



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

JUN 29 2018

RE: SPA #18-0040
Non-Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #18-0040 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective May 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). Copies of the public notice of this plan amendment, which were given in the New York State Register on **April 25, 2018 and clarified on May 30, 2018** 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 Regina Deyette, Medicaid State Plan Coordinator, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 473-3658.

Sincerely,

Donna Frescatore
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: 18-0040	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 May 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: Section 1902 (a) of the Social Security Act and 42 CFR 447		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 05/01/18 - 09/30/18 \$458.00 b. FFY 10/01/18 - 09/30/19 \$1,100.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Att 4.19-B Supp 1 – Page 3 Att 4.19-B Supp 1 – Page 4		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Att 4.19-B Supp 1 – Page 3 Att 4.19-B Supp 1 – Page 4	
10. SUBJECT OF AMENDMENT: Part B Coinsurance for Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) and Article 28 claims for Traumatic Brain Injury (TBI) Waiver members (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: Donna Frescatore			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: JUN 29 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
Second Quarter Amendment
Amended SPA Pages

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –
OTHER TYPES OF CARE
Payment of Medicare Part A and Part B Deductible/Coinsurance**

[7.] 8. Any Medicaid payments made to physicians and durable medical equipment providers for Medicare Part B services during the period April 1, 2005 through June 30, 2005, which are made subject to the 20% of the coinsurance payment provisions cited on Supplement 1 to Attachment 4.19-B page 3, will be the basis of a supplemental payment not to exceed \$5,000,000 pursuant to the following methodology:

For each physician and durable medical equipment provider that received such payments during the period April 1, 2005 through June 30, 2005, the Department of Health will determine the ratio of each physician's and durable medical equipment provider's payments to the total of such payments made during the period, expressed as a percentage.

For each physician, the Department of Health will multiply this percentage by \$4,700,000 and for each durable medical equipment provider the Department of Health will multiply this percentage by \$300,000, respectively. The result of such calculation will represent the "2005 coinsurance enhancement".

[8.] 9. Any Medicaid payments made to psychiatrists for Medicare Part B services during the period April 1, 2006 through March 31, 2007, which are made subject to 20 percent of the coinsurance payment provisions cited on Supplement 1 to Attachment 4.19-B page 3, will be the basis of a supplemental payment not to exceed \$2,000,000 pursuant to the following methodology:

For each psychiatrist who received such Medicaid payments during the period April 1, 2006 through March 31, 2007, the Department of Health will determine the ratio of each psychiatrist's Medicaid payments to the total of such Medicaid payments made during the period, expressed as a percentage.

For each psychiatrist, the Department of Health will multiply this percentage by \$2,000,000. The result of such calculation will represent the "2006-2007 coinsurance enhancement".

TN #18-0040

Approval Date _____

Supersedes TN #15-0038

Effective Date _____

Appendix II
2018 Title XIX State Plan
Second Quarter Amendment
Summary

SUMMARY
SPA #18-0040

This Amendment proposes that providers of Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) and Traumatic Brain Injury (TBI) Waiver population for Article 28 free standing diagnostic & treatment centers are paid the difference between the Medicare payment and the Medicaid rate or the Medicare Part B coinsurance amount, whichever amount is greater.

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

18-0040

NYS SSL 367-A

(d) (i) Amounts payable under this title for medical assistance for items and services provided to eligible persons who are also beneficiaries under part A of title XVIII of the federal social security act and items and services provided to qualified Medicare beneficiaries under part A of title XVIII of the federal social security act shall not be less than the amount of any deductible and co-insurance liability of such eligible persons or for which such eligible persons or such qualified Medicare beneficiaries would be liable under federal law were they not eligible for medical assistance or were they not qualified Medicare beneficiaries with respect to such benefits under such part A.

(ii) Amounts payable under this title for medical assistance for items and services provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act and items and services provided to qualified Medicare beneficiaries under part B of title XVIII of the federal social security act shall not be less than the amount of any deductible liability of such eligible persons or for which such eligible persons or such qualified Medicare beneficiaries would be liable under federal law were they not eligible for medical assistance or were they not qualified Medicare beneficiaries with respect to such benefits under such part B.

(iii) With respect to items and services provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act and items and services provided to qualified Medicare beneficiaries under part B of title XVIII of the federal social security act, the amount payable for services covered under this title shall be the amount of any co-insurance liability of such eligible persons pursuant to federal law were they not eligible for medical assistance or were they not qualified Medicare beneficiaries with respect to such benefits under such part B, but shall not exceed the amount that otherwise would be made under this title if provided to an eligible person other than a person who is also a beneficiary under part B or is a qualified Medicare beneficiary minus the amount payable under part B; provided, however, amounts payable under this title for items and services provided to eligible persons who are also beneficiaries under part B or to qualified Medicare beneficiaries by an ambulance service under the authority of an operating certificate issued pursuant to article thirty of the public health law, a psychologist licensed under article one hundred fifty-three of the education law, or a facility under the authority of an operating certificate issued pursuant to article sixteen, thirty-one or thirty-two of the mental hygiene law and with respect to outpatient hospital and clinic items and services provided by a facility under the authority of an operating certificate issued pursuant to article twenty-eight of the public health law, shall not be less than the amount of any co-insurance liability of such eligible persons or such qualified Medicare beneficiaries, or for which such eligible persons or such qualified Medicare beneficiaries would be liable under federal law were they not eligible for medical assistance or were they not qualified Medicare beneficiaries with respect to such benefits under part B.

(iv) If a health plan participating in part C of title XVIII of the federal social security act pays for items and services provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act or to qualified Medicare beneficiaries, the amount payable for services under this title shall be eighty-five percent of the amount of any co-insurance liability of such eligible persons pursuant to federal law if they were not eligible for medical assistance or were not qualified Medicare beneficiaries with respect to such benefits under such part B; provided, however, amounts payable under this title for items and services provided to eligible persons who are also beneficiaries under part B or to qualified Medicare beneficiaries by an ambulance service under the authority of an operating certificate issued pursuant to article thirty of the public health law, or a psychologist licensed under article one hundred fifty-three of the education law, shall not be less than the amount of any co-insurance liability of such eligible persons or such qualified Medicare beneficiaries, or for which such eligible persons or such qualified Medicare beneficiaries would be liable under federal law were they not eligible for medical assistance or were they not qualified Medicare beneficiaries with respect to such benefits under part B.

(e) Amounts payable under this title for medical assistance in the form of clinic services pursuant to article twenty-eight of the public health law, article sixteen of the mental hygiene law and independent practitioner services for individuals with developmental disabilities provided to eligible persons diagnosed with a developmental disability who are also beneficiaries under part B of title XVIII of the federal social security act, or provided to persons diagnosed with a developmental disability who are qualified Medicare beneficiaries under part B of title XVIII of such act shall not be less than the approved medical assistance payment level less the amount payable under part B.

(f) Amounts payable under this title for medical assistance in the form of outpatient mental health services under article thirty-one or outpatient chemical dependence services including opioid treatment services under article thirty-two of the mental hygiene law provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act or provided to qualified Medicare beneficiaries under part B of title XVIII of such act shall not be less than the approved medical assistance payment level less the amount payable under part B.

(g) Notwithstanding any provision of this section to the contrary, amounts payable under this title for medical assistance in the form of hospital outpatient services or diagnostic and treatment center services pursuant to article twenty-eight of the public health law provided to eligible persons who are also beneficiaries under part B of title XVIII of the federal social security act or provided to qualified Medicare beneficiaries under part B of title XVIII of such act shall not exceed the approved medical assistance payment level less the amount payable under part B.

(h) Amounts payable under this title for medical assistance in the form of freestanding clinic services pursuant to article twenty-eight of the public health law provided to eligible persons

participating in the New York traumatic brain injury waiver program who are also beneficiaries under part B of title XVIII of the federal social security act or who are qualified medicare beneficiaries under part B of title XVIII of such act shall not be less than the approved medical assistance payment level less the amount payable under part B.

Appendix IV
2018 Title XIX State Plan
Second Quarter Amendment
Public Notice

13 green specifications were tentatively approved by the Inter-agency Committee on Sustainability and Green Procurement and have been posted for public comment. These include new or amended specifications on the following topics: Adhesives, Brake Pads, Floor Coverings, Imaging Equipment, Janitorial Paper, Lubricants, Paint, Pest Management for Indoor Spaces, Pest Management for Outdoor Spaces, Pre-Packaged Snowmelt and Deicing Products, Reusable Bags, State-Funded Lodging, and Trash Bags.

All of the above specifications are available for viewing at: <https://www.ogs.state.ny.us/greenny/green-tentative.asp>

Information regarding the green specification approval process is also available at the above link.

Comments may be submitted electronically to: GreenEO4@ogs.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 with regard to Medicaid Maximization now being applied to Independent Practitioner Services for Individuals with Developmental Disabilities in order to comply with enacted amendments to the New York Social Services Law which equalize the reimbursement for those services with the reimbursement for the same services provided in outpatient clinics authorized under Article 16 of the New York Mental Hygiene Law. The following changes are proposed:

Non-Institutional Services

This notice clarifies the notice previously published on April 25, 2018. Effective on and after May 1, 2018, Medicaid Maximization will now also be applied to Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) as well as the previously noticed, Traumatic Brain Injury (TBI) waiver population. Typically, Medicaid payment for Medicare Part B coinsurance amount is limited to the lower of the Medicare Part B coinsurance amount or the difference between the Medicare payment and the Medicaid rate. This payment logic does not apply to facilities licensed under Article 16 of the New York Mental Hygiene Law that are certified to provide Occupational Therapy (OT), Physical Therapy (PT), Speech Language Pathology (SLP), Psychology, and Social Work services to a Medicare/Medicaid eligible developmentally disabled individual. Payment to Article 16 clinics is subject to Medicaid Maximization rules; Article 16 clinics that provide services to a developmentally disabled Medicare/Medicaid dually eligible individual receive either the difference between the Medicare payment and the Medicaid rate or the Medicare Part B coinsurance amount, whichever amount is greater. However, Medicaid Maximization is not in place for Medicare/Medicaid dually eligible individuals who receive the exact same services through IPSIDD providers designated to provide those services by the New York State Office for People With Developmental Disabilities. Presently, for IPSIDD services, if the Medicaid payment rate is greater than the Medicare payment amount, Medicaid will pay the provider the Medicare Part B coinsurance only.

Pursuant to enacted amendments to New York Social Services Law § 367-a, Medicaid Maximization will now be applied to claims for IPSIDD services. If an individual with developmental disabilities has both Medicare and Medicaid coverage, an IPSIDD provider will now receive the difference between the Medicaid rate and the Medicare payment or the Medicare Part B coinsurance amount, whichever is higher.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2018/2019 is \$1,320,000.

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

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, e-mail: spa_inquiries@health.ny.gov

PUBLIC NOTICE

New York City Deferred Compensation Plan & NYCE IRA

The New York City Deferred Compensation Plan & NYCE IRA (the "Plan") is seeking proposals from qualified vendors to provide unbundled recordkeeping services for the City of New York Deferred Compensation Plan. The Request for Proposals ("RFP") will be available beginning on Thursday, June 7, 2018. Responses are due no later than 4:30 p.m. Eastern Time on Tuesday, July 17, 2018. To obtain a copy of the RFP, please visit www1.nyc.gov/site/olr/about/about-rfp.page and download the RFP along with the applicable documents.

If you have any questions, please submit them by fax to Georgette Gestely, Director, at (212) 306-7376.

Consistent with the policies expressed by the City, proposals from New York City certified minority-owned and/or women-owned businesses or proposals that include partnering arrangements with New York City 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-2018-0121

Date of Issuance – May 30, 2018

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 activities comply with and will be conducted in a manner consistent to the maximum extent practicable with the federally approved New York State Coastal Management Program (NYSCMP). 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.

In F-2018-0121, the applicants, A. John Merola and Richard A. Merola, are proposing work at private property of (no number) Stone Gate Lane, Wellesley Island, Alexandria Bay, Jefferson County. The property fronts the St. Lawrence River or Seaway.

for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20140602).

4. Project Sponsor and Facility: LDG Innovation, LLC (Tioga River), Lawrenceville Borough, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20140604).

5. Project Sponsor and Facility: Lycoming Engines, a Division of Avco Corporation, City of Williamsport, Lycoming County, Pa. Application for renewal of groundwater withdrawal of up to 1.440 mgd (30-day average) for groundwater remediation system (Docket No. 19880203).

6. Project Sponsor and Facility: Mountain Energy Services, Inc. (Tunkhannock Creek), Tunkhannock Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 1.498 mgd (peak day) (Docket No. 20140606).

7. Project Sponsor and Facility: Niagara H2O Company (Susquehanna River), Towanda Township, Bradford County, Pa. Application for surface water withdrawal of up to 1.500 mgd (peak day).

8. Project Sponsor and Facility: Northeast Marcellus Aqua Midstream I, LLC (Susquehanna River), Tunkhannock Township, Wyoming County, Pa. Application for surface water withdrawal of up to 5.000 mgd (peak day).

9. Project Sponsor and Facility: Pennsylvania General Energy Company, L.L.C. (Pine Creek), Watson Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.918 mgd (peak day) (Docket No. 20140609).

10. Project Sponsor and Facility: Pro-Environmental, LLC (Martins Creek), Lathrop Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20140610).

11. Project Sponsor and Facility: Repsol Oil & Gas USA, LLC (Fall Brook), Troy Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.176 mgd (peak day) (Docket No. 20140615).

12. Project Sponsor and Facility: Repsol Oil & Gas USA, LLC (Unnamed Tributary to North Branch Sugar Creek), Columbia Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.926 mgd (peak day) (Docket No. 20140616).

13. Project Sponsor: SUEZ Water Pennsylvania Inc. Project Facility: Center Square Operation, Upper Allen Township, Cumberland County, Pa. Application for groundwater withdrawal of up to 0.107 mgd (30-day average) from Well 1.

14. Project Sponsor: SUEZ Water Pennsylvania Inc. Project Facility: Center Square Operation, Upper Allen Township, Cumberland County, Pa. Application for renewal of groundwater withdrawal of up to 0.379 mgd (30-day average) from Well 2 (Docket No. 19861104).

15. Project Sponsor and Facility: Sugar Hollow Water Services LLC (Bowman Creek), Eaton Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 0.249 mgd (peak day) (Docket No. 20140612).

16. Project Sponsor and Facility: Susquehanna Gas Field Services, LLC, Meshoppen Borough, Wyoming County, Pa. Application for renewal of groundwater withdrawal of up to 0.216 mgd (30-day average) from the Meshoppen Pizza Well (Docket No. 20140613).

17. Project Sponsor and Facility: Susquehanna Gas Field Services, LLC (Susquehanna River), Meshoppen Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 1.650 mgd (peak day) (Docket No. 20140614).

18. Project Sponsor and Facility: Togg Mountain LLC, Town of Fabius, Onondaga County, N.Y. Application for consumptive use of up to 0.485 mgd (peak day).

19. Project Sponsor and Facility: Togg Mountain LLC (West Branch of Tioughnioga Creek), Town of Fabius, Onondaga County, N.Y. Application for surface water withdrawal of up to 2.200 mgd (peak day).

20. Project Sponsor and Facility: Town of Vestal, Broome County, N.Y. Application for renewal of groundwater withdrawal of up to 1.440 mgd (30-day average) from Well 4-4 (Docket No. 19810508).

Opportunity to Appear and Comment:

Interested parties may appear at the hearing to offer comments to the Commission on any project or proposal listed above. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Guidelines for the public hearing will be posted on the Commission's website, www.srbc.net, prior to the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any project or proposal listed above may also be mailed to Mr. Jason Oyler, General Counsel, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through www.srbc.net/pubinfo/publicparticipation.htm. Comments mailed or electronically submitted must be received by the Commission on or before May 21, 2018, to be considered.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: April 6, 2018.

Stephanie L. Richardson

Secretary to the Commission.

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 May 2018 will be conducted on May 15 and May 16 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.es.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 Environmental Conservation

Extension of Public Comment Period

NOTICE is hereby given that the public comment period on a Notice of Revised Rulemaking, I.D. No. ENV-06-17-00001-RP, published in the April 4, 2018 issue of the State Register, is extended until Friday, May 11, 2018.

Subject of proposed rule: Revisions to the regulations that implement the State Environmental Quality Review Act

Purpose of action: Updating the regulations that implement the State Environmental Quality Review Act

Comments may be submitted by ordinary mail to: James Eldred, Environmental Analyst, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-1750, (518) 402-9167; or by email to: SEQRA617@dec.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 with regard to Medicaid Maximization now being applied to Article 28 claims for the Traumatic Brain Injury (TBI) population. The following changes are proposed:

All Services

Effective on and after May 1, 2018, Medicaid Maximization will now be applied to Article 28 claims for the Traumatic Brain Injury (TBI) Waiver population. Typically, Medicaid payment for Medicare Part B coinsurance amounts is limited to the lower of the Medicare Part B coinsurance amount or the difference between the Medicare payment and the Medicaid rate. This payment logic does not apply to

Article 28 facilities that provide care to a Medicare/Medicaid eligible developmentally disabled individual. Payment is subject to Medicaid Maximization rules; Article 28 facilities that provide services to a developmentally disabled Medicare/Medicaid dually eligible individual receive either the difference between the Medicare payment and the Medicaid rate or the Medicare Part B coinsurance amount, whichever amount is greater. However, Medicaid Maximization is not in place for Medicare/Medicaid dually eligible individuals who are in the TBI Waiver. Presently, for a TBI Waiver patient seen in an Article 28, if the Medicaid payment rate is greater than the Medicare payment amount, Medicaid will pay the provider the Medicare Part B coinsurance only. Pursuant to the new statute, Medicaid Maximization will now be applied to Article 28 claims for the TBI Waiver population. If a TBI Waiver patient has both Medicare and Medicaid coverage, an Article 28 will now receive the difference between the Medicaid rate and the Medicare payment or the Medicare Part B coinsurance amount, whichever is higher.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2018/2019 is \$1 million dollars.

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, or e-mail: 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 international equity index investment services for the International Equity Fund ("the Fund") investment option of the Plan. The objective of the Fund is to seek an investment return which matches the performance of the MSCI ACWI ex-US Index or similar index products. 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 April 26, 2018.

Consistent with the policies expressed by the City, proposals from certified minority-owned and/or women-owned businesses or propos-

als 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

New York City Deferred Compensation Plan

The New York City Deferred Compensation Plan (the "Plan") is seeking qualified vendors to provide mid cap equity index investment services for the Mid Cap Equity Index Fund ("the Fund") investment option of the Plan. The objective of the Fund is to seek an investment return which matches the performance of the S&P 400 Index or similar index products. 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 April 26, 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

New York City Deferred Compensation Plan

The New York City Deferred Compensation Plan (the "Plan") is seeking qualified vendors to provide small cap equity index equity investment services for the Small Cap Equity Fund ("the Fund") investment option of the Plan. The objective of the Fund is to seek an investment return which matches the performance of the Russell 2000 Index or similar index products. 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 April 26, 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-2018-0209 (DA)

Date of Issuance – April 25, 2018

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.

A federal agency has determined that the proposed activity complies with and will be conducted in a manner fully consistent with the approved New York State Coastal Management Program. The agency's consistency determination 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 and at <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-0209PN-Material.pdf>

In F-2018-0209, The United States Department of the Navy is proposing certain activities known as "Alternative 1" in the Atlantic Fleet Training and Testing Study Area. Project information is available at www.afteis.com. The Navy proposes to conduct military readiness training and testing activities into the reasonably foreseeable future as necessary to meet current and future readiness requirements.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or May 10, 2018.

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

NON-INSTITUTIONAL SERVICES
State Plan Amendment #18-0040

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 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 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: The State is working towards submission of the 2018 Clinic UPL.

- 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 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 FMAs for expenditures made on or after January 1, 2014 for individuals determined eligible under section 1902(a)(10)(A)(i)(VIII) of the Act. Under section 1905(cc) of the Act, the increased FMAP under sections 1905(y) and (z)**

would not be available for States that require local political subdivisions to contribute amounts toward the non-Federal share of the State's expenditures at a greater percentage than would have been required on December 31, 2009.

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

Response: This SPA would [] / would not [✓] violate these provisions, if they remained in effect on or after January 1, 2014.

- 3. Please indicate whether the State is currently in conformance with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.**

Response: The State 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 17-0065, and documentation of such is included with this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.