DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Refer to DMCH: SJ

Region II
Federal Building
26 Federal Plaza
New York, N.Y. 10278

AUG 2 5 2011

Jason A. Helgerson
Deputy Commissioner
New York State Department of Health
Corning Tower
Empire State Plaza
Albany, New York 12237

Dear Commissioner Helgerson:

This letter is being sent in conjunction with the Centers for Medicare & Medicaid Services' (CMS) approval of New York State Plan Amendment (SPA) #11-50, which amendment enables the State to control certified home health agency (CHHA) utilization by implementing provider specific aggregate annual spending caps, for the period April 1, 2011 through March 31, 2012.

In reviewing SPA 11-50, CMS staff performed a program analysis of the corresponding services and a reimbursement analysis related to the services impacted by the provisions of the SPA. These analyses revealed coverage issues which the State needs to address through State plan amendments in order to meet the requirements of Section 1902 of the Social Security Act. To this end, CMS welcomes the opportunity to work with you and with your staff in resolving the concerns outlined below.

In discussions New York, the State has advised that it wishes to address the corresponding home health related questions in NY 11-50 when the State addresses the home health questions from the companion letter issued in NY 10-38. We are including the questions from the companion letter below as a convenience to the State when it submits its response to the companion letter and to the additional questions in 11-50.

Questions from the Companion Letter issued in NY 10-38

The regulations at 42 CFR 440.70 define home health services as including part-time or intermittent nursing services, home health aide services and medical supplies, equipment and appliances. At the State's option physical therapy, occupational therapy, speech pathology or audiology services may also be offered. To be comprehensive, the services; the providers and practitioners of the services; the provider and practitioner qualifications; and any limitations on amount, duration and scope of the services must be understandable, clear and unambiguous. To that end, please clarify, and, where applicable, include the following information in the State plan:

If you have any questions or wish to discuss this SPA further, please contact Ricardo Holligan or Shing Jew of this office. Mr. Holligan may be reached at (212) 616-2424, and Mr. Jew's telephone number is (212) 616-2426.

Sincerely,

Michael Melendez
Associate Regional Administrator
Division of Medicaid and Children's Health

Enclosure: SPA #11-50
HCFA-179 Form

CC: JUlberg
PMossman
KKnuth
RWeaver
LTavener
MSchervish
SFuentes
MSamuel
SJew

EPARTMENT OF HEALTH AND HUM AN SERVICES
EALTH CARE FINANCING ADMINIS RATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PL AN MATERIAL FOR: HEALTH CARE FINAI CING ADMINISTRATION	1. TRANSMITTAL NUMBER: #11-50	2. STATE New York
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTR TOR HEALTH CARE FINANC NG ADMINISTRATION DEPARTMENT OF HEAL TH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE April 1, 2011	

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

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCI S 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGU LATION CITATION: Section 1902(a) of the Soci l Security Act, and 42 CFR 447	7. FEDERAL BUDGET IMPACT: a. FFY 04/01/11 – 09/30/11 ($53.44 million) b. FFY 10/01/11 – 09/30/12 ($50.00 million)
8. PAGE NUMBER OF THE PL AN SECTION OR ATTACHMENT: Attachment 4.19-B: Pages (3), 4(4), 4(5)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:

10. SUBJECT OF AMENDME T:
Control CHHA Utilization b Implementing Provider Specific Aggregate Annual Spending Caps
(FMAP = 56.88% 4/1/11-6/3(11; 50% 7/1/11 forward)

11. GOVERNOR'S REVIEW *(heck One)*:
☒ GOVERNOR'S OFFIC REPORTED NO COMMENT
☐ COMMENTS OF GOV RNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVE WITHIN 45 DAYS OF SUBMITTAL
☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE A GENCY OFFICIAL:	16. RETURN TO: New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237
13. TYPED NAME: Jason A Helgerson	
14. TITLE: Medicaid Direct r & Deputy Commissioner Department of H alth	
15. DATE SUBMITTED: July 14, 2011	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED	18. DATE APPROVED AUG 25 2011

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL APR 01 2011	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME Michael Melendez	22. TITLE Associate Regional Administrator Division of Medicaid and State Operations

23. REMARKS

Approved as submitted

FORM HCFA-179 (07-92)

(3) Based on the average wages as determined pursuant to this subdivision, as weighted pursuant to this subdivision, an index will be determined for each region, based on a comparison of the weighted average regional wages to the statewide average wages.
(4) The Department will adjust the regional WIFs proportionately, if necessary, to assure that the application of the WIFs is revenue-neutral on a statewide basis.

(d) Agency specific case mix indexes (CMIs) will be calculated for each agency and applied to the statewide average CMI. Computation of such CMIs will utilize the episodic payment system grouper and will reflect:

(1) 2009 adjusted agency Medicaid claims as grouped into 60 day episodes of patient care;
(2) data for each agency patient as derived from the federal Outcome Assessment Information Set (OASIS) and as reflecting the assignment of such patients to OASIS resource groups;
(3) the assignment of a relative weight to each OASIS resource group;
(4) the assignment of each agency's CMI index based on the sum of the weights for all of its grouped episodes of care divided by the number of episodes.

(e) Ceiling limitations determined pursuant to this section will be subject to retroactive adjustment and reconciliation. In determining payment adjustments based on such reconciliation, adjusted agency ceilings will be established. Such adjusted ceilings will be based on a blend of:

(1) an agency's 2009 average per patient Medicaid claims adjusted by the percentage of increase or decrease in such agency's patient case mix from the 2009 calendar year to the annual period April 1, 2011 through March 31, 2012, weighted at 51 percent, and;

(2) the 2009 statewide average per-patient Medicaid claims adjusted by a regional WIF and the agency's patient case mix index for the annual period April 1, 2011 through March 31, 2012, weighted at 49 percent. Such adjusted agency ceiling will be compared to actual Medicaid paid claims for the period April 1, 2011 through March 31, 2012. In those instances when an agency's actual per-patient Medicaid claims are determined to exceed the agency's adjusted ceiling, the amount of such excess will be due from each

such ag(ncy to the state and will be recouped by the Department in a lump sum amount or throu gh reductions in the Medicaid payments due to the agency. In those instances where a ı interim payment adjustment was applied to an agency, and such agency's actual p :r-patient Medicaid claims are determined to be less than the agency's adjusted ceiling, t ne amount by which such Medicaid claims are less than the agency's adjusted ceiling v ill be remitted to each such agency by the Department in a lump sum amount or throu gh an increase in the Medicaid payments due to the agency.

(f) Interim pa ment adjustments pursuant to this section will be based on Medicaid paid claims for s ervices provided by agencies in the base year 2009. Amounts due from reconciling payment adjustments will be based on Medicaid paid claims for services provided b agencies in the base year 2009 and Medicaid paid claims for services provided by agencie in the reconciliation period April 1, 2011 through March 31, 2012.

(g) The payme nt adjustments will not result in an aggregate annual decrease in Medicaid payments o providers in excess of $200 million. If upon reconciliation it is determined that application of the calculated ceilings would result in an aggregate annual decrease of more than $200 million, all providers' ceilings would be adjusted proportionately to reduce the decrease t $200 million. Such reconciliation will not be subject to subsequent adjustment.

(h) The Comm ssioner may require agencies to collect and submit any data required to implement the provisions of this subdivision.

New

OFFICIAL

Certified home health care agency ceilings.

(a) Effective for services provided on and after April 1, 2011 through March 31, 2012, Medicaid payments for certified home health care agencies (agencies), except for such services provided to children under eighteen years of age, shall reflect ceiling limitations determined in accordance with this section. Ceilings for each agency shall be based on a blend of:

(1) the agency's 2009 average per patient Medicaid claims, weighted at 51 percent, and
(2) the 2009 statewide average per patient Medicaid claims for all agencies, as adjusted by the regional wage index factor and by each agency's patient case mix index, and weighted at 49 percent.

(b) Effective for rate periods on and after April 1, 2011, the Department shall determine, based on 2009 claims data, each agency's projected average per patient Medicaid claim for the period April 1, 2011 through March 31, 2012, as compared to the applicable ceiling, computed pursuant to this section. To the extent that each agency's projected average claim exceeds such ceiling, the Department shall reduce such agency's payments for periods on and after April 1, 2011 by the amount that exceeds such ceiling.

(c) The regional wage index factor (WIF) will be computed in accordance with the following and applied to the portion of the statewide average per-patient Medicaid claim attributable to labor costs:

(1) Average wages will be determined for agency service occupations for each of the 10 labor market regions as defined by the New York State Department of Labor.
(2) The average wages in each region will be assigned relative weights in proportion to the Medicaid utilization for each of the agency service categories as reported in the most recently available agency cost report submissions.

AUG 25 2011

TN #11-50 **Approval Date**

APR 01 2011

Supersedes TN NEW **Effective Date**

New