

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

June 30, 2012

Mr. Michael Melendez
Associate Regional Administrator
Department of Health & Human Services
Centers for Medicare & Medicaid Services
New York Regional Office
Division of Medicaid and Children's Health Operations
26 Federal Plaza - Room 37-100 North
New York, New York 10278

RE: SPA #12-30
Non-Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #12-30 to the Title XIX (Medicaid) State Plan for non-institutional services, effective July 1, 2012 (Appendix I). A summary of the plan amendment is provided in Appendix II.

The State of New York is proposing to implement changes to the reimbursement methodology for Medicaid service coordination provided by the Office for People with Developmental Disabilities.

Copies of pertinent sections of State statute are enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register on June 27, 2012, is also enclosed for your information (Appendix III). In addition, responses to the standard access questions are also enclosed (Appendix IV).

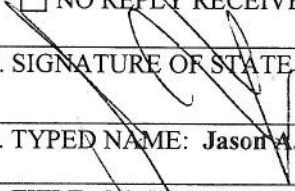
If you have any questions regarding this State Plan submission, please do not hesitate to contact John E. Ulberg Jr., Medicaid Chief Financial Officer, Division of Finance & Rate Setting at (518) 474-6350.

Sincerely,



Jason A. Helgerson
Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: #12-30	2. STATE
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2012	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1915(g) of the Social Security Act		7. FEDERAL BUDGET IMPACT: a. FFY 07/01/12-09/30/12 \$ 0 b. FFY 10/01/12-09/30/13 \$(17,000,000)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Supplement 1 to Attachment 3.1-A: Pages 1-B5, 1-B7, 1-B8		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Supplement 1 to Attachment 3.1-A: Pages 1-B5, 1-B7, 1-B8	
10. SUBJECT OF AMENDMENT: OPWDD-Rate Setting for Medicaid Service Coordination (FMAP = 50%) • FFY 10/01/13 – 9/30/14 \$(34,000,000), FFY 10/01/14 – 9/30/15 \$(34,000,000), FFY 10/01/15 – 9/30/16 \$(34,000,000) • FFY 10/01/16 – 9/30/17 \$(34,000,000), FFY 10/01/17 – 9/30/18 \$(34,000,000)			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO:	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health			
15. DATE SUBMITTED: June 30, 2012			
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
2012 Title XIX State Plan
Second Quarter Amendment
Non-Institutional Services
Amended SPA Pages

F. QUALIFICATIONS

1. Providers

Pursuant to §1915(g)(1) of the Social Security Act, Medicaid service coordination will be provided by New York State [OMRDD] OPWDD and through Voluntary providers and through a network of [OMRDD] OPWDD contractors.

2. Service Coordinators

Service coordinators must:

(a) either:

(1) have experience providing [OMRDD] OPWDD Comprehensive Medicaid Case Management (CMCM) or [OMRDD] OPWDD Home and Community Based (HCBS) Waiver Service coordination or

(2) (i) be a registered nurse or have at least an associate's degree (or equivalent accredited college credit hours) in a health or human services field, and

(ii) have at least one year's experience working with persons with developmental disabilities or at least one year's experience providing service coordination to any population, and

(b) attend professional development courses required by [OMRDD] OPWDD.

TN #12- 30

Approval Date _____

Supersedes TN #00-07

Effective Date _____

Appendix II
2012 Title XIX State Plan
Second Quarter Amendment
Non-Institutional Services
Summary

SUMMARY
SPA #12-30

This State Plan Amendment implements changes to the reimbursement methodology for Medicaid service coordination provided by the State Office for People with Developmental Disabilities, effective July 1, 2012.

Appendix III
2012 Title XIX State Plan
Second Quarter Amendment
Non-Institutional Services
Authorizing Provisions

Authorizing Provisions
SPA 12-30

New York Mental Hygiene Law § 13.07 (a)

The office for people with developmental disabilities shall assure the development of comprehensive plans, programs, and services in the areas of research, prevention, and care, treatment, habilitation, rehabilitation, vocational and other education, and training of individuals with developmental disabilities. Such plans, programs, and services shall be developed by the cooperation of the office, other offices of the department where appropriate, other state departments and agencies, local governments, community organizations and agencies providing services to individuals with developmental disabilities, their families and representatives. It shall provide appropriate facilities, programs, supports and services and encourage the provision of facilities, programs, supports and services by local government and community organizations and agencies.

New York Mental Hygiene Law § 13.15 (a)

The commissioner shall plan, promote, establish, develop, coordinate, evaluate, and conduct programs and services of prevention, diagnosis, examination, care, treatment, rehabilitation, training, and research for the benefit of individuals with developmental disabilities. Such programs shall include but not be limited to in-patient, out-patient, partial hospitalization, day care, emergency, rehabilitative, and other appropriate treatments and services. He shall take all actions that are necessary, desirable, or proper to implement the purposes of this chapter and to carry out the purposes and objectives of the office within the amounts made available therefor by appropriation, grant, gift, devise, bequest, or allocation from the mental health services fund established under section ninety-seven-f of the state finance law.

**Appendix IV
2012 Title XIX State Plan
Second Quarter Amendment
Non-Institutional Services
Public Notice**

Department of Health, Bureau of HCRA Operations & Financial Analysis, Corning Tower Bldg., Rm. 984, Empire State Plaza, Albany, NY 12237, (518) 474-1673, (518) 473-8825 (FAX), e-mail: spa_inquiries@health.state.ny.us

PUBLIC NOTICE

Monroe County

Monroe County is issuing requests for proposals for the following services. Request for proposal documents are available at www.monroecounty.gov/bid/rfps. There will be no formal opening of proposals. Proposals must be received at the date, time and location identified in the request for proposal.

Deferred Compensation Plan

Proposals are due 7/27/12 by 5:00pm.

Send responses to: Brayton McK. Connard, SPHR, Chairman, Monroe County Deferred Compensation Committee, c/o County of Monroe, Department of Human Resources, 39 W. Main St., 210 County Office Bldg., Rochester, NY 14614

PUBLIC NOTICE

Office for People with Developmental Disabilities and Department of Health

Pursuant to 42 CFR Section 447.205, the New York State Office for People With Developmental Disabilities (OPWDD) and the New York State Department of Health hereby give notice of the following:

The State proposes to change the methods and standards for setting Medicaid payment rates for intermediate care facilities for the developmentally disabled (ICF/DDs) that are operated by the New York State Office for People with Developmental Disabilities (OPWDD), residential and day habilitation programs operated by OPWDD and Medicaid service coordination. The ICF/DDs operated by OPWDD include developmental centers, over thirty bed State operated ICF/DDs and under thirty bed State operated ICF/DDs.

The ICF/DD methodology will change effective July 1, 2012. There will be a rate cycle which will consist of a base period and subsequent period or periods. The base period will be July 1, 2012 to March 31, 2013. Each subsequent period will begin April 1 and end the following March 31. The rate will be total reimbursable costs divided by the units of service. Total reimbursable costs will be trended reimbursable operating costs, untrended reimbursable operating costs (education and related service costs, sheltered workshop services, day training services and day services costs) and reimbursable capital costs.

The units of service for the base period rate will be based on the census or certified capacity. The base period rate will be computed on the basis of a full twelve month cost report for the period beginning April 1, 2009. Thereafter, the base period rates will be computed on the basis of a cost report for the twelve month period beginning 36 months prior to the rate period.

For the base period rates for existing ICF/DDs, OPWDD will determine total reimbursable per diem amounts for the categories of administration, direct care, support and clinical. Using census/certified capacity, there will be an average salary and staffing ratio calculated using the 4/1/2009-3/31/2010 cost report. Using census/certified capacity OPWDD will also calculate a per person non personal service amount based on the 2009 - 2010 cost report. OPWDD will apply fringe benefits to the personal service dollars at a rate stated in the Office of the State Controller annual accounting bulletin regarding fringe benefits paid to New York State employees.

Trend factors will be based on the percentage increase as reported from the U.S. Bureau of Labor and Statistics website; it will be based on the annual July to July movement of the CPI-U Medical Services Index. In addition to the per-diem rate, ICF/DDs operated by the State will be paid a supplemental payment as they transition to the new payment structure. The supplemental payment will be phased out over several years.

The methodologies for residential and day habilitation will change effective July 1, 2012. There will be a price cycle which will consist of a base period and subsequent period or periods. The base price period

will be July 1, 2012 to March 31, 2013. Each subsequent period will begin April 1 and end the following March 31. The price will be total reimbursable costs divided by the units of service.

The base period price will be computed on the basis of a full twelve month cost report for the period beginning April, 2009. Thereafter, the base period prices will be computed on the basis of a cost report for the twelve month period beginning 36 months prior to the price period.

For the base period price OPWDD will determine total reimbursable operating costs. OPWDD will determine total reimbursable per unit of service amounts for the categories of administration, direct care, support and clinical. Using capacity, there will be an average salary and staffing ratio calculated using the 4/1/2009-3/31/2010 cost report. Using capacity OPWDD will also calculate a per person non personal service amount based on the 2009 - 2010 cost report. OPWDD will apply fringe benefits to the personal service dollars at a rate stated in the Office of the State Controller annual accounting bulletin regarding fringe benefits paid to New York State employees.

Trend factors will be based on the percentage increase as reported from the U.S. Bureau of Labor and Statistics website; it will be based on the annual July to July movement of the CPI-U Medical Services Index. In addition to the price, State operated day and residential habilitation programs will be paid a supplemental payment. In addition to the price, residential and day habilitation programs operated by the State will be paid a supplemental payment as they transition to the new payment structure. The supplemental payment will be phased out over several years.

Effective 10/1/12 for Medicaid Service Coordination, OPWDD will no longer be the sole provider of the service. For voluntary providers of MSC, the payment will remain at the current level. For State provided MSC, reimbursement will be based upon adjusted 2009/10 cost data trended to 4/1/12. In addition, MSC services provided by the State will be paid a supplemental payment as they transition to the new payment structure. The supplemental payment will be phased out over several years.

The reason for all of these proposed changes is to more closely align rates and prices with the costs of providing these services.

The State estimates that there will be no increase or decrease in annual aggregate expenditures as a result of this change.

Outside New York City, a detailed description of the changes is available for public review at the following addresses:

Albany
Albany County Department of Mental Health
175 Green St.
Albany NY 12202

Allegany
Allegany County Mental Health Department
45 North Broad St.
Wellsville NY 14895

Broome
Broome County Mental Health Department
229-231 State St., Fl 4
Binghamton NY 13901-6635

Cattaraugus
Cattaraugus County Community Services
1 Leo Moss Dr., Suite 4308
Olean NY 14760

Cayuga
Cayuga County Mental Health Department
146 North St.
Auburn NY 13021
Chautauqua

Chautauqua County Mental Health Services
HRC Bldg., 7 N. Erie St., 1st Floor
Mayville NY 14757

Chemung
Chemung County Mental Health Hygiene Department
425 Pennsylvania Ave.
Elmira NY 14902

Chenango
Chenango County Mental Hygiene Services
County Office Bldg., 5 Court St., Ste. 42
Norwich NY 13815

Clinton
Clinton County Mental Health/Addictions Services
16 Ampersand Dr.
Plattsburgh NY 12901

Columbia
Columbia County Department of Human Services
325 Columbia St.
Hudson NY 12534

Cortland
Cortland County Community Services
7 Clayton Ave.
Cortland NY 13045

Delaware
Delaware County Mental Health Clinic
1 Hospital Rd.
Walton NY 13856

Dutchess
Dutchess County Department of Mental Hygiene
82 Washington St.
Poughkeepsie NY 12601

Erie
Erie County Department of Mental Health
95 Franklin St., Rm. 1237
Buffalo NY 14202

Essex
Essex County Mental Health Services
7513 Court St.
Elizabethtown NY 12932

Franklin
Franklin County Community Services
70 Edgewood Rd., PO Box 1270
No. Saranac Lake NY 12983

Fulton
Fulton County Mental Health Clinic
57 E. Fulton St., Rm. 106
Gloversville NY 12078

Genesee
Genesee County Mental Health Services
5130 E. Main Rd., Suite 2

Batavia NY 14020

Greene
Greene County Department of Mental Health
905 Greene County Office Bldg.
Cairo NY 12413

Hamilton
Hamilton County Community Services
83 White Birch Lane
Indian Lake NY 12842

Herkimer
Herkimer County Mental Health Services
301 North Washington St., Ste. 2470
Herkimer NY 13350

Jefferson
Jefferson County Community Services
175 Arsenal St.
Watertown NY 13601

Lewis
Lewis County Mental Hygiene Department
7714 Number Three Rd.
Lowville NY 13367

Livingston
Livingston County Community Services
4600 Millennium Dr.
Geneseo NY 14454

Madison
Madison County Mental Health Department
Veterans' Memorial Bldg.
Wampsville NY 13163

Monroe
Monroe County Office of Mental Health
1099 Jay St., Bldg. J, Ste. 201A
Rochester NY 14611

Montgomery
Montgomery County Department of Community Services
St. Mary's Hospital, 427 Guy Park Ave.
Amsterdam NY 12010

Nassau
Nassau County Department of Mental Health,
Chemical Dependency and Developmental Disabilities Services
60 Charles Lindberg Blvd., Ste. 200
Uniondale NY 11553

Niagara
Niagara County Department of Mental Health
5467 Upper Mountain Rd., Ste. 200
Lockport NY 14094

Oneida
Oneida County Department of Mental Health
235 Elizabeth St.
Utica NY 13501

Onondaga
Onondaga County Department of Mental Health
421 Montgomery St., 10th Fl.
Syracuse NY 13202

Ontario
Ontario County Mental Health Department
3019 County Complex Dr.
Canandaigua NY 14424

Orange
Orange County Department of Mental Health
30 Harriman Dr.
Goshen NY 10924-2410

Orleans
Orleans County Mental Health/Community Services
14014 Route 31 West
Albion NY 14411

Oswego
Oswego County DSS, Division Mental Hygiene
100 Spring St.
Mexico NY 13114

Otsego
Otsego County Mental Health Clinic
242 Main St.
Oneonta NY 13820

Putnam
Putnam County Department of Social Services/Mental Health
110 Old Route 6
Carmel NY 10512

Rensselaer
Rensselaer County Department of Mental Health
1600 7th Av. Rensselaer Co. Off. Bldg., 3rd Fl.
Troy NY 12180

Rockland
Rockland County Department of Mental Health
50 Sanatorium Rd., Bldg. F
Pomona NY 10970

Saratoga
Saratoga County Mental Health Center
211 Church St., Cramer House
Saratoga Springs NY 12866

Schenectady
Schenectady County Mental Health Dept.
797 Broadway, Ste. 304
Schenectady NY 12305

Schoharie
Schoharie County Community Service and MH
113 Park Pl., Ste. 1, Co. Annex Bldg.
Schoharie NY 12157-0160
Schuyler

Schuyler County Community Services
Mill Creek Ctr., 106 S. Perry St., Ste. 4
Watkins Glen NY 14891

Seneca
Seneca County Mental Health Department
31 Thurber Dr.
Waterloo NY 13165

St. Lawrence
St. Lawrence County Mental Health Clinic
80 State Hwy. 310, Ste. 1
Canton NY 13617-1493

Steuben
Steuben County Community Mental Health Center
115 Liberty St.
Bath NY 14810

Suffolk
Suffolk County Community Mental Hygiene
No. County Complex, Bldg. C-928
Hauppauge NY 11788

Sullivan
Sullivan County Department of Community Services
P.O. Box 716
Liberty NY 12754

Tioga
Tioga County Department of Mental Hygiene
1062 State Rt. 38
Owego NY 13827

Tompkins
Tompkins County Mental Health Department
201 E. Green St.
Ithaca NY 14850

Ulster
Ulster County Mental Health Department
239 Golden Hill La.
Kingston NY 12401

Warren
Warren County Community Services
230 Maple St., Suite 1
Glens Falls NY 12801

Washington
Washington County Community Services
230 Maple St., Suite 1
Glens Falls NY 12801

Wayne
Wayne County DMH/Behavior Health Network
1519 Nye Rd.
Lyons NY 14489

Westchester
Westchester County Community Mental Health Department
112 E. Post Rd., 2nd Fl.

White Plains NY 10601

Wyoming
Wyoming County Mental Health Department
338 North Main St.
Warsaw NY 14569

Yates
Yates County Community Services
417 Liberty St., Ste. 2033
Penn Yan NY 14527

In New York City, a detailed description of the changes is available for public review at the following OPWDD Office locations:

Metro New York
75 Morton Street
New York, New York 10014

Bernard M. Fineson
80-45 Winchester Blvd.
Administration Building 80-00
Queens Village, New York 11427

Brooklyn
888 Fountain Avenue
Brooklyn, New York 11208

Metro New York
2400 Halsey Street
Bronx, New York 10461

Staten Island DDSO
1150 Forest Hill Road
Staten Island, New York 10314

For further information and to review and comment, please contact: Donna Cater, Office for People With Developmental Disabilities, 44 Holland Ave., Albany, NY 12229, (518) 474-1745, e-mail: donna.cater@opwdd.ny.gov

PUBLIC NOTICE

Susquehanna River Basin Commission

SUMMARY: At its regular meeting in Binghamton, New York on June 7, 2012, the Susquehanna River Basin Commission (SRBC) extended the comment deadline for its proposed Low Flow Protection Policy to July 16, 2012. The original comment deadline had been May 16, 2012. On March 15, 2012, SRBC's commissioners approved the release of the proposed Low Flow Protection Policy for public review and comment. The proposed policy was developed over the past year - based on scientific advances in ecosystem flow protection - to improve low flow protection standards associated with approved water withdrawals. SRBC will use the final policy and supporting technical guidance when reviewing withdrawal applications to establish limits and conditions on approvals consistent with SRBC's regulatory standards (18 CFR § 806.23).

DATES: The new deadline for the submission of comments is July 16, 2012.

ADDRESS: Comments may be mailed to: Mr. John Balay, Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102-2391, or electronically submitted through <http://www.srbc.net/pubinfo/businessmeeting.htm>.

FOR FURTHER INFORMATION CONTACT: John W. Balay, Manager, Planning and Operations, telephone: (717) 238-0423, ext. 217; fax: (717) 238-2436. Also, the proposed policy and back-

ground information on the policy are available at the Commission's web site www.srbc.net.

AUTHORITY: Public Law 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806-808.

Dated: June 7, 2012.

Thomas W. Beauduy
Deputy Executive Director

PUBLIC NOTICE

Uniform Code Regional Boards of Review

Pursuant to 19 NYCRR 1205, the petitions below have been received by the Department of State for action by the Uniform Code Regional Boards of Review. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Steven Rocklin, Codes Division, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2012-0297 Matter of Shawn Wright for Wright + Young Architectural, 740 Seneca Street, Buffalo, New York, 14210, for a variance concerning fire safety requirements including relief from requirement to provide 50% accessible sleeping rooms. The building is classified as an I-2 (institutional occupancy) assisted care facility, 2 stories in height of Type 2A (fire protected non-combustible) construction, approximately 67,161 square feet in area and located at Emeritus at Brighton, 1320 County Road 239, in the Town of Brighton, Monroe County, State of New York.

2012-0298 Matter of SUNY Cortland, attn: Jeffrey Lallas, Director of Facilities Planning, PO Box 2000, Cortland, NY 13045 for a variance concerning fire safety and building code requirements including the requirement for in-water swimming pool alarm devices.

Involved is the construction of a student recreational and fitness center known as the "Student Life Center" located at Pashley Drive, City of Cortland, Cortland County, State of New York.

SALE OF

FOREST PRODUCTS

Chenango Reforestation Area No. 11
Contract No. X008667

Pursuant to Section 9-0505 of the Environmental Conservation Law, the Department of Environmental Conservation hereby gives Public Notice for the following:

Sealed bids for 1,168 cords +/- Norway spruce, 1.7 MBF +/- black cherry, 0.8 MBF +/- white ash, 0.2 MBF +/- sugar maple, 0.2 MBF +/- red maple, 11 cords +/- firewood, located on Chenango Reforestation Area No. 11, Bowman Creek State Forest, Stands A-8, 12, 20, 21, 37 and 39, will be accepted at the Department of Environmental Conservation, Contract Unit, 625 Broadway, 10th Fl., Albany, NY 12233-5023 until 11:00 a.m. on Thursday, July 5, 2012.

For further information, contact: Robert Slavicek, Supervising Forester, Department of Environmental Conservation, Division of Lands and Forests, Region 7, 2715 State Hwy. 80, Sherburne, NY 13460-4507, (607) 674-4036

Appendix V
2012 Title XIX State Plan
Second Quarter Amendment
Non-Institutional Services
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #12-30

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-B of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

- 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: The State retains the total Medicaid payments for OPWDD provided MSC 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: State tax revenues are the source of funds for the state share for MSC services delivered by OPWDD. The non-federal share is appropriated to the DOH and paid to OPWDD along with the federal share. The total amount appropriated to DOH for MSC services delivered by OPWDD and projected to be transferred to OPWDD for the current fiscal year is approximately \$49 million.

- 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 only supplemental payments are the ones described in this plan amendment.

- 4. For clinic or outpatient hospital services 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.**

Response: This state plan amendment does not apply to outpatient hospital or clinic services.

- 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: The rate paid to OPWDD operated MSC programs will not exceed the reasonable cost of providing services. The supplemental payments will exceed costs, but they will phase out after the first year.

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: This SPA 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: The process that New York State uses is detailed in SPA #11-06, which was approved by CMS on 8/4/11. The tribal leaders were sent information regarding the SPA via postal mail, and the health clinic administrators were emailed the same information. Copies of tribal consultation are enclosed.

Appendix VI
2012 Title XIX State Plan
Second Quarter Amendment
Non-Institutional Services
Responses to Standard Access Questions

**APPENDIX VI
NON-INSTITUTIONAL SERVICES
State Plan Amendment 12-30**

CMS Standard Access Questions

The following questions have been asked by CMS and are answered by the State in relation to all payments made to all providers under Attachment 4.19-B of the state plan.

- 1. Specifically, how did the State determine that the Medicaid provider payments that will result from the change in this amendment are sufficient to comply with the requirements of 1902(a)(30)?**

Response: The State determined that that the Medicaid provider payments that will result from the change in this amendment are sufficient to comply with the requirements of Social Security Act §1902(a)(30) because the new methodology more closely aligns reimbursement for State provided MSC with actual costs. Although the methodology reduces rates, it will not reduce them below the State's actual cost of providing MSC. In addition, there will be supplemental payments for the first year, to allow for stability of operations and services while the State adjusts to the new reimbursement levels. Rates for voluntary providers of MSC will not change.

- 2. How does the State intend to monitor the impact of the new rates and implement a remedy should rates be insufficient to guarantee required access levels?**

Response: Since the State operates the MSC program affected by this plan amendment, the State will be directly aware if rates are insufficient to cover the cost of operation and will adjust accordingly.

- 3. How were providers, advocates and beneficiaries engaged in the discussion around rate modifications? What were their concerns and how did the State address these concerns?**

Response: The State is the only provider directly affected by the rate modifications, and the State, in cooperation with CMS, designed the new methodology. In addition, the methodology changes were contained in a public notice that appeared in the State Register on June 27, 2012, and will be discussed with providers, advocates and beneficiaries in the coming months.

4. **What action(s) does the State plan to implement after the rate change takes place to counter any decrease to access if the rate decrease is found to prevent sufficient access to care?**

Response: In the unlikely event that the State provided MSC program experienced Medicaid revenue issues that would prevent it from continuing to operate, OPWDD would adjust its operations in other areas to ensure continued access to MSC and/or work with CMS to address the revenue shortfalls.

5. **Is the State modifying anything else in the State Plan which will counterbalance any impact on access that may be caused by the decrease in rates (e.g. increasing scope of services that other provider types may provide or providing care in other settings)?**

Response: No. The State does not expect there to be any change in access to MSC.