



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

MAR 20 2018

RE: SPA #18-0007
Non-Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #18-0007 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective January 1, 2018 (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.

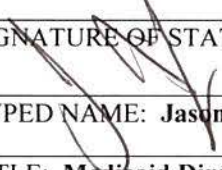
Copies of pertinent sections of enacted legislation are enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register on **December 27, 2017**, is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding 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. Hergerson
Medicaid Director
Office of Health Insurance Programs

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 18-0007	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 January 1, 2018	
5. TYPE OF PLAN MATERIAL <i>(Check One)</i> : <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT <i>(Separate Transmittal for each amendment)</i>			
6. FEDERAL STATUTE/REGULATION CITATION: - insert appropriate citation -		7. FEDERAL BUDGET IMPACT: <i>(in thousands)</i> a. FFY 01/01/18-09/30/18 \$ 10.01 b. FFY 10/01/18-09/30/19 \$ 13.35	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B Pages: 2(t.7); 2(t.8); 2(t.9)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT <i>(If Applicable)</i> :	
10. SUBJECT OF AMENDMENT: Article 16 Minimum Wage (FMAP = 50%)			
11. GOVERNOR'S REVIEW <i>(Check One)</i> : <input checked="" 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: 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: MAR 20 2018			
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
2018 Title XIX State Plan
First Quarter Amendment
Amended SPA Pages

**New York
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5. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.
 6. Overtime will be applied based on prior years historical experience.
- b. The 2018 minimum wage costs will be developed based on collected survey data received and attested to by clinics. If a clinic did not submit a survey, its minimum wage costs will be calculated based on 2016 Article 16 cost report wage data. If a clinic fails to submit both the survey and the 2016 Article 16 cost report, its minimum wage add-on will not be calculated.
 - c. In the subsequent years until the minimum wage is completely implemented statewide, the Department will survey clinics utilizing the methodology employed in year one. If a clinic fails to submit the minimum wage survey, the calculation for minimum wage costs will default to the use of the personnel wage data reported on the statewide latest available Article 16 cost report. If a clinic fails to submit both the survey and the latest Article 16 cost report, its minimum wage add-on will not be calculated. Once the minimum wage costs are included in the development of the upstate/downstate APG base rate, the minimum wage add-on will be excluded from the rate.
 - d. A minimum wage add-on will be developed by multiplying minimum wage costs pursuant to subdivision (a) above, by a percentage of Medicaid clinic visits to total clinic visits as reported in the provider's 2016 Article 16 Cost Report. The result is divided by total Medicaid visits for such services.
 - e. Minimum Wage Reconciliation - After the end of each calendar year, the Department of Health will survey providers to obtain the following information for the purpose of reconciling the annual minimum wage add-on reimbursement provided for in subdivision (d) above. The state will release the reconciliation survey by the end of March and providers will have two weeks to complete the survey or request an extension if a provider determines it is unable to complete the survey within that time. Approval of extensions, and the time of the extension, is at the discretion of the state. If the reconciliation survey is not submitted within the two weeks or within the extension time frame, should one be granted, the provider's minimum wage add-on for the calendar year covered by the survey will be recouped.
 - i. Total annual minimum wage funding paid to the provider (as determined from the minimum wage add-on to claims paid for services rendered in the prior calendar year) for the Medicaid share of the minimum wage law increase requirement. The Medicaid share of the annual minimum wage funding will be supplied in the reconciliation survey by the Department of Health. Medicaid's share is defined as the percentage of minimum wage costs that are attributable to Medicaid services based on the proportion of Medicaid services to a provider's total services.
 - ii. Medicaid's share of the total amount the provider was obligated to pay to bring salaries up to the minimum wage for the calendar year. (This information will be

TN #18-0007 Approval Date _____Supersedes TN New Effective Date _____

Appendix II
2018 Title XIX State Plan
First Quarter Amendment
Summary

SUMMARY
SPA #18-0007

This State Plan Amendment proposes to adjust Article 16 clinic rates for increased labor costs due to statutorily required increases in New York State minimum wage. Increases in the minimum wage will be phased in over a number of years until the minimum wage is \$15 per hour in all regions of the State.

Appendix III
2018 Title XIX State Plan
First Quarter Amendment
Authorizing Provisions

SPA #18-0007
Chapter 54 of the Laws of 2016

PART K

Section 1. Subdivision 1 of section 652 of the labor law, as amended by section 1 of part P of chapter 57 of the laws of 2013, is amended to read as follows:

1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than:

\$4.25 on and after April 1, 1991,

\$5.15 on and after March 31, 2000,

\$6.00 on and after January 1, 2005,

\$6.75 on and after January 1, 2006,

\$7.15 on and after January 1, 2007,

\$8.00 on and after December 31, 2013,

\$8.75 on and after December 31, 2014,

\$9.00 on and after December 31, 2015, and until December 31, 2016, or,

if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors

or such other wage as may be established in accordance with the provisions of this article.

(a) New York City. (i) Large employers. Every employer of eleven or more employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

\$11.00 per hour on and after December 31, 2016,

\$13.00 per hour on and after December 31, 2017,

\$15.00 per hour on and after December 31, 2018, or, if greater, such

other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(ii) Small employers. Every employer of ten or less employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

\$10.50 per hour on and after December 31, 2016,

\$12.00 per hour on and after December 31, 2017,

\$13.50 per hour on and after December 31, 2018,

\$15.00 per hour on and after December 31, 2019, or, if greater, such

other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

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

\$10.00 per hour on and after December 31, 2016,

\$11.00 per hour on and after December 31, 2017,

\$12.00 per hour on and after December 31, 2018,

\$13.00 per hour on and after December 31, 2019,

\$14.00 per hour on and after December 31, 2020,

\$15.00 per hour on and after December 31, 2021,

S. 6406--C

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or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(c) Remainder of state. Every employer shall pay to each of its employees for each hour worked outside of the city of New York and the

counties of Nassau, Suffolk, and Westchester, a wage of not less than:
\$9.70 on and after December 31, 2016,
\$10.40 on and after December 31, 2017,
\$11.10 on and after December 31, 2018,
\$11.80 on and after December 31, 2019,
\$12.50 on and after December 31, 2020,
and on each following December thirty-first, a wage published by the
commissioner on or before October first, based on the then current mini-
imum wage increased by a percentage determined by the director of the
budget in consultation with the commissioner, with the result rounded to
the nearest five cents, totaling no more than fifteen dollars, where the
percentage increase shall be based on indices including, but not limited
to, (i) the rate of inflation for the most recent twelve month period
ending June of that year based on the consumer price index for all urban
consumers on a national and seasonally unadjusted basis (CPI-U), or a
successor index as calculated by the United States department of labor,
(ii) the rate of state personal income growth for the prior calendar
year, or a successor index, published by the bureau of economic analysis
of the United States department of commerce, or (iii) wage growth; or,
if greater, such other wage as may be established by federal law pursu-
ant to 29 U.S.C. section 206 or its successors or such other wage as may
be established in accordance with the provisions of this article.
(d) The rates and schedules established in paragraphs (a) and (b) of
this subdivision shall not be deemed to be the minimum wage under this
subdivision for purposes of the calculations specified in subdivisions
one and two of section five hundred twenty-seven of this chapter.

**Appendix IV
2018 Title XIX State Plan
First Quarter Amendment
Public Notice**

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

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

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

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

PUBLIC NOTICE

Department of Civil Service

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

Please take notice that the regular monthly meeting of the State Civil Service Commission for January 2018 will be conducted on January 9 and January 10 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at <https://www.cs.ny.gov/commission/>.

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. 1, Albany, NY 12239, (518) 473-6598

PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for all qualifying Mental Hygiene services to comply with enacted statutory provisions. The following changes are proposed:

All Services

Effective on or after December 31, 2017, the State will change the methods and standards for determining payment rates for all qualifying Mental Hygiene Services to take into account labor costs resulting from statutorily required increases in the New York State minimum wage and to provide funding to support a three and one-quarter percent increase in annual salary and salary-related fringe benefits for direct care staff and direct support professionals, and in payment to foster parents and adoptive parents.

Effective on or after April 1, 2018, a new three and one-quarter percent increase in annual salary and salary-related fringe benefits

will be applied for direct care staff, direct support professionals and clinical staff, and in payment to foster parents and adoptive parents for all qualifying Mental Hygiene Services. For the purposes of the January 1 and April 1, 2018 funding increases, direct support professionals are individuals employed in consolidated fiscal reporting position title codes ranging from 100 to 199; direct care staff are individuals employed in consolidated fiscal reporting position title codes ranging from 200 to 299; and clinical staff are individuals employed in consolidated fiscal reporting position title codes ranging from 300 to 399.

The estimated annual net aggregate increase in gross Medicaid expenditure attributable to this initiative contained in the budget for SFY 2017/18 is approximately \$35.5M.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

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

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

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

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

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

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, spa_inquiries@health.ny.gov

PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to comply with enacted statutory provisions. The following changes are proposed:

Non-Institutional Services

Effective on or after December 31, 2017, the Department of Health will adjust Article 16 APG rates to take into account increased labor costs resulting from statutorily required increases in the New York State minimum wage. Under the statute, increases in the minimum wage will be phased in over a number of years until the minimum wage is \$15 per hour in all regions of the State, and Medicaid rates will be adjusted in those years to account for such increases.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2018 is \$30,000 and 2019 is \$40,000.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

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

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

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

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, spa_inquiries@health.ny.gov

PUBLIC NOTICE

Office of Mental Health and Department of Health

Pursuant to 42 CFR Section 447.205, the Office of Mental Health and the Department of Health hereby give public notice of the following:

The Office of Mental Health and the Department of Health propose to amend the Title XIX (Medicaid) State Plan for institutional services related to temporary rate adjustments to Article 28 Hospitals that are undergoing a closure, merger, consolidation, acquisition or restructuring of themselves or other health care providers. These payments are currently authorized by 2807-c (35) of the New York Public Health Law. The following changes are proposed:

Additional temporary rate adjustments have been reviewed and approved for the following hospitals:

- United Health Services Hospitals, Inc.

The aggregate payment amounts total up to \$410,883 for the period January 1, 2018 through March 31, 2018.

The aggregate payment amounts total up to \$1,693,988 for the period April 1, 2018 through March 31, 2019.

The aggregate payment amounts total up to \$1,870,735 for the period April 1, 2019 through March 31, 2020.

The aggregate payment amounts total up to \$1,460,242 for the period April 1, 2020 through March 31, 2021.

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 of Health'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 also 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

New York City Deferred Compensation Plan

The New York City Deferred Compensation Plan (the "Plan") is seeking qualified vendors to provide master wrap administrative services for the Stable Income Fund investment option of the Plan. To be considered, vendors must submit their product information to Milliman Investment Consulting at the following e-mail address: sanf.investment.search@milliman.com. Please complete the submission of product information no later than 4:30 P.M. Eastern Time on January 22, 2018. Consistent with the policies expressed by the City, proposals from certified minority-owned and/or women-owned businesses or proposals that include partnering arrangements with certified minority-owned and/or women-owned firms are encouraged. Additionally, proposals from small and New York City-based businesses are also encouraged.

PUBLIC NOTICE

Department of State
F-2017-0963

Date of Issuance – December 27, 2017

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York. Electronic copies of the submission can also be downloaded at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2017-0963_PN.pdf

Appendix V
2018 Title XIX State Plan
First Quarter Amendment
Responses to Standard Funding Questions

**NON-INSTITUTIONAL SERVICES
State Plan Amendment #18-0007**

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: 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.

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 budget 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 are no additional provider taxes levied and no existing taxes have been modified.

- 2. 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.

- 3. 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: State staff are working with CMS to submit a 2018 clinic UPL demonstration.

- 4. 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 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.