OMIG) and the Office of the Attorney General (AG) in recovering improperly expended Medicaid funds. OMIG conducts and coordinates the investigation, detection, audit, and review of Medicaid providers and recipients to ensure they are complying with all applicable laws and regulation. OMIG recovers any improper payments through cash collections and voided claim recoveries. Cash collections are deposited into the State’s General Fund to offset Medicaid costs.

In addition to cash collections, OMIG finds inappropriately billed claims within provider claims. To correct an error, OMIG and DOH process the current accurate claim, and reduce this claim by the inappropriate claim value to recoup the previous overclaim and decrease state spending.

- 2) Intermediate Care Facilities (ICF) Provider Service Assessment: Pursuant to New York State Mental Hygiene Law 43.04, a provider's gross receipts received on a cash basis for all services rendered at all ICFs is assessed at 5.5 percent. This assessment is deposited directly into the State's General Fund.

B. Special Revenue Funds:

Health Facility Cash Assessment Program (HFCAP) Fund: Pursuant to New York State Public Health Law 2807-d and Section 90 of Part H of Chapter 59 of the Laws of 2011, the total 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 residential health care facilities, including adult day service, but excluding, gross receipts attributable to payments received pursuant to Title XVIII of the federal Social Security Act (Medicare), is 6.8 percent.

NOTE: New York's Health Care taxes are either broad based and uniform (as in all HFCAP assessments except for the Personal Care Provider Cash Assessment) or have a specific exemption known as the "D'Amato provision (Federal PHL section 105-33 4722 (c))" which allows the HCRA surcharges to exist in their current format. The single tax which has been determined by the State to be an impermissible provider tax is the HFCAP charge on Personal Care Providers. The State does not claim any Federal dollars for the surcharge collected in this manner in order to comply with all Federal provider tax rules.

C. Additional Resources for Non-Federal Share Funding:

County Contribution: In State Fiscal Year 2006, through enacted State legislation (Part C of Chapter 58 of the laws of 2005), New York State "capped" the amount localities contributed to the non-Federal share of providers claims. This was designed to relieve pressure on county property taxes and the NYC budget by limiting local contributions having New York State absorb all local program costs above this fixed statutory inflation rate (3% at the time).

However, in State Fiscal Year 2013 New York State provided additional relief to Localities by reducing local contributions annual growth from three percent to zero over a three-year period. Beginning in State Fiscal Year 2016, counties began paying a fixed cost in perpetuity as follows:

Entity	Annual Amount
New York City	\$5.200B
Suffolk County	\$226M
Nassau County	\$217M
Westchester County	\$204M

Erie County	\$194M
Rest of State (53 Counties)	\$1.187B
Total	\$7.228B

By eliminating the growth in localities Medicaid costs, the State has statutorily capped total Statewide County Medicaid expenditures at 2015 levels. All additional county Medicaid costs are funded by the State through State funding as described above. DOH provides annual letters to counties providing weekly contributions. Contributions are deposited directly into State escrow account and used to offset 'total' State share Medicaid funding.

NOTE: The Local Contribution is not tied to a specific claim or service category and instead is a capped amount based on 2015 county spending levels as stated above. Each deposit received is reviewed and compared to the amount each county is responsible to contribute to the Medicaid program to verify the county funds received are eligible for Medicaid expenses.

D. IGT Funding:

New York State requests the transfer of the IGT amounts from entities prior to the release of payments to the providers. The entities transferring IGT amounts are all units of government, and the nonfederal share is derived from state or local tax revenue funded accounts only. The providers keep and retain Medicaid payments. Please note that entities have taxing authority, and the State does not provide appropriations to the entities for IGTs.

Provider	Entity Transferring IGT Funds	4/1/23-3/31/24 IGT Amount
A Holly Patterson Extended Care Facility	Nassau County	\$8M
Albany County Nursing Home	Albany County	\$3M
Chemung County Health Center	Chemung County	\$2M
Clinton County Nursing Home	Clinton County	\$1M
Coler Rehabilitation & Nursing Care Center	New York City	\$8M
Dr. Susan Smith Mckinney Nursing and Rehab Center	Kings County	\$4M
Glendale Home	Schenectady County	\$3M
Henry J. Carter Nursing Home	New York City	\$3M
Lewis County General Hospital-Nursing Home Unit	Lewis County	\$2M
Livingston County Center for Nursing and Rehabilitation	Livingston County	\$5M
Monroe Community Hospital-Nursing Home Unit	Monroe County	\$9M
New Gouverneur Hospital-Nursing Home Unit	New York City	\$3M
Sea View Hospital Rehabilitation Center and Home	Richmond County	\$5M
Sullivan County Adult Care Center	Sullivan County	\$2M
Terrace View Long Term Care	Erie County	\$7M
The Pines Healthcare & Rehab Centers Machias Camp	Cattaraugus County	\$2M
The Pines Healthcare & Rehab Centers Olean Camp	Cattaraugus County	\$2M
The Valley View Center for Nursing Care and Rehab	Orange County	\$7M
Van Rensselaer Manor	Rensselaer County	\$6M

Wayne County Nursing Home	Wayne County	\$3M
Willow Point Rehabilitation & Nursing Center	Broome County	\$4M
Wyoming County Community Hospital-NH Unit	Wyoming County	\$3M
Total		\$92M

- 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: Below is a list of nursing home and ICF supplemental payments:

Payment Type	Private	State Government	Non-State Government	4/1/23-3/31/24 Gross Total
Advanced Training Initiative	\$43M	\$0	\$3M	\$46M
Cinergy	\$30M	\$0	\$0	\$30M
1% Supplemental Payment	\$130M	\$1M	\$9M	\$140M
Enhanced ATI (VAP Workforce)	\$102M	\$0	\$0	\$102M
Nursing Home UPL	\$0	\$0	\$184M	\$184M
Total	\$306M	\$1M	\$196M	\$502M

The Medicaid payments under this State Plan Amendment are not supplemental 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 nursing home UPL calculation is a payment-to-payment calculation for state government and private facilities. Non-state Governmental facilities undergo a payment-to-cost calculation. The Medicaid payments under this State Plan Amendment will be included in the 2024 nursing home UPL submitted when it is submitted to 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: Providers do not receive payments that in the aggregate exceed their reasonable costs of providing services. If any providers received payments that in the aggregate exceeded their reasonable costs of providing services, the State would recoup the excess and return the Federal share of the excess to CMS on the 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, 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 complies 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 this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.