NEW YORK STATE OF OPPORTUNITY. Department of Health

ANDREW M. CUOMO
Governor

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

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

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

SEP 26 2017

RE: SPA #17-0006
Non-Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #17-0006 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective September 1, 2017 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

The State of New York reimburses these services through the use of rates that are consistent with and promote efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area as required by §1902(a)(30) of the Social Security Act and 42 CFR §447.204.

Copies of pertinent sections of enacted legislation 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 February 11, 2015, 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 John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 474-6350.

Sincerely,

Jason A. Helgerson
Medicaid Director
Office of Health Insurance Programs

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: **17-0006**	2. STATE **New York**
	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 **September 1, 2017**	

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

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

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

6. FEDERAL STATUTE/REGULATION CITATION: **§1902(r)(5) of the Social Security Act and 42 CFR 447**	7. FEDERAL BUDGET IMPACT: **(in thousands)** **a. FFY 09/01/17-09/30/17 $ 19.56** **b. FFY 10/01/17-10/01/18 $ 681.49**
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: **Attachment 4.19-B: Page 2, 2(a)** **Attachment 4.19-B: Page 7(b), 7(b)(i), 7(b)(ii)**	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: **Attachment 4.19-B: Page 2, 2(a)** **Attachment 4.19-B: Page 7(b), 7(b)(i), 7(b)(ii)**

10. SUBJECT OF AMENDMENT:
AIDS adult day health care service expansion to persons at high risk of HIV.
(FMAP = 50%)

11. 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:

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO: **New York State Department of Health** **Division of Finance & Rate Setting** **99 Washington Ave – One Commerce Plaza** **Suite 1432** **Albany, NY 12210**
13. TYPED NAME: **Jason A. Helgerson**	
14. TITLE: **Medicaid Director** **Department of Health**	
15. DATE SUBMITTED: SEP 26 2017	

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
2017 Title XIX State Plan
Third Quarter Amendment
Amended SPA Pages

[responsibility of providers for selected laboratory and other ancillary procedures and Medicaid revenue assurances. Financial incentives are employed (within limitations) under this system to assure that these and other features are complied with.]

Ordered Ambulatory Services (specific services performed by a free-standing clinic on an ambulatory basis upon the order of a qualified physician, physician's assistant, dentist or podiatrist to test, diagnose or treat a recipient or specimen taken from a recipient).

Fee schedule developed by the Department of Health and approved by the Division of the Budget for each type of service, as appropriate. Payment for these services are in compliance with 42 CFR 447.325.

[AIDS/HIV] Adult Day Health Care Services For Persons with HIV/AIDS and Other High-need Populations Diagnostic And Treatment Centers

Medical assistance rates of payment for adult day health care services provided on and after December 1, 2002 to patients with AIDS/HIV and other high-need populations by a free standing ambulatory care facility shall be increased by three percent.

This increase to rates of payment will be for purposes of improving recruitment and retention of non-supervisory workers or any worker with direct patient care responsibility. Programs are prohibited from using the funds for any other purpose. The Commissioner of Health is authorized to audit each program to ensure compliance with the purpose for which this funding is provided and shall recoup any funds determined to have been used for purposes other than recruitment and retention.

To generate a threshold day care bill, the provider must ensure that clients receive a core service [and be in attendance for a minimum of three hours, and over the course of the week, receive a minimum of three hours of health care services.] in accordance with clients' comprehensive care plans. Health care services are defined as both the core services and health related services that are therapeutic in nature and directly or indirectly related to the core services, which must be identified on the client's comprehensive care plan. Each visit must include a core service. A bill cannot be generated if these two requirements are not met.

Core services include:

- Medical visits
- Nursing visits

- Individual and group Mental Health services
- Individual and group Nutrition counseling services
- Individual and group Substance Abuse counseling services
- Medication group counseling
- Activities of Daily Living
- Physical and Occupational Therapy services
- Case management services
- Prevention/Risk reduction counseling
- Any routine assessment performed by an appropriately credentialed staff person

Health related (non-core) services include:

- Group exercise sessions
- Acupuncture
- Breakfast and/or lunch
- Therapeutic massage
- Yoga
- Pastoral care
- Therapeutic recreation and structured socialization services
- Tai-chi

For adult day health care services provided to patients diagnosed with HIV/AIDS and to other high-need populations on and after January 1, 2007, medical assistance rates of payment to diagnostic and treatment centers shall be increased up to an annual amount of $2.8 million in the aggregate. Such amount shall be allocated proportionally among eligible providers based on the medical assistance visits reported by each provider in the most recently available cost report, as submitted to the Department of Health. Such allocated amounts will be included as an adjustment to each provider's daily rate of payment for such services.

Effective for adult day health care services rendered on and after January 1, 2007 through December 31, 2009, and for adult day health care services provided to patients diagnosed with HIV/AIDS and to other high-need populations on and after April 1, 2009, medical assistance rates of payments shall reflect trend factor adjustments computed in accordance with the previously approved trend factor methodology. Such adjustments shall be applied to the operational cost component of the rate.

Effective April 1, 2011 through June 30, 2011, rates of payment for adult day health care services provided to patients with AIDS or other HIV related illnesses shall be increased by an additional aggregate amount of $1,156,650 to be allocated proportionally among such providers based on the Medicaid visits as reported in the most recently available cost report submitted to the State by January 1, 2011.

New York
7(b)

(f) For facilities without a skilled nursing facility rate, computed in accordance with section 86-2.10 or section 86-2.15 of this Subpart, in effect on January 1, 1990, a weighted average rate for each region listed in Appendix 13A of this Title shall be used as the proxy for the facility's January 1, 1990 skilled nursing facility rate in determining the maximum daily rate for such facilities as set forth in subdivisions (d) and (e) of this section. The weighted average rate for each region shall be equal to the statewide weight average 1990 skilled nursing facility rate with the statewide average direct component and indirect component of the rate adjusted respectively by the regional direct and indirect input price adjustment factors described in section 86-2.10. The statewide weighted average rate shall be computed by multiplying each residential health care facility's 1990 skilled nursing facility rate times its 1990 skilled nursing facility patient days, summing the result statewide, and dividing by the statewide total 1990 skilled nursing facility patient days. The 1990 rate used in computing the statewide weighted average rate shall be the latest 1990 rate in effect on July 1, 1992 for the former skilled nursing level of care which is contained in the rate which has been certified by the commissioner pursuant to section 2807(3) of the Public Health Law.

(g) Effective April 1, 1994 and thereafter reimbursement for Adult Day Health Care services provided to registrants with acquired immunodeficiency syndrome (AIDS) and other human immunodeficiency virus (HIV) related illnesses and to other high-need populations shall be established as follows. Payment shall be a per visit price with not more than one visit per day per registrant. The rate of payment shall consist of a single price per visit for the operating component, transportation, and the capital cost component and shall be based upon a rate of $160 per visit per 24 hour period. To be eligible for reimbursement a residential health care facility must be certified by the Department to provide adult day health care services for AIDS/HIV registrants and, effective April 1, 2017, to other high-need registrants. The price shall be full reimbursement for the following: (i) physician services, nursing services, and other related professional expenses directly incurred by the licensed residential health care facility; (ii) administrative, personnel, business office, data processing, recordkeeping, housekeeping, food services, transportation, plant operation and maintenance and other related facility overhead expenses; (iii) all other services required for adult day health care in residential health care facilities appropriate to the level of general medical care required by the patient; (iv) all medical supplies, immunizations, and drugs directly related to the provision of services except for those drugs used to treat AIDS

patients for which fee-for-service reimbursement is available as determined by the Department of Health.

Medical assistance rates of payment for adult day health care services provided on and after December 1, 2002 to patients with AIDS/HIV and other high-need populations by a residential health care facility shall be increased by three percent.

This increase to rates of payment will be for purposes of improving recruitment and retention of non-supervisory workers or any worker with direct patient care responsibility. Programs are prohibited from using the funds for any other purpose. The Commissioner of Health is authorized to audit each program to ensure compliance with the purpose for which this funding is provided and shall recoup any funds determined to have been used for purposes other than recruitment and retention.

To generate a threshold day care bill, the provider must ensure that clients receive a core service [and be in attendance for a minimum of three hours, and over the course of the week, receive a minimum of three hours of health care services.] in accordance with clients' comprehensive care plans. Health care services are defined as both the core services and health related services that are therapeutic in nature and directly or indirectly related to the core services, which must be identified on the client's comprehensive care plan. Each visit must include a core service. A bill cannot be generated if these two requirements are not met.

Core services include:

- Medical visits
- Nursing visits
- Individual and group Mental Health services
- Individual and group Nutrition counseling services
- Individual and group Substance Abuse counseling services
- Medication group counseling
- Activities of Daily Living
- Physical and Occupational Therapy services
- Case management services
- Prevention/Risk reduction counseling
- Any routine assessment performed by an appropriately credentialed staff person

New York
7(b)(ii)

Health related (non-core) services include:

- Group exercise sessions
- Acupuncture
- Breakfast and/or lunch
- Therapeutic massage
- Yoga
- Pastoral care
- Therapeutic recreation and structured socialization services
- Tai-chi

For adult day health care services provided to patients diagnosed with HIV/AIDS and other high-risk populations on and after January 1, 2007, medical assistance rates of payment to residential health care facilities shall be increased up to an annual amount of $2.8 million in the aggregate. Such amount shall be allocated proportionally among eligible providers based on the medical assistance visits reported by each provider in the most recently available cost report, as submitted to the Department of Health. Such allocated amounts will be included as an adjustment to each provider's daily rate of payment for such services.

For adult day health care services rendered on and after January 1, 2007, through December 31, 2009, and for adult day health care services provided to patients diagnosed with HIV/AIDS and other high-risk populations on and after April 1, 2009, medical assistance rates of payments shall reflect trend factor adjustments computed in accordance with the previously approved trend factor methodology contained in this Attachment.

Effective April 1, 2011 through June 30, 2011, rates of payment for adult day health care services provided to patients with AIDS or other HIV related illnesses shall be increased by an additional aggregate amount of $946,350 to be allocated proportionally among such providers based on the Medicaid visits as reported in the most recently available cost report submitted to the State by January 1, 2011.

(h) For the period April 1, 2007 and thereafter, rates of payment for adult day health care services provided by residential health care facilities, shall be computed in accordance with the following:

(i) the operating component of the rate for an adult day health care program that has achieved an occupancy percentage of 90% or greater for a calendar year, prior to April 1, 2007, shall be calculated utilizing allowable costs reported in the 2004, 2005, or 2006 calendar year residential health care facility cost report filed by the sponsoring residential health care facility, whichever is the earliest of such calendar year cost reports in which the program has achieved an occupancy percentage of 90% or greater, except that programs receiving rates of payment based on allowable costs for a period prior to April 1, 2007 shall continue to receive rates of payment based on that period;

(ii) for programs that achieved an occupancy percentage of 90% or greater prior to calendar year 2004 but did not maintain occupancy of 90% or greater in calendar years 2004, 2005, or 2006, the operating component of the rate of payment will be calculated utilizing allowable costs reported in the 2004 calendar year cost report divided by visits imputed at 90% occupancy.

Appendix II
2017 Title XIX State Plan
Third Quarter Amendment
Summary

SUMMARY
SPA #17-0006

This State Plan Amendment proposes to expand the population that may be served by adult day health care programs that are approved as providers of specialized services for registrants with AIDS ("AIDS ADHCPs") to HIV-negative persons at high risk for HIV and who would benefit from the programming offered by these service providers.

Appendix III
2017 Title XIX State Plan
Third Quarter Amendment
Authorizing Provisions

SPA #17-0006

10 NYCRR 86-4.41, 452.18

86-4.41 Computation of basic rates for day health care services provided by freestanding ambulatory care facilities to patients with acquired immune deficiency syndrome (AIDS), other human immunodeficiency virus (HIV) related illnesses and other high-need populations that, regardless of their HIV status and in the discretion of the commissioner, would benefit from receiving adult day health care services.

Effective April 1, 1994 and thereafter, reimbursement for adult day health care services that are provided to registrants with acquired immune deficiency syndrome (AIDS), other human immunodeficiency virus (HIV) related illnesses and, effective April 1, 2017, that are provided to registrants who are otherwise considered at the discretion of the commissioner to be part of a high-need population that, regardless of their HIV status, would benefit from receiving these adult day health care services shall be established pursuant to this section.

(a) For payments made pursuant to this section for day health care services rendered to patients who have AIDS or HIV-related illness and other high-need registrants, reimbursement shall be a single price per visit, with not more than one reimbursable visit per day per patient. For 1993 an initial price shall be determined taking into consideration reasonable projections of necessary costs, and the costs and statistics contained in proposed annual budgets for this service as defined in section 759.1(d) of this Title, including, but not limited to, utilization, staffing and salaries. For subsequent rate periods the price established pursuant to this section shall be adjusted by the trend factor described in subdivision (e) of this section after considering the actual allowable expenditures and statistics for the year which ended 15 months prior to the rate period.

(b) To be eligible to receive reimbursement pursuant to this section, a freestanding ambulatory care facility must be certified to provide general medical services and day health care services for AIDS/HIV patients and, effective April 1, 2017, to other high-need registrants.

(c) The price established pursuant to this section shall be full reimbursement for the following:

(1) physician services, nursing services, and other related professional expenses directly incurred by the licensed facility, including the provision of triage or sick call services;

(2) space occupancy and plant overhead costs;

(3) administrative personnel, business office, data processing, recordkeeping, housekeeping, food services, transportation, and other related facility overhead expenses;

(4) all ancillary services described in section 759.8 of this Title and laboratory tests and diagnostic x-ray services appropriate to the level of primary medical care required by the patient;

(5) all medical supplies, immunizations, and drugs directly related to the provision of services.

(d) Components of the price may be adjusted for service capacity, urban or rural location, and for regional differences in wage levels, space occupancy, and facility overhead costs, by comparing anticipated utilization and costs with actual experiences. The downstate region shall be defined as the counties of Putnam, Rockland, Westchester, Bronx, Kings, New York, Queens, Richmond, Nassau, and Suffolk and the upstate region shall be defined as all remaining counties in the State.

(e) The commissioner shall establish trend factors to project increases in prices for the effective period of the reimbursement rates. The trend factors shall be developed using available price indices including elements of the United States Department of Labor consumer and producer price indices and special price indices developed by the Commissioner for this purpose. The projected trend factors shall be updated on an annual basis, based upon current and available data.

425.18 Services for registrants with Acquired Immune Deficiency Syndrome (AIDS) and other high-need populations.

(a) Applicability.

(1) This section applies to an adult day health care program approved by the commissioner pursuant to Part 710 of this Chapter as a provider of specialized services for registrants with AIDS and other high-need populations that in the discretion of the Commissioner would benefit from receiving adult day health care services.

(2) For purposes of these regulations, AIDS means acquired immune deficiency syndrome and other human immunodeficiency virus (HIV) related illness.

(b) General requirements. The program shall provide comprehensive and coordinated health services in accordance with this Article and requirements set forth in Part 759 of this Title and shall receive payment for such services in accordance with section 759.14 of this Title.

Appendix IV
2017 Title XIX State Plan
Third Quarter Amendment
Public Notice

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

PUBLIC NOTICE
Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health (DOH) proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services related to adult day care service programs serving registrants with HIV/AIDS, effective on or after July 1, 2015. The changes propose to:

- Expand the population that may be served by these programs that are approved as providers of specialized services for registrants with HIV/AIDS (''AIDS Adult Day Health Care Providers (ADHCPs)'');
- Conform the standards applicable to AIDS ADHCPs operated by residential health care facilities with those operated by diagnostic and treatment centers;
- Conform AIDS ADHCPs non-specialized adult day health care programs, thereby similarly allowing for AIDS ADHCPs to more effectively contract with managed care plans; and
- Revise the reimbursement rates for AIDS ADHCPs to reflect the actual cost of care provided to the expanded population of registrants, as well as registrants with AIDS, and the cost of the overhead expenses of AIDS ADHCP operators.

There is no estimated annual net aggregate increase or decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Years 2015/2016.

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

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

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

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
95 Central Avenue, St. George
Staten Island, New York 10301

For further information and to review and comment, please contact: Department of Health, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave. - One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX) or e-mail: spa inquiries@health.state.ny.us

PUBLIC NOTICE
Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for acute inpatient hospital and long term care services to comply with statutory provisions. The following changes are proposed:

Institutional Services

Effective for the State Fiscal Year April 1, 2015 through March 31, 2016, the Department of Health will have the flexibility to make Indigent Care Pool payments prior to April 1 of the State Plan Rate Year (SPRY). Such payments will begin no sooner than January 1 of the 2015 SPRY.

Long Term Care Services

Effective with the 2013 rate year, the Department of Health provided a new incentive to improve quality for non-specialty nursing homes by linking incentive payments to quality. Under the program, nursing homes are scored and compared on a define set of quality measures. This amendment will maintain the quality incentive program into the 2014 rate year and will recognize improvement in performance as a new element in the program and provide for other minor modifications.

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

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

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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, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave. – One Commerce Plaza, Suite 1460, Albany, NY 12210, spa_inquiries@health.state.ny.us

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 Brian Tollsen, Building Standards And Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2014-0484 Matter of Catherine Macri/K'Bella Salon and Spa, 161 Main Street, Canandaigua, New York, 14424 for a variance concerning requirements of 19NYCRR Part 1223 Mechanical Code of NY section 504 relating to the requirements for clothes dryer exhaust system in Group B Building located at 161 Main Street, Canandaigua, Ontario County, New York.

2014-0564 Matter of JG Turner, Tompkins Cortland Community College, 170 North Street, PO Box 139, Dryden, NY 13053 for a variance concerning alterations of the an existing parking garage lower level to an instructional space, Occupancy: Business B and Assembly A-2; Construction Type IA, approximately 6,000 square feet in gross floor area located at 102 East Clinton Street, City of Ithaca, in accordance with the New York State Uniform Fire Prevention and Building Code.

Involved is the request of a Variance for the minimum ceiling height in two-thirds of the area thereof, but in no case shall the height of the furred ceiling be less than seven feet (2134 mm). The subject building is located at 102 East Clinton Street, City of Ithaca, Town of Ithaca, and Tompkins County, State of New York.

2014-0700 Matter of Douglas Nadeau, Pe, 1062 Central Avenue, Albany, NY 12205, for a variance concerning safety requirements, including required standpipes in a building located at 1879 Davis Street, City of Elmira, County of Chemung, State of New York.

2015-0008 Matter of Al Sigal Community of Agencies, Thomas O'connor, 1000 Elmwood Ave, Suite 300, Rochester, NY 14620, for a variance concerning safety requirements, including a required means of egress in a building located at 1900 South Avenue, City of Rochester, County of Monroe, State of New York.

2015-0010 Matter of Mark & Amy Nupp, 168 North Street, Buffalo, NY 14202 for a variance concerning requirements for fire command center, exit travel distances and remoteness of exits.

Involved is an existing seven story building, of fire resistive construction proposed for a change of occupancy from warehouse to permanent multiple dwellings, located 510 Washington street, City of Buffalo, County of Erie, State of New York.

2015-0016 Matter of Charles Breuer for Creekwalk Housing, LLC, PO Box 515, Syracuse, NY 13205 for a variance concerning fire safety and building code requirements including to be allowed to provide openings in an exterior wall within three to five feet of a property line.

Involved is the alteration to an existing building known as "Creekwalk Commons", located at 324 West Water Street, City of Syracuse, Onondaga County, New York.

2015-0018 Matter of Donna Aumiller, Four Riverside Drive #317, Utica, NY 13502 for a variance related to wood on walls of exit stairway, the fire rating of a cellar ceiling and cellar stairway in accordance with the New York State Multiple Residence Law.

Involved is a three story building located at 609 Mohawk Street, City of Utica, Oneida County, State of New York.

2015-0025 Matter of Hemlock Lake Union Agricultural Society, Anthony West, PO Box 263, Hemlock, NY 14466, for a variance concerning requirements of 19NYCRR Part 1221 Building Code of NY section(s) 503, 903.2.1.3, 903.2.8 relating to the requirements for building area and sprinkler requirements in mixed occupancy Group A/S-1 Building located at 7370 Fair Street, Hemlock, Livingston County, New York.

2015-0027 Matter of Heritage Christian Services, Daniel J Stewart, 349 West Commercial Street, Suite 2795, East Rochester, NY 14445, for a variance concerning safety requirements, including means of emergency egress in a building located 3897 Chili Avenue, Town of Chili, County of Monroe, State of New York.

MISCELLANEOUS
NOTICES/HEARINGS

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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
City of Albany

The City of Albany has issued a Final Request For Proposals (RFP) dated August, 16, 2017 to request proposals from Respondents that are interested in developing a Transfer Station located adjacent to the current Rapp Road Landfill property site on Rapp Road. The transfer station will transfer traditional waste but also be used to host a variety of waste collection activities including accommodations for residentially generated household hazardous waste, electronic waste, and bulky waste materials. Interested companies should request a copy of the Final RFP from Office of the City Clerk, Room 202, City Hall, Albany, NY 12207. Comments received on the Draft RFP have been considered and incorporated into this Final RFP where appropriate. Proposals must be submitted in hard copy to the location detailed in Section 13 of the RFP on or before 3:00 p.m. on October 25, 2017.

Contact Person: Joseph Giebelhaus, City of Albany, Department of General Services, One Conners Blvd., Albany, NY 12204, (518) 462-3284, e-mail: jgiebelhaus@albanyny.gov

PUBLIC NOTICE
Division of Criminal Justice Services
Commission on Forensic Science

Pursuant to Public Officers Law section 104, the Division of Criminal Justice Services gives notice of a meeting of the New York State Commission on Forensic Science to be held on:

Date:	September 13, 2017
Time:	9:00 a.m.-1:00 p.m.
Place:	Division of Criminal Justice Services Alfred E. Smith Office Bldg. CrimeStat Rm. 118 80 S. Swan St. Albany, NY
Video Conference Site:	Empire State Development Corporation (ESDC) 633 3rd Ave. 37th Fl./Conference Rm. New York, NY *Identification and sign-in required

*Identification and sign-in is required at this location. For further information, or if you need a reasonable accommodation to attend this meeting, contact Catherine White, Division of Criminal Justice Services, Office of Forensic Services, 80 Swan St., Albany, NY 12210, (518) 485-5052.

PUBLIC NOTICE
Department of Health

Pursuant to 42 CFR Section 447.272, 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 to comply with enacted Chapter 57 of the laws of 2015. The following provides a clarification to provisions previously noticed on February 11, 2015.

Non-Institutional Services

The changes proposed to:

- Expand the population that may be served by these programs that are approved as providers of specialized services for registrants with HIV/AIDS ("AIDS Adult Day Health Care Providers (ADHCPs)");
- Conform the standards applicable to AIDS ADHCPs operated by residential health care facilities with those operated by diagnostic and treatment centers;
- Conform AIDS ADHCPs non-specialized adult day health care programs, thereby similarly allowing for AIDS ADHCPs to more effectively contract with managed care plans; and
- The Department of Health no longer proposes to revise the reimbursement rates for AIDS ADHCPs to reflect the actual cost of care provided to the expanded population of registrants, as well as registrants with AIDS, and the cost of the overhead expenses of AIDS ADHCP operators.

This provision is now effective September 1, 2017.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative as a result of the clarifying proposed amendments is $704,372 for the State Fiscal Year 2018 and $1,362,975 for the State Fiscal 2019.

The public is invited to review and comment on this proposed State Plan Amendment (SPA). Copies of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. In addition, approved SPA's beginning in 2011, are also available for viewing on this website.

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

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

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
95 Central Avenue, St. George
Staten Island, New York 10301

For further information and to review and comment, please contact: Department of Health, 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 institutional services to comply with enacted State Fiscal Year 2017/18 Budget statutory provisions included in Public Health Law § 2826. The following provides a clarification to provisions previously noticed on July 26, 2017:

This notice provides for a temporary rate adjustment with an aggregate payment totaling no less than $7.5 million annually for Critical Access Hospitals (CAHs), for the period April 1, 2017 through March 31, 2019. These payments will be made to the following: Carthage Area Hospital, Catskill Regional Medical Center-Hermann, Clifton-Fine Hospital, Community Memorial Hospital, Cuba Memorial Hospital, Delaware Valley Hospital, Elizabethtown Community Hospital, Ellenville Regional Hospital, Gouverneur Hospital, Lewis County General Hospital, Little Falls Hospital, Margaretville Hospital, Moses Ludington Hospital, O'Connor Hospital, River Hospital, Schuyler Hospital, Soldiers and Sailors Memorial Hospital of Yates, Co as well as Medina Memorial Hospital.

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

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

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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, Bureau of Federal Relations & Provider Assessments, 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 institutional temporary rate adjustments to providers that are undergoing a closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are authorized by § 2826 of the New York Public Health Law. The following provides a clarification to provisions previously noticed on July 26, 2017:

This notice provides for a temporary rate adjustment with an aggregate payment amounts totaling no less than $10,001,000 annually, for the period April 1, 2017 through March 31, 2019. These payments will be made to the following approved providers: A.O Fox Memorial Hospital, Adirondack Medical Center, Alice Hyde Hospital Association, Auburn Memorial Hospital, Bassett Hospital of Schoharie County- Cobleskill Reg, Brooks Memorial Hospital, Canton-Potsdam Hospital, Carthage Area Hospital, Catskill Regional Hospital – Sullivan, Catskill Regional Medical Center-Hermann Div, Cayuga Medical Center-Ithaca, Champlain Valley Physicians HMC, Chenango Memorial Hospital, Claxton Hepburn Hospital, Clifton-Fine Hospital, Columbia Memorial Hospital, Community Memorial Hospital, Corning Hospital, Cortland Memorial Hospital, Cuba Memorial Hospital, Delaware Valley Hospital, Elizabethtown Community Hospital, Ellenville Community Hospital, Gouverneur Hospital, Ira Davenport Memorial Hospital, Jones Memorial Hospital, Lewis County General Hospital, Little Falls Hospital, Margaretville Memorial Hospital, Mary Imogene Bassett Hospital, Massena Memorial Hospital, Medina Memorial Hospital, Moses-Ludington Hospital, Nathan Littauer Hospital, Northern Dutchess Hospital, Noyes Memorial Hospital, O'Connor Hospital, Olean General Hospital – Main, Oneida City Hospital, Oswego Hospital, River Hospital, Samaritan Medical Center, Schuyler Hospital, Soldiers and Sailors Memorial Hospital, St. James Mercy Hospital, TLC Health Network, Tri Town Regional, Westfield Memorial Hospital, Wyoming County Community Hospital, WCA Hospital, United Memorial Medical Center, St. Mary's Healthcare.

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

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center

Appendix V
2017 Title XIX State Plan
Third Quarter Amendment
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #17-0006

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

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: For free-standing clinics: Based on an agreement between CMS and the State, no UPL implications will apply to clinic SPAs between the years of 2012 and 2017. In the event the State corrects the delineated deficiencies (as stated in the November 23rd letter from Deputy Commissioner Helgerson) prior to 2018, the State may submit an earlier UPL to CMS for review and approval. If such a UPL is submitted for approval, it is understood that the UPL implications will be reinstated for SPAs within that UPL year.

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: Freestanding D&TCs and Ambulatory Surgery Centers: The rate methodology included in the State Plan for freestanding diagnostic and treatment and ambulatory surgery center services is based upon the Ambulatory Patient Group (APG) system with the exception of Federally Qualified Health Centers who have the option to opt into the APG system or remain on the Prospective Payment Methodology (PPS) as approved by CMS in SPA 01-03. We are unaware of any requirement under current federal law or regulation that limits individual providers' payments to their actual costs.

ACA Assurances:

1. **Maintenance of Effort (MOE). Under section 1902(gg) of the Social Security Act (the Act), as amended by the Affordable Care Act, as a condition of receiving any Federal payments under the Medicaid program during the MOE period indicated below, the State shall not have in effect any eligibility standards, methodologies, or procedures in its Medicaid program which are more restrictive than such eligibility provisions as in effect in its Medicaid program on March 10, 2010.**

   MOE Period.
   - **Begins on: March 10, 2010, and**
   - **Ends on: The date the Secretary of the Federal Department of Health and Human Services determines an Exchange established by a State under the provisions of section 1311 of the Affordable Care Act is fully operational.**

   Response: This SPA complies with the conditions of the MOE provision of section 1902(gg) of the Act for continued funding under the Medicaid program.

2. **Section 1905(y) and (z) of the Act provides for increased FMAPs for expenditures made on or after January 1, 2014 for individuals determined eligible under section 1902(a)(10)(A)(i)(VIII) of the Act. Under section 1905(cc) of the Act, the increased FMAP under sections 1905(y) and (z) would not be available for States that require local political subdivisions to contribute amounts toward the non-Federal share of the State's expenditures at a greater percentage than would have been required on December 31, 2009.**

   Prior to January 1, 2014 States may potentially require contributions by local political subdivisions toward the non-Federal share of the States' expenditures at percentages greater than were required on December 31, 2009. However, because of the provisions of section 1905(cc) of the Act, it is important to determine and document/flag any SPAs/State plans which have such greater percentages prior to the January 1, 2014 date in order to anticipate potential violations and/or appropriate corrective actions by the States and the Federal government.

   Response: This SPA would [ ] / would not [✓] violate these provisions, if they remained in effect on or after January 1, 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 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 11-06, 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.