



**Department
of Health**

ANDREW M. CUOMO
Governor

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Commissioner

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

SEP 27 2018

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

RE: SPA #18-0039
Non-Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #18-0039 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective July 1, 2018 (Appendix I). This amendment is being submitted based on a request from your office. 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.

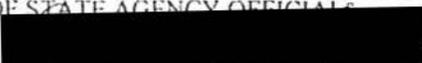
Copies of pertinent sections of authorizing legislation are enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register on April 11, 2018, is also enclosed for your information (Appendix IV).

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		1. TRANSMITTAL NUMBER: 18-0039	2. STATE New York
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2018	
5. TYPE OF PLAN MATERIAL (Check One): <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 (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 07/01/18-09/30/18 \$0 b. FFY 10/01/18-09/30/19 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1-A: 3, 3b-36, 2(xii)(Q), 2(xii)(Q.1), 2(xii)(Q.2), 2(xii)(Q.3), 2(xii)(Q.4), 2(xii)(Q.5), 2(xii)(Q.6), 2(xii)(Q.7), 2(xii)(Q.8), 2(xii)(Q.9), 2(xii)(Q.10), 2(xii)(Q.11), 2(xii)(Q.12), 2(xii)(Q.13), 2(xii)(Q.14) Attachment 3.1-B: 3, 3b-36, 2(xii)(Q), 2(xii)(Q.1), 2(xii)(Q.2), 2(xii)(Q.3), 2(xii)(Q.4), 2(xii)(Q.5), 2(xii)(Q.6), 2(xii)(Q.7), 2(xii)(Q.8), 2(xii)(Q.9), 2(xii)(Q.10), 2(xii)(Q.11), 2(xii)(Q.12), 2(xii)(Q.13), 2(xii)(Q.14) Attachment 4.19-B Page: 1(a)(iii)(I)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):	
10. SUBJECT OF AMENDMENT: Early Intervention-Services (FMAP = 50%)			
11. GOVERNOR'S REVIEW (Check One): <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 Bureau of Federal Relations & Provider Assessments 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: SEP 27 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
Third Quarter Amendment
Amended SPA Pages**

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: New York

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

Rehabilitative Services (EPSDT only)

15. Transportation Services

The Early Intervention Program will adopt the one-way rates of payment for transportation services utilized by the Preschool Supportive Health Services Program. These rates have been set based on a statistically valid cost study that was conducted in 1999 to establish round trip transportation rates. Such rates have been trended forward based on changes in the Consumer Price Index from 7/99 through 8/09 and converted to one-way rates.

Such rates shall be published on the Department of Health’s website and on the eMedNY website and shall be issued in policy and billing guidance distributed to counties in the State and the City of New York responsible for local administration of the Early Intervention Program.

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- 12a. Prior authorization or dispensing validation is required for some prescription drugs. In addition, brand-name drugs that have a FDA approved, A-rated generic equivalent must be prior authorized unless exempted by the Commissioner of Health.

Drugs for which Medical Assistance reimbursement is available are limited to the following:

1. those non-prescription drugs contained on a list established by the New York State Commissioner of Health.
2. covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under Sections 1902(a) (54) and 1927 (a) of the Act which are prescribed for a medically accepted indication. (As provided by Section 1927 (d) (2) of the Act certain outpatient drugs may be excluded from coverage).

- 12b. Prior approval is required for all dentures.

- 12c. Prior approval is required for prosthetic and orthotic devices over a dollar amount established by the State Department of Health and identified for providers in the MMIS DME Provider Manual.

Prior approval is required for artificial eyes as specified in the MMIS Ophthalmic Provider Manual. Program also includes coverage of orthotic appliances including hearing aids. All hearing aids require prior approval.

- 12d. Prior approval is required for certain special lenses and unlisted eye services as specified for providers in the MMIS Ophthalmic Provider Manual.

- 13a. Diagnostic Services (see 13.d Rehabilitative Services – Early Intervention).

- 13b. Screening Services (see 13.d Rehabilitative Services – Early Intervention).

- 13c. Preventive Services (see 13.d Rehabilitative Services – Early Intervention).

- 13d. Rehabilitative Services

[(1) Directly Observed Therapy (DOT) – Clients must be assessed as medically appropriate for DOT based upon the client's risk of non-adherence to a medication regimen necessary to cure an active, infectious, potentially fatal disease process and to prevent the development and spread of an infectious, potentially fatal disease which may not respond to conventional therapies.]

"Off-site" services shall be provided to developmentally disabled persons whose therapeutic requirements are most effectively satisfied in an appropriate environment that is specific to the treatment needs of the developmentally disabled individual. Such services shall be provided by persons authorized pursuant to NYCRR Title 14 Part 679. "Off-site" services shall not be provided at the location of a clinic certified by NYCRR Title 14 Part 679. Coverage of "off-site" services shall end effective December 31, 2015.

["Early Intervention" Services are provided to children who have or who are suspected of having a developmental delay or disability. These services, limited to EPSDT, which are provided by or on behalf of a county or the City of New York pursuant to an Individualized Family Services Plan (IFSP) include:

- | | | |
|-----------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| 1. Screening | 6. Occupational Therapy | 11. Speech Pathology Services |
| 2. Evaluation | 7. Physical Therapy | 12. Assistive Technology Services |
| 3. Audiology | 8. Psychological Services | 13. Vision Services |
| 4. Nursing | 9. Social Work Services | 14. Collateral contacts for all of the above services |
| 5. Nutrition Services | 10. Anticipatory Guidance
(Special Instruction and Allied
Health Professional Assistance)] | |

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13d. Rehabilitative Services (Continued)

Directly Observed Therapy (DOT)

Directly Observed Therapy for Tuberculosis (TB/DOT) is the direct observation of oral ingestion of tuberculosis medications to assure patient compliance with the prescribed medication regimen. Directly observed therapy is the standard of care for every individual with active tuberculosis. TB/DOT may be provided on an outpatient basis in a community setting (including the home) or on an inpatient basis.

Clients must be assessed as medically appropriate for DOT based upon the client's risk of non-adherence to a medication regimen necessary to cure an active, infectious, potentially fatal disease process and to prevent the development and spread of an infectious, potentially fatal disease which may not respond to conventional therapies.

Services

Outpatient TB/DOT involves the dispensing of medication and observation thereof, assessing any adverse reactions to the medications, and case follow up.

- In New York City, TB/DOT is provided in New York City Department of Health and Mental Hygiene (DOHMH) clinics, approved Health and Hospitals Corporation (HHC) hospitals (Bellevue, Elmhurst, Kings County), or in the home or other community setting.
- In the rest of the state, TB/DOT is provided in the local health department (LHD) or in the home or other community setting.

Inpatient long term treatment may be indicated where the LHD has determined the patient has a poor treatment response, has medical complications, remains infectious with no other appropriate residential placement available, or other intensive residential placement is not possible.

Providers

Servicing providers for TB/DOT include local public health agencies and New York State licensed and registered professionals acting within their scope of practice.

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2(xii)(Q)

6e. Early and Periodic Screening, Diagnostic and Treatment services (EPSDT).

Early Intervention Services

"Early Intervention" Services provided to children who have or who are suspected of having a developmental delay or disability, are under four years of age, and are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

These services must be:

- Medically necessary and included in a Medicaid covered category in accordance with 1905(a), 1905(r)(5), 1903(c) of the Social Security Act;
- Ordered or prescribed by a physician or other licensed practitioner acting within his or her scope of practice under New York State law;
- Included in the child's Individualized Family Service Plan (IFSP);
- Provided by qualified professionals working independently or employed by or under contract with an approved early intervention agency;
- Furnished in accordance with all requirements of the State Medicaid Program and other pertinent state and federal laws and regulations, including those for provider qualifications, comparability of services, and the amount, duration and scope provisions; and
- Included in the state's plan or available under Early Periodic Screening, Diagnostic and Treatment EPSDT) services.

Services may be rendered in the setting in which the child's IFSP will be implemented, including but not limited to Article 28 facilities, approved preschool programs, daycare settings, in private practitioners' offices, and natural environments including homes or other community settings.

Collateral visits: Collateral services are services that are provided to the child/family (caregiver) or to the parent (caregiver) in accordance with the child's IFSP. Collateral services are reimbursed as early intervention services and are provided to a family member or significant other of a Medicaid-eligible member, regardless of the family member or significant other's eligibility for Medicaid, who has an interim or final individualized family service plan (IFSP). For purposes of this section, a significant other is a person who substitutes for the recipient's family, interacts regularly with the recipient, and affects directly the recipient's developmental status. Collateral services must be included in the child's and family's IFSP, and include psychological services and social work services provided to infants and toddlers and/or their families/caregivers with an

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2(xii)(Q.1)

interim or final IFSP. Payment is available for collateral services furnished pursuant to an interim or final individualized family service plan and which are provided by a qualified professional working independently or employed by or under contract with and approved early intervention agency. Collateral services must relate to the medical treatment specified in the recipient's interim or final individualized family service plan and must be for the recipient's direct benefit. Persons who receive collateral services to support the child's development must be identified in the interim or final individualized family service plan.

Early Intervention services, limited to EPSDT, which are provided by qualified professionals employed by or under contract to an Early Intervention agency or approved by the State pursuant to an interim or final Individualized Family Service Plan (IFSP) include:

1. Screening Services

Definition: Screening is a process involving those instruments, procedures, family information and observations, and clinical observations used by qualified, state-approved early intervention providers to assess a child's developmental status to indicate what type of evaluation, if any, is warranted.

Services: Screening services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Providers: Screening services are provided by qualified individuals with licensure, certification, or registration as applicable in a professional medical, health-related, and/or developmental discipline(s) acting within their scope of practice.

2. Evaluation Services

Definition: Evaluation services are the procedures used by appropriately qualified, state-approved early intervention providers to determine a child's initial and continuing eligibility for the Early Intervention Program and need for services.

Services: Evaluation services determine the child's level of functioning and needs in the areas of cognitive, physical, communication, social or emotional, and adaptive development and include a health assessment including a physical examination, routine vision and hearing screening, and where appropriate, a neurological assessment. When indicated, evaluation services include diagnostic procedures and review of medical and other records to identify a diagnosed physical or mental condition with a high probability of resulting in developmental delay.

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2(xii)(Q.2)

Evaluation services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Providers: Evaluation services are performed by qualified individuals with licensure, certification, and registration as applicable in professional medical, health, and developmental disciplines acting within their scope of practice.

3. Audiology Services

Definition: Audiological services as outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 4 years of age, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Audiology services include services provided to an individual child and/or the child's parent or caregiver when these contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law as appropriate. Covered services include services to identify, evaluate, and treat hearing loss, including identification of children with auditory impairment using at risk criteria and appropriate audiologic screening techniques; determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures; referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment; provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services; and, provision of services for prevention of hearing loss; and, determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

Providers: Audiology services must be provided by a New York State licensed and registered audiologist, qualified in accordance with 42 CFR Section 440.6(a) and 42 CFR Section 440.110(c)(3) and other applicable state and federal law or regulations, acting within his or her scope of practice under NYS law.

4. Nursing Services

Definition: Nursing services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Nursing services include those provided to an individual child and/or the child's parent or caregiver when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician,

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2(xii)(Q.3)**

physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Nursing services include the promotion of health, prevention of illness, care of the ill and disabled people through the provision of services essential to the maintenance and restoration of health.

Nursing services may include:

- Health assessments and evaluations;
- Medical treatments and procedures;
- Administering and/or monitoring medication, treatments or regimens needed by the child; and
- Consultation with licensed physicians, parents and other service / health care providers regarding the effects of medication.

Providers: Nursing services are provided by New York State licensed registered nurses qualified in accordance with the requirements at 42 CFR 440.60(a) and other applicable state and federal law and regulations, acting within his or her scope of practice; or a New York State licensed practical nurse qualified in accordance with the requirements at 42 CFR 440.60(a) and other applicable state and federal law and regulations, acting within his or her scope of practice under the direction of a licensed registered nurse, a physician, dentist or other licensed health care provider authorized under the Nurse Practice Act.

“Under the direction of” means that, with respect to each Medicaid beneficiary, the qualified clinician:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

5. Nutrition Services

Definition: Nutrition services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic

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Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Nutrition services include services provided to an individual child and/or the child's parent or caregiver when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Covered services include individual assessments in nutritional history and dietary intake; anthropometric, biochemical, and clinical variables; feeding skills and feeding problems; and, food habits and food preferences; developing and monitoring appropriate plans to address the nutritional needs of an eligible child; and, making referrals to appropriate community resources to carry out nutrition goals.

Providers: Nutrition services are provided by qualified New York State registered certified dietitians/nutritionists acting within the scope of their profession.

6. Occupational Therapy Services

Definition: Occupational therapy services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Occupational therapy services include services provided to an individual child and/or the child's parent or caregiver, and services provided to children individually or in a group when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Covered services include services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include identification, assessment, and intervention; adaptation of the environment, and selection, design and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

Providers: Services must be provided by:

- A New York State licensed and registered occupational therapist qualified in accordance with 42CFR 440.110(b) and applicable state and federal laws and regulations, acting within his or her scope of practice under New York State Law; or

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- a certified occupational therapy assistant “under the direction of” such a qualified licensed and registered occupational therapist, within his or her scope of practice under New York State Law.

“Under the direction of” means that, with respect to each Medicaid beneficiary, the qualified therapist:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

7. Physical Therapy Services

Definition: Physical therapy services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Physical therapy includes services provided to an individual child and/or the child’s parent or caregiver, either individually or in a group, when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Covered services include services to address the promotion of sensory motor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status and effective environmental adaptation. These services include evaluation and assessment of infants and toddlers to identify movement dysfunction; obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

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2(xii)(Q.6)**

providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

Providers: Services must be provided by:

- A New York State licensed and registered physical therapist qualified in accordance with 42 CFR 440.110(a) and with applicable state and federal laws and regulations, acting within his or her scope of practice under New York State Law; or
- A certified physical therapy assistant "under the direction of" such a qualified licensed and registered physical therapist, acting within his or her scope of practice under New York State Law.

"Under the direction of" means that, with respect to each Medicaid beneficiary, the qualified therapist:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

8. Psychological Services

Definition: Psychological services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Psychological services include services provided to an individual child, a child and/or the child's parent or caregiver, and services provided to children and/or family members in a group when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP. Covered services include administering psychological and developmental tests and other assessment procedures; interpreting assessment results;

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2(xii)(Q.7)

obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, behavioral health, and development; and planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

Providers: Psychological services must be provided by a qualified practitioner, within his or her scope of practice in accordance with New York State law and with the qualification requirements of 42 CFR Section 440.60(a) and 440.50(a)(2) and with other applicable state and federal laws or regulations. Psychological services may only be provided by a professional whose credentials are comparable to those of providers who are able to provide psychological services in the community.

Services may be provided by:

- A New York State licensed and registered psychiatrist qualified in accordance with 42 CFR 440.50(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed and registered psychologist qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed clinical social worker (LCSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A licensed master social worker (LMSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law, under the supervision of such a qualified licensed clinical social worker, a qualified licensed and registered psychologist, or a qualified licensed and registered psychiatrist as described above; or
- A New York State licensed Mental Health Counselor qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed Marriage and Family Therapist qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed Psychoanalyst qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed Creative Arts Therapist qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State certified school psychologist qualified in accordance with 42 CFR 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; and is employed as a certified school psychologist in accordance with Article 153 Section 7605 of NY State Education Law by a

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2(xii)(Q.8)

- school, preschool or an approved early intervention agency working in an "exempt setting."

Supervision of the clinical social work services provided by the licensed master social worker, with respect to each Medicaid beneficiary, shall consist of contact between the licensed master social worker and supervisor during which:

- The licensed master social worker appraises the supervisor of the diagnosis and treatment of each client;
- The licensed master social worker's cases are discussed;
- The supervisor provides the licensed master social worker with oversight and guidance in diagnosing and treating clients;
- The supervisor regularly reviews and evaluates the professional work of the licensed master social worker; and
- The supervisor provides at least two hours per month of in-person individual or group clinical supervision.

The supervision shall be provided by a New York State licensed and registered psychiatrist, psychologist, or licensed clinical social worker. The supervisor shall be responsible for maintaining records of the client contact hours in diagnosis, psychotherapy and assessment-based treatment planning and supervision hours provided to the qualified individual.

9. Social Work Services

Definition: Social work services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Social work services are provided to an individual child and/or the child's parent or caregiver, and services provided to children and/or family members in a group when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP. Social work services include: making home visits to evaluate living conditions and patterns of parent-child interaction; preparing a social/emotional developmental assessment of the child within the family context; providing individual and family-group counseling with parents and other family members, and appropriate social skill building activities with the child and parents; working with those problems in a living situation (home, community, and any center where early intervention services are provided) that affect the maximum utilization of early intervention services; and, identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

Providers: Clinical social work services must be provided by a qualified practitioner, within his or her scope of practice in accordance with New York State law and with the qualification requirements of 42 CFR 440.60(a) and with other applicable state and federal laws or regulations.

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Services may be provided by:

- A New York State licensed clinical social worker (LCSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A licensed master social worker (LMSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law, under the supervision of such a qualified licensed clinical social worker, a qualified licensed and registered psychologist, or a qualified licensed and registered psychiatrist as described above.

Supervision of the clinical social work services provided by the licensed master social worker, with respect to each Medicaid beneficiary, shall consist of contact between the licensed master social worker and supervisor during which:

- The licensed master social worker apprises the supervisor of the diagnosis and treatment of each client;
- The licensed master social worker's cases are discussed;
- The supervisor provides the licensed master social worker with oversight and guidance in diagnosing and treating clients;
- The supervisor regularly reviews and evaluates the professional work of the licensed master social worker; and
- The supervisor provides at least two hours per month of in-person individual or group clinical supervision.

The supervision shall be provided by a New York State licensed and registered psychiatrist, psychologist, or licensed clinical social worker. The supervisor shall be responsible for maintaining records of the client contact hours in diagnosis, psychotherapy and assessment-based treatment planning and supervision hours provided to the qualified individual.

10. Special Instruction/Developmental Services

Definition: Special instruction services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Special instruction services include working directly with the child to enhance the child's development. Special instruction services are provided to an individual child and/or the child's parent or caregiver, and services provided to children and/or family in a group when such contacts directly benefit the developmental needs of the child as described in his or her treatment plan, the IFSP. Special instruction includes the design of environments and activities that extend the benefits of intervention/therapy into the child's daily routine and which promote the child's

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acquisition of skills in a variety of developmental areas, including motor development, physical growth and development, sensory perception and information processing; behavioral interactions; cognitive processes; and, social interactions.

Special instruction also includes the provision of instruction, information, and support to parents and primary caregivers in assisting them in planning and maintaining a daily therapeutic regime related to enhancing the child's developmental progress, including skills such as fine and gross motor, feeding, and other adaptive skill.

Providers: Special instruction services are provided by qualified individuals possessing the following certification issued by the State Education Department pursuant to State regulations; special education teachers, teachers of students with disabilities - birth to grade two, teachers of the blind and partially sighted, teachers of the blind and visually handicapped, teachers of the blind and visually impaired, teachers of the deaf and hard of hearing, teachers of the speech and hearing handicapped, teachers of students with speech and language disabilities.

11. Speech-Language Pathology Services

Definition: Speech-language pathology services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Speech-language pathology services are provided to an individual child and/or the child's parent or caregiver, either individually or in a group, when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a speech-language pathologist, physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

These services include the identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills; referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills.

Providers: Services must be provided by:

- A licensed and registered speech-language pathologist qualified in accordance with 42 CFR Section 440.110(c) and applicable state and federal laws and regulations, acting within his or her scope of practice under New York State law; or
- A teacher certified to provide speech and language services, under the documented direction of such a qualified licensed and registered speech-language pathologist (ASHA certified or equivalent), acting within his or her scope of practice under New York State law.

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"Under the Direction of" means that, with respect to each Medicaid beneficiary, the qualified therapist:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State Law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

12. Assistive Technology Devices and Services

Definition: Assistive technology devices and services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, provided to an individual child, that is used to increase, maintain, or improve the functional capabilities of the child.

Services: Assistive technology services are services provided to an individual child and/or the child's parent or caregiver when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP. Assistive technology services are services that directly assist a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include: the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the customary environment; purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities; selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices; coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; training or technical assistance for a child with disabilities or, if appropriate, that family; and, training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to, or are otherwise substantially involved in, the major life functions of individuals with disabilities.

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Providers: Assistive technology services are provided by medical equipment and supply dealers, clinics, hospitals, pharmacies, residential health facilities, and certified home health agencies enrolled in the medical assistance program as a medical equipment dealer. Assistive technology services may also be provided by state-licensed licensed audiologists, speech-language pathologists, physical therapists and assistants, occupational therapists and assistants, orientation and mobility specialists, physicians, practical nurses, registered nurses, and nurse practitioners and other individuals with licensure, certification, or registration in a professional medical, health-related, and/or developmental discipline, within the scope of their professions and to the extent authorized by their licenses.

13. Vision Services

Definition: Vision services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Vision services are provided to an individual child and/or the child's parent or caregiver, and services provided to children and/or family members in a group when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Vision services include evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities; referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

Providers: Vision services are provided by certified low vision specialists, orientation and mobility specialists and vision rehabilitation therapists certified by the Academy for the Certification for Vision Rehabilitation and Education Professionals, state licensed physicians including ophthalmologists; and licensed optometrists, and orientation and mobility specialists, within the scope of their profession and to the extent authorized by their license or certification.

14. Applied Behavioral Analysis (ABA) Services

Definition: ABA services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: ABA services means the design, implementation, and evaluation of systematic environmental changes to produce socially significant change in human behavior through skill

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acquisition and the reduction of problematic behavior. ABA includes direct observation and measurement of behavior and the identification of functional relations between behavior and the environment. These include contextual factors such as establishing operations, antecedent stimuli, positive reinforcers, and other consequences that are used to produce the desired behavior change.

Providers: Services must be provided by:

- a licensed and registered behavior analyst qualified in accordance with applicable state and federal laws and regulations, acting within his or her scope of practice under New York State law, Education Law Article 167; or
- a certified behavior analyst assistant, under the documented direction of such a qualified licensed and registered behavior analyst, acting within his or her scope of practice under New York State law, Education Law Article 167.

“Under the Direction of” means that, with respect to each Medicaid beneficiary, the qualified therapist:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State Law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

15. Transportation Services

Definition: Transportation outlined in this section of the State Plan is available to Medicaid eligible beneficiaries who are eligible for Early Intervention (EI) and for Early and Periodic Screening Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Transportation delivered by the State’s designated transportation provider pursuant to prior authorization by a municipal Early Intervention Official or Early Intervention Official Designee in the State or the City of New York must be included in the IFSP as recommended by the IFSP Team. Transportation arrangements must be identified in the IFSP.

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Transportation is limited to those situations where the child receives transportation to obtain a Medicaid covered early intervention service other than transportation and both the Medicaid covered service and the need for transportation are included in the child's IFSP. Transportation can only be billed on a day that a Medicaid reimbursable service was delivered and may only be billed at the rate for each one-way trip.

Providers: Transportation services must be provided by a qualified, Medicaid-enrolled provider. Each one-way trip must be documented in accordance with Medicaid record keeping requirements in order to bill Medicaid. To receive payment for services provided to a Medicaid recipient, a vendor must be an enrolled Medicaid transportation provider authorized to provide transportation services on the date the services are rendered.

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12a. Prior authorization or dispensing validation is required for some prescription drugs. In addition, brand-name drugs that have a FDA approved, A-rated generic equivalent must be prior authorized unless exempted by the Commissioner of Health.

Drugs for which Medical Assistance reimbursement is available are limited to the following:

1. those non-prescription drugs contained on a list established by the New York State Commissioner of Health.
2. covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under Sections 1902(a) (54) and 1927 (a) of the Act which are prescribed for a medically accepted indication. (As provided by Section 1927 (d) (2) of the Act certain outpatient drugs may be excluded from coverage).

12b. Prior approval is required for all dentures.

12c. Prior approval is required for prosthetic and orthotic devices over a dollar amount established by the State Department of Health and identified for providers in the MMIS DME Provider Manual.

Prior approval is required for artificial eyes as specified in the MMIS Ophthalmic Provider Manual. Program also includes coverage of orthotic appliances including hearing aids. All hearing aids require prior approval.

12d. Prior approval is required for certain special lenses and unlisted eye services as specified for providers in the MMIS Ophthalmic Provider Manual.

13a. Diagnostic Services (see 13.d Rehabilitative Services – Early Intervention).

13b. Screening Services (see 13.d Rehabilitative Services – Early Intervention).

13c. Preventive Services (see 13.d Rehabilitative Services – Early Intervention).

13d. Rehabilitative Services

[(1) Directly Observed Therapy (DOT) – Clients must be assessed as medically appropriate for DOT based upon the client’s risk of non-adherence to a medication regimen necessary to cure an active, infectious, potentially fatal disease process and to prevent the development and spread of an infectious, potentially fatal disease which may not respond to conventional therapies.]

Off-site” services shall be provided to developmentally disabled persons whose therapeutic requirements are most effectively satisfied in an appropriate environment that is specific to the treatment needs of the developmentally disabled individual. Such services shall be provided by persons authorized pursuant to NYCRR Title 14 Part 679. “Off-site” services shall not be provided at the location of a clinic certified by NYCRR Title 14 Part 679. Coverage of “off-site” services shall end effective December 31, 2015.

[“Early Intervention” Services are provided to children who have or who are suspected of having a developmental delay or disability. These services, limited to EPSDT, which are provided by or on behalf of a county or the City of New York pursuant to an Individualized Family Services Plan (IFSP) include:

- | | | |
|-----------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| 1. Screening | 6. Occupational Therapy | 11. Speech Pathology Services |
| 2. Evaluation | 7. Physical Therapy | 12. Assistive Technology Services |
| 3. Audiology | 8. Psychological Services | 13. Vision Services |
| 4. Nursing | 9. Social Work Services | 14. Collateral contacts for all of the above services |
| 5. Nutrition Services | 10. Anticipatory Guidance
(Special Instruction and Allied
Health Professional Assistance)] | |

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13d. Rehabilitative Services (Continued)

Directly Observed Therapy (DOT)

Directly Observed Therapy for Tuberculosis (TB/DOT) is the direct observation of oral ingestion of tuberculosis medications to assure patient compliance with the prescribed medication regimen. Directly observed therapy is the standard of care for every individual with active tuberculosis. TB/DOT may be provided on an outpatient basis in a community setting (including the home) or on an inpatient basis.

Clients must be assessed as medically appropriate for DOT based upon the client's risk of non-adherence to a medication regimen necessary to cure an active, infectious, potentially fatal disease process and to prevent the development and spread of an infectious, potentially fatal disease which may not respond to conventional therapies.

Services

Outpatient TB/DOT involves the dispensing of medication and observation thereof, assessing any adverse reactions to the medications, and case follow up.

- In New York City, TB/DOT is provided in New York City Department of Health and Mental Hygiene (DOHMH) clinics, approved Health and Hospitals Corporation (HHC) hospitals (Bellevue, Elmhurst, Kings County), or in the home or other community setting.
- In the rest of the state, TB/DOT is provided in the local health department (LHD) or in the home or other community setting.

Inpatient long term treatment may be indicated where the LHD has determined the patient has a poor treatment response, has medical complications, remains infectious with no other appropriate residential placement available, or other intensive residential placement is not possible.

Providers

Servicing providers for TB/DOT include local public health agencies and New York State licensed and registered professionals acting within their scope of practice.

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6e. Early and Periodic Screening, Diagnostic and Treatment services (EPSDT).

Early Intervention Services

"Early Intervention" Services provided to children who have or who are suspected of having a developmental delay or disability, are under four years of age, and are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

These services must be:

- Medically necessary and included in a Medicaid covered category in accordance with 1905(a), 1905(r)(5), 1903(c) of the Social Security Act;
- Ordered or prescribed by a physician or other licensed practitioner acting within his or her scope of practice under New York State law;
- Included in the child's Individualized Family Service Plan (IFSP);
- Provided by qualified professionals working independently or employed by or under contract with an approved early intervention agency;
- Furnished in accordance with all requirements of the State Medicaid Program and other pertinent state and federal laws and regulations, including those for provider qualifications, comparability of services, and the amount, duration and scope provisions; and
- Included in the state's plan or available under Early Periodic Screening, Diagnostic and Treatment EPSDT) services.

Services may be rendered in the setting in which the child's IFSP will be implemented, including but not limited to Article 28 facilities, approved preschool programs, daycare settings, in private practitioners' offices, and natural environments including homes or other community settings.

Collateral visits: Collateral services are services that are provided to the child/family (caregiver) or to the parent (caregiver) in accordance with the child's IFSP. Collateral services are reimbursed as early intervention services and are provided to a family member or significant other of a Medicaid-eligible member, regardless of the family member or significant other's eligibility for Medicaid, who has an interim or final individualized family service plan (IFSP). For purposes of this section, a significant other is a person who substitutes for the recipient's family, interacts regularly with the recipient, and affects directly the recipient's developmental status. Collateral services must be included in the child's and family's IFSP, and include psychological services and social work services provided to infants and toddlers and/or their families/caregivers with an

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interim or final IFSP. Payment is available for collateral services furnished pursuant to an interim or final individualized family service plan and which are provided by a qualified professional working independently or employed by or under contract with and approved early intervention agency. Collateral services must relate to the medical treatment specified in the recipient's interim or final individualized family service plan and must be for the recipient's direct benefit. Persons who receive collateral services to support the child's development must be identified in the interim or final individualized family service plan.

Early Intervention services, limited to EPSDT, which are provided by qualified professionals employed by or under contract to an Early Intervention agency or approved by the State pursuant to an interim or final Individualized Family Service Plan (IFSP) include:

1. Screening Services

Definition: Screening is a process involving those instruments, procedures, family information and observations, and clinical observations used by qualified, state-approved early intervention providers to assess a child's developmental status to indicate what type of evaluation, if any, is warranted.

Services: Screening services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Providers: Screening services are provided by qualified individuals with licensure, certification, or registration as applicable in a professional medical, health-related, and/or developmental discipline(s) acting within their scope of practice.

2. Evaluation Services

Definition: Evaluation services are the procedures used by appropriately qualified, state-approved early intervention providers to determine a child's initial and continuing eligibility for the Early Intervention Program and need for services.

Services: Evaluation services determine the child's level of functioning and needs in the areas of cognitive, physical, communication, social or emotional, and adaptive development and include a health assessment including a physical examination, routine vision and hearing screening, and where appropriate, a neurological assessment. When indicated, evaluation services include diagnostic procedures and review of medical and other records to identify a diagnosed physical or mental condition with a high probability of resulting in developmental delay.

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Evaluation services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Providers: Evaluation services are performed by qualified individuals with licensure, certification, and registration as applicable in professional medical, health, and developmental disciplines acting within their scope of practice.

3. Audiology Services

Definition: Audiological services as outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 4 years of age, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Audiology services include services provided to an individual child and/or the child's parent or caregiver when these contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law as appropriate. Covered services include services to identify, evaluate, and treat hearing loss, including identification of children with auditory impairment using at risk criteria and appropriate audiologic screening techniques; determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures; referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment; provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services; and, provision of services for prevention of hearing loss; and, determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

Providers: Audiology services must be provided by a New York State licensed and registered audiologist, qualified in accordance with 42 CFR Section 440.6(a) and 42 CFR Section 440.110(c)(3) and other applicable state and federal law or regulations, acting within his or her scope of practice under NYS law.

4. Nursing Services

Definition: Nursing services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Nursing services include those provided to an individual child and/or the child's parent or caregiver when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician,

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physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Nursing services include the promotion of health, prevention of illness, care of the ill and disabled people through the provision of services essential to the maintenance and restoration of health.

Nursing services may include:

- Health assessments and evaluations;
- Medical treatments and procedures;
- Administering and/or monitoring medication, treatments or regimens needed by the child; and
- Consultation with licensed physicians, parents and other service / health care providers regarding the effects of medication.

Providers: Nursing services are provided by New York State licensed registered nurses qualified in accordance with the requirements at 42 CFR 440.60(a) and other applicable state and federal law and regulations, acting within his or her scope of practice; or a New York State licensed practical nurse qualified in accordance with the requirements at 42 CFR 440.60(a) and other applicable state and federal law and regulations, acting within his or her scope of practice under the direction of a licensed registered nurse, a physician, dentist or other licensed health care provider authorized under the Nurse Practice Act.

"Under the direction of" means that, with respect to each Medicaid beneficiary, the qualified clinician:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

5. Nutrition Services

Definition: Nutrition services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic

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Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Nutrition services include services provided to an individual child and/or the child's parent or caregiver when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Covered services include individual assessments in nutritional history and dietary intake; anthropometric, biochemical, and clinical variables; feeding skills and feeding problems; and, food habits and food preferences; developing and monitoring appropriate plans to address the nutritional needs of an eligible child; and, making referrals to appropriate community resources to carry out nutrition goals.

Providers: Nutrition services are provided by qualified New York State registered certified dietitians/nutritionists acting within the scope of their profession.

6. Occupational Therapy Services

Definition: Occupational therapy services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Occupational therapy services include services provided to an individual child and/or the child's parent or caregiver, and services provided to children individually or in a group when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Covered services include services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include identification, assessment, and intervention; adaptation of the environment, and selection, design and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

Providers: Services must be provided by:

- A New York State licensed and registered occupational therapist qualified in accordance with 42CFR 440.110(b) and applicable state and federal laws and regulations, acting within his or her scope of practice under New York State Law; or

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- a certified occupational therapy assistant "under the direction of" such a qualified licensed and registered occupational therapist, within his or her scope of practice under New York State Law.

"Under the direction of" means that, with respect to each Medicaid beneficiary, the qualified therapist:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

7. Physical Therapy Services

Definition: Physical therapy services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Physical therapy includes services provided to an individual child and/or the child's parent or caregiver, either individually or in a group, when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Covered services include services to address the promotion of sensory motor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status and effective environmental adaptation. These services include evaluation and assessment of infants and toddlers to identify movement dysfunction; obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

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providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

Providers: Services must be provided by:

- A New York State licensed and registered physical therapist qualified in accordance with 42 CFR 440.110(a) and with applicable state and federal laws and regulations, acting within his or her scope of practice under New York State Law; or
- A certified physical therapy assistant "under the direction of" such a qualified licensed and registered physical therapist, acting within his or her scope of practice under New York State Law.

"Under the direction of" means that, with respect to each Medicaid beneficiary, the qualified therapist:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

8. Psychological Services

Definition: Psychological services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Psychological services include services provided to an individual child, a child and/or the child's parent or caregiver, and services provided to children and/or family members in a group when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP. Covered services include administering psychological and developmental tests and other assessment procedures; interpreting assessment results;

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obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, behavioral health, and development; and planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

Providers: Psychological services must be provided by a qualified practitioner, within his or her scope of practice in accordance with New York State law and with the qualification requirements of 42 CFR Section 440.60(a) and 440.50(a)(2) and with other applicable state and federal laws or regulations. Psychological services may only be provided by a professional whose credentials are comparable to those of providers who are able to provide psychological services in the community.

Services may be provided by:

- A New York State licensed and registered psychiatrist qualified in accordance with 42 CFR 440.50(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed and registered psychologist qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed clinical social worker (LCSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A licensed master social worker (LMSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law, under the supervision of such a qualified licensed clinical social worker, a qualified licensed and registered psychologist, or a qualified licensed and registered psychiatrist as described above; or
- A New York State licensed Mental Health Counselor qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed Marriage and Family Therapist qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed Psychoanalyst qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State licensed Creative Arts Therapist qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A New York State certified school psychologist qualified in accordance with 42 CFR 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; and is employed as a certified school psychologist in accordance with Article 153 Section 7605 of NY State Education Law by a

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2(xii)(Q.8)

- school, preschool or an approved early intervention agency working in an "exempt setting."

Supervision of the clinical social work services provided by the licensed master social worker, with respect to each Medicaid beneficiary, shall consist of contact between the licensed master social worker and supervisor during which:

- The licensed master social worker apprises the supervisor of the diagnosis and treatment of each client;
- The licensed master social worker's cases are discussed;
- The supervisor provides the licensed master social worker with oversight and guidance in diagnosing and treating clients;
- The supervisor regularly reviews and evaluates the professional work of the licensed master social worker; and
- The supervisor provides at least two hours per month of in-person individual or group clinical supervision.

The supervision shall be provided by a New York State licensed and registered psychiatrist, psychologist, or licensed clinical social worker. The supervisor shall be responsible for maintaining records of the client contact hours in diagnosis, psychotherapy and assessment-based treatment planning and supervision hours provided to the qualified individual.

9. Social Work Services

Definition: Social work services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Social work services are provided to an individual child and/or the child's parent or caregiver, and services provided to children and/or family members in a group when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP. Social work services include: making home visits to evaluate living conditions and patterns of parent-child interaction; preparing a social/emotional developmental assessment of the child within the family context; providing individual and family-group counseling with parents and other family members, and appropriate social skill building activities with the child and parents; working with those problems in a living situation (home, community, and any center where early intervention services are provided) that affect the maximum utilization of early intervention services; and, identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

Providers: Clinical social work services must be provided by a qualified practitioner, within his or her scope of practice in accordance with New York State law and with the qualification requirements of 42 CFR 440.60(a) and with other applicable state and federal laws or regulations.

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Services may be provided by:

- A New York State licensed clinical social worker (LCSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law; or
- A licensed master social worker (LMSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State law, under the supervision of such a qualified licensed clinical social worker, a qualified licensed and registered psychologist, or a qualified licensed and registered psychiatrist as described above.

Supervision of the clinical social work services provided by the licensed master social worker, with respect to each Medicaid beneficiary, shall consist of contact between the licensed master social worker and supervisor during which:

- The licensed master social worker apprises the supervisor of the diagnosis and treatment of each client;
- The licensed master social worker's cases are discussed;
- The supervisor provides the licensed master social worker with oversight and guidance in diagnosing and treating clients;
- The supervisor regularly reviews and evaluates the professional work of the licensed master social worker; and
- The supervisor provides at least two hours per month of in-person individual or group clinical supervision.

The supervision shall be provided by a New York State licensed and registered psychiatrist, psychologist, or licensed clinical social worker. The supervisor shall be responsible for maintaining records of the client contact hours in diagnosis, psychotherapy and assessment-based treatment planning and supervision hours provided to the qualified individual.

10. Special Instruction/Developmental Services

Definition: Special instruction services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Special instruction services include working directly with the child to enhance the child's development. Special instruction services are provided to an individual child and/or the child's parent or caregiver, and services provided to children and/or family in a group when such contacts directly benefit the developmental needs of the child as described in his or her treatment plan, the IFSP. Special instruction includes the design of environments and activities that extend the benefits of intervention/therapy into the child's daily routine and which promote the child's

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2(xii)(Q.10)**

acquisition of skills in a variety of developmental areas, including motor development, physical growth and development, sensory perception and information processing; behavioral interactions; cognitive processes; and, social interactions.

Special instruction also includes the provision of instruction, information, and support to parents and primary caregivers in assisting them in planning and maintaining a daily therapeutic regime related to enhancing the child's developmental progress, including skills such as fine and gross motor, feeding, and other adaptive skill.

Providers: Special instruction services are provided by qualified individuals possessing the following certification issued by the State Education Department pursuant to State regulations; special education teachers, teachers of students with disabilities - birth to grade two, teachers of the blind and partially sighted, teachers of the blind and visually handicapped, teachers of the blind and visually impaired, teachers of the deaf and hard of hearing, teachers of the speech and hearing handicapped, teachers of students with speech and language disabilities.

11. Speech-Language Pathology Services

Definition: Speech-language pathology services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Speech-language pathology services are provided to an individual child and/or the child's parent or caregiver, either individually or in a group, when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, and pursuant to a written order or prescription from a speech-language pathologist, physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

These services include the identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills; referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills.

Providers: Services must be provided by:

- A licensed and registered speech-language pathologist qualified in accordance with 42 CFR Section 440.110(c) and applicable state and federal laws and regulations, acting within his or her scope of practice under New York State law; or
- A teacher certified to provide speech and language services, under the documented direction of such a qualified licensed and registered speech-language pathologist (ASHA certified or equivalent), acting within his or her scope of practice under New York State law.

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"Under the Direction of" means that, with respect to each Medicaid beneficiary, the qualified therapist:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State Law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

12. Assistive Technology Devices and Services

Definition: Assistive technology devices and services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, provided to an individual child, that is used to increase, maintain, or improve the functional capabilities of the child.

Services: Assistive technology services are services provided to an individual child and/or the child's parent or caregiver when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP. Assistive technology services are services that directly assist a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include: the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the customary environment; purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities; selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices; coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; training or technical assistance for a child with disabilities or, if appropriate, that family; and, training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to, or are otherwise substantially involved in, the major life functions of individuals with disabilities.

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Providers: Assistive technology services are provided by medical equipment and supply dealers, clinics, hospitals, pharmacies, residential health facilities, and certified home health agencies enrolled in the medical assistance program as a medical equipment dealer. Assistive technology services may also be provided by state-licensed licensed audiologists, speech-language pathologists, physical therapists and assistants, occupational therapists and assistants, orientation and mobility specialists, physicians, practical nurses, registered nurses, and nurse practitioners and other individuals with licensure, certification, or registration in a professional medical, health-related, and/or developmental discipline, within the scope of their professions and to the extent authorized by their licenses.

13. Vision Services

Definition: Vision services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Vision services are provided to an individual child and/or the child's parent or caregiver, and services provided to children and/or family members in a group when such contacts directly benefit the needs of the child as described in his or her treatment plan, the IFSP, pursuant to a written order or prescription from a physician, physician assistant or nurse practitioner acting within his or her scope of practice under New York State law.

Vision services include evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities; referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

Providers: Vision services are provided by certified low vision specialists, orientation and mobility specialists and vision rehabilitation therapists certified by the Academy for the Certification for Vision Rehabilitation and Education Professionals, state licensed physicians including ophthalmologists; and licensed optometrists, and orientation and mobility specialists, within the scope of their profession and to the extent authorized by their license or certification.

14. Applied Behavioral Analysis (ABA) Services

Definition: ABA services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries, who are eligible for Early Intervention (EI) and for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: ABA services means the design, implementation, and evaluation of systematic environmental changes to produce socially significant change in human behavior through skill

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acquisition and the reduction of problematic behavior. ABA includes direct observation and measurement of behavior and the identification of functional relations between behavior and the environment. These include contextual factors such as establishing operations, antecedent stimuli, positive reinforcers, and other consequences that are used to produce the desired behavior change.

Providers: Services must be provided by:

- a licensed and registered behavior analyst qualified in accordance with applicable state and federal laws and regulations, acting within his or her scope of practice under New York State law, Education Law Article 167; or
- a certified behavior analyst assistant, under the documented direction of such a qualified licensed and registered behavior analyst, acting within his or her scope of practice under New York State law, Education Law Article 167.

"Under the Direction of" means that, with respect to each Medicaid beneficiary, the qualified therapist:

- Sees the participant at the beginning of and periodically during the course of treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State Law;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

15. Transportation Services

Definition: Transportation outlined in this section of the State Plan is available to Medicaid eligible beneficiaries who are eligible for Early Intervention (EI) and for Early and Periodic Screening Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Services: Transportation delivered by the State's designated transportation provider pursuant to prior authorization by a municipal Early Intervention Official or Early Intervention Official Designee in the State or the City of New York must be included in the IFSP as recommended by the IFSP Team. Transportation arrangements must be identified in the IFSP.

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Transportation is limited to those situations where the child receives transportation to obtain a Medicaid covered early intervention service other than transportation and both the Medicaid covered service and the need for transportation are included in the child's IFSP. Transportation can only be billed on a day that a Medicaid reimbursable service was delivered and may only be billed at the rate for each one-way trip.

Providers: Transportation services must be provided by a qualified, Medicaid-enrolled provider. Each one-way trip must be documented in accordance with Medicaid record keeping requirements in order to bill Medicaid. To receive payment for services provided to a Medicaid recipient, a vendor must be an enrolled Medicaid transportation provider authorized to provide transportation services on the date the services are rendered.

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Appendix II
2018 Title XIX State Plan
Third Quarter Amendment
Summary

SUMMARY
SPA #18-0039

This State Plan Amendment proposes to move Early Intervention services from the Rehabilitative section of the State Plan to the Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT) section. This change is to comport with guidance received from the Centers for Medicare and Medicaid Services (CMS) through the Office of Health Insurance Programs. This amendment adds licensed applied behavior analysts and certified behavior analyst assistants as early intervention service providers. To align with CMS requirements, transportation to and from early intervention services, which is currently reimbursed as an administrative expense under the Early Intervention Program, is included under Early Intervention services.

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

SPA 18-0039

§ 2859. Third party insurance and medical assistance program payments.

1. Nothing in this title shall be construed to permit the department or any other state agency or municipality to reduce medical assistance or other assistance or services available to eligible children.

2. Notwithstanding any other provisions of law, costs incurred for early intervention services that otherwise qualify as medical assistance that are furnished to an eligible child who is also eligible for benefits pursuant to title eleven or article five of the social services law are considered to be medical assistance for purposes of payments to providers and state reimbursement to the extent that federal financial participation is available therefor.

3. (a) Providers of evaluations and early intervention services, hereinafter collectively referred to in this subdivision as "provider" or "providers", shall in the first instance and where applicable, seek payment from all third party payors including governmental agencies prior to claiming payment from a given municipality for evaluations conducted under the program and for services rendered to eligible children, provided that, the obligation to seek payment shall not apply to a payment from a third party payor who is not prohibited from applying such payment, and will apply such payment, to an annual or lifetime limit specified in the insured's policy.

(i) Parents shall provide the municipality and service coordinator information on any insurance policy, plan or contract under which an eligible child has coverage.

(ii) Parents shall provide the municipality and the service coordinator with a written referral from a primary care provider as documentation, for eligible children, of the medical necessity of early intervention services.

(iii) providers shall utilize the department's fiscal agent and data system for claiming payment for evaluations and services rendered under the early intervention program.

(b) The commissioner, in consultation with the director of budget and the superintendent of financial services, shall promulgate regulations providing public reimbursement for deductibles and copayments which are imposed under an insurance policy or health benefit plan to the extent that such deductibles and copayments are applicable to early intervention services.

(c) Payments made for early intervention services under an insurance policy or health benefit plan, including payments made by the medical assistance program or other governmental third party payor, which are provided as part of an IFSP pursuant to section twenty-five hundred forty-five of this title shall not be applied by the insurer or plan administrator against any maximum lifetime or annual limits specified in the policy or health benefits plan, pursuant to section eleven of the chapter of the laws of nineteen hundred ninety-two which added this title.

(d) A municipality, or its designee, and a provider shall be subrogated, to the extent of the expenditures by such municipality or for early intervention services furnished to persons eligible for benefits under this title, to any rights such person may have or be entitled to from third party reimbursement. The provider shall submit notice to the insurer or plan administrator of his or her exercise of such right of subrogation upon the provider's assignment as the early intervention service provider for the child. The right of subrogation does not attach to benefits paid or provided under any health insurance

policy or health benefits plan prior to receipt of written notice of the exercise of subrogation rights by the insurer or plan administrator providing such benefits.

4. Notwithstanding any other provision of law, the commissioner, pursuant to a memorandum of understanding with the commissioner of the office of mental retardation and developmental disabilities, shall develop and submit a medicaid home and community based services waiver, pursuant to section 1915c of the social security act, for the purpose of creating a waiver program to provide and finance services for children who qualify for the early intervention program. In further establishing eligibility criteria under the waiver program, the commissioner, in conjunction with the commissioner of the office of mental retardation and developmental disabilities, shall establish health, developmental and psycho-social criteria which shall permit the broadest eligibility based on criteria for the early intervention program and federal standards for participation in a waiver program. The waiver application shall be submitted pursuant to section 1915c of the social security act no later than January first, two thousand four.

5. Notwithstanding any law to the contrary, there is hereby established an early intervention demonstration project to be conducted in Albany, Montgomery, Rensselaer, Saratoga and Schenectady Counties. Such project shall be for the purposes of facilitating coverage eligibility determinations and claims submissions for early intervention services. The commissioner is hereby authorized and directed to facilitate and, within the amounts appropriated, shall award grant funds for the implementation and operation of such demonstration project which shall be conducted by an association representative of health maintenance organizations licensed under article forty-four of this chapter and article forty-three of the insurance law in conjunction with the commissioner and the counties specified in this subdivision.

Such demonstration shall include the development of an integrated web portal enabling access to health plan data bases to facilitate coverage eligibility, benefit determinations and claims submission and processing. Such access shall be subject to all federal and state laws for the confidentiality of personal and medical record information. The demonstration will develop technology solutions to facilitate coverage determinations and streamline and monitor claims processes and payment.

The association conducting the demonstration, the commissioner and participating counties shall submit a report to the temporary president of the senate and the speaker of the assembly, not later than one year following the commencement of the program's operation, describing the experiences, feasibility and advisability of replication, and any additional recommendations for continuation, modification or cessation of the program.

Appendix IV
2018 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 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 April 1, 2018, the Early Intervention Program will amend the Medicaid State Plan to move Early Intervention Services from the Rehabilitative section of the State Plan to the Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT) section. This change is to comport with guidance received from the Centers for Medicare and Medicaid Services (CMS) through the Office of Health Insurance Programs. In addition, New York State licensed applied behavior analysts will be added as of early intervention service providers.

There is no additional estimated annual change to gross Medicaid expenditures as a result of the proposed change.

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, Bureau of Federal Relations and Provider Assessments, 99 Washington Ave., One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), 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 non-institutional services to revise provisions of the Ambulatory Patient Group (APG) reimbursement methodology. The following change is proposed:

Non-Institutional Services

The following is a clarification to the December 27, 2017 noticed provision for the adjustment of the Article 16 APG rates intended 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 for the New York City (large and small employers) and Nassau, Suffolk and Westchester counties. The remainder of the State increases in the minimum wage will be phased in over a number of years until the minimum wage is \$12.50 per hour.

There is no additional estimated annual change to gross Medicaid expenditures as a result of the proposed Article 16 APG reimbursement clarification.

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 and Provider Assessments, 99 Washington Ave., One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), e-mail: spa_inquiries@health.state.ny.us

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 Public Health Law Section 2826. This notice clarifies the notices previously published on December 13, 2017 and January 31, 2018. The following changes are proposed:

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

- Bassett Medical Center

The aggregate payment amounts total up to \$861,356 for the period April 1, 2018 through March 31, 2018.

The aggregate payment amounts total up to \$861,356 for the period April 1, 2019 through March 31, 2020.

The aggregate payment amounts total up to \$861,360 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, e-mail: 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 Section 2826 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:

- Oswego Hospital

The aggregate payment amounts total up to \$387,520 for the period April 1, 2018 through March 31, 2019.

The aggregate payment amounts total up to \$737,626 for the period April 1, 2019 through March 31, 2020.

The aggregate payment amounts total up to \$374,854 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:

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

NON-INSTITUTIONAL SERVICES
State Plan Amendment #18-0039

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: Question is not applicable as Early Intervention services are not clinic or outpatient hospital services.

5. Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?

Response: The rate methodology included in the State Plan for Early Intervention Services is a prospective methodology. We are unaware of any requirement under current federal law or regulation that limits individual provider's 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.