



## Department of Health

**ANDREW M. CUOMO**  
Governor

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

**LISA J. PINO, M.A., J.D.**  
Executive Deputy Commissioner

March 31, 2021

Todd McMillion  
Director  
Department of Health and Human Services  
Centers for Medicare and Medicaid Services  
233 North Michigan Ave, Suite 600  
Chicago, IL 60601

RE: SPA #21-0019  
Non-Institutional Services

Dear Mr. McMillion:

The State requests approval of the enclosed amendment #21-0019 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective January 1, 2021 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

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

A copy of pertinent sections of enacted legislation is enclosed for your information (Appendix III). Copies of the public notice of this plan amendment, which was given in the New York State Register on November 20, 2019 and clarified on February 19, 2020 are also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

If you have any questions regarding this State Plan Amendment submission, please do not hesitate to contact Regina Deyette, Medicaid State Plan Coordinator, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 473-3658.

Sincerely,

Donna Frescatore  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 1 — 0 0 1 9

2. STATE

New York

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)  
TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

January 01, 2021

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

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

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

6. FEDERAL STATUTE/REGULATION CITATION

§ 1902(a) of the Social Security Act and 42 CFR 447

7. FEDERAL BUDGET IMPACT

a. FFY 01/01/21-09/30/21 \$ 11.96  
b. FFY 10/01/21-09/30/22 \$ 15.94

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment: 4.19-B Page: 3L-4

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Attachment: 4.19-B Page: 3L-4

10. SUBJECT OF AMENDMENT

PROS Minimum Wage Increase  
(FMAP=50%)

11. GOVERNOR'S REVIEW (*Check One*)

- GOVERNOR'S OFFICE REPORTED NO COMMENT  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED

12. SIGNATURE OF STATE AGENCY OFFICIAL

[Redacted Signature]

13. TYPED NAME

Donna Frescatore

14. TITLE

Medicaid Director, Department of Health

15. DATE SUBMITTED

March 31, 2021

16. RETURN TO

New York State Department of Health  
Division of Finance and Rate Setting  
99 Washington Ave – One Commerce Plaza  
Suite 1432  
Albany, NY 12210

**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**  
**2021 Title XIX State Plan**  
**First Quarter Amendment**  
**Amended SPA Pages**

New York  
3L-4

**Intensive Rehabilitation (IR):**

In addition to the monthly base rate (and reimbursement for Clinical Treatment, if applicable), PROS providers [shall] will receive an additional monthly add-on for providing at least one IR service to an individual who has received at least six units during the month.

In instances where a PROS provider provides IR services to an individual, but CRS services are provided by another PROS provider or no CRS services are provided in the month, the minimum six units required will be limited to the provision of IR services and only the IR add-on will be reimbursed.

The maximum number of IR add-on payments to a PROS provider [shall] will not exceed 50 percent of that provider's total number of monthly base rate claims reimbursed in the same calendar year.

**Ongoing Rehabilitation and Support (ORS):**

In addition to the monthly base rate (and reimbursement for Clinical Treatment, if applicable), PROS providers [shall] will receive an additional monthly add-on for providing ORS services. Reimbursement requires a minimum of two face-to-face contacts per month, which must occur on two separate days. A minimum contact is 30 continuous minutes in duration. The 30 continuous minutes may be split between the individual and the collateral. At least one visit per month must be with the individual only.

The ORS or IR add-on payment can be claimed independently or in addition to the base rate (and Clinical Treatment, if applicable). ORS and IR will not be reimbursed in the same month for the same individual.

**Pre-admission Screening Services:**

PROS providers will be reimbursed at a regional monthly case payment for an individual in pre-admission status. Reimbursement for an individual in pre-admission status is limited to the pre-admission rate. If the individual receives pre-admission screening services during the month of admission, the base rate is calculated using the entire month but no reimbursement is permitted to Clinical Treatment, IR or ORS.

Reimbursement for pre-admission screening services is limited to two consecutive months.

**PROS Rates of Payment:** PROS rates of payment are adjusted, effective January 1, [2020] 2021 for the statutory minimum wage increase [and direct care compensation increases. PROS rates of payment are adjusted, effective April 1, 2020, for direct care and clinical compensation increases.]

PROS rates of payment are available on the OMH website at:  
[http://www.omh.ny.gov/omhweb/medicaid\\_reimbursement/](http://www.omh.ny.gov/omhweb/medicaid_reimbursement/)

**TN** #21-0019

**Approval Date** \_\_\_\_\_

**Supersedes TN** #20-0014

**Effective Date** January 1, 2021

**Appendix II**  
**2021 Title XIX State Plan**  
**First Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #21-0019**

This State Plan Amendment proposes to add a 1/1/21 effective date related to the program's reimbursement rates, for implementation of changes related to minimum wage.

**Appendix III**  
**2021 Title XIX State Plan**  
**First Quarter Amendment**  
**Authorizing Provisions**

**SPA 21-0019**

Labor § 652. Minimum wage. 1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than: \$4.25 on and after April 1, 1991, \$5.15 on and after March 31, 2000, \$6.00 on and after January 1, 2005, \$6.75 on and after January 1, 2006, \$7.15 on and after January 1, 2007, \$8.00 on and after December 31, 2013, \$8.75 on and after December 31, 2014, \$9.00 on and after December 31, 2015, and until December 31, 2016, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(a) New York City. (i) Large employers. Every employer of eleven or more employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than: \$11.00 per hour on and after December 31, 2016, \$13 .00 per hour on and after December 31, 2017, \$15.00 per hour on and after December 31, 2018, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(ii) Small employers. Every employer of ten or less employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than: \$10.50 per hour on and after December 31, 2016, \$12.00 per hour on and after December 31, 2017, \$13.50 per hour on and after December 31, 2018, \$15 .00 per hour on and after December 31, 2019, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C . section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(b) Remainder of downstate. Every employer shall pay to each of its employees for each hour worked in the counties of Nassau, Suffolk and Westchester a wage not less than: \$10.00 per hour on and after December 31, 2016, \$11.00 per hour on and after December 31, 2017, \$12.00 per hour on and after December 31, 2018, \$13.00 per hour on and after December 31, 2019, \$14.00 per hour on and after December 31, 2020, \$15.00 per hour on and after December 31, 2021, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article .

(c) Remainder of state. Every employer shall pay to each of its employees for each hour worked outside of the city of New York and the counties of Nassau, Suffolk, and Westchester, a wage of not less than: \$9.70 on and after December 31, 2016, \$10.40 on and after December 31, 2017, \$11.10 on and after December 31, 2018,

\$11.80 on and after December 31, 2019, \$12 .50 on and after December 31, 2020, and on each following December thirty-first, a wage published by the commissioner on or before October first, based on the then current minimum wage increased by a percentage determined by the director of the budget in consultation with the commissioner, with the result rounded to the nearest five cents, totaling no more than fifteen dollars, where the percentage increase shall be based on indices including, but not limited to, (i) the rate of inflation for the most recent twelve month period ending June of that year based on the consumer price index for all urban consumers on a national and



seasonally unadjusted basis (CPI-U), or a successor index as calculated by the United States department of labor,

(ii) the rate of state personal income growth for the prior calendar year, or a successor index, published by the bureau of economic analysis of the United States department of commerce, or (iii) wage growth; or, if greater, such other wage as may be established by federal law pursuant to 29 U.S .C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(d) The rates and schedules established in paragraphs (a) and (b) of this subdivision shall not be deemed to be the minimum wage under this subdivision for purposes of the calculations specified in subdivisions one and two of section five hundred twenty-seven of this chapter.

1. Existing wage orders. The minimum wage orders in effect on the effective date of this act shall remain in full force and effect, except as modified in accordance with the provisions of this article. Such minimum wage orders shall be modified by the commissioner to increase all monetary amounts specified therein in the same proportion as the increase in the hourly minimum wage as provided in subdivision one of this section, including the amounts specified in such minimum wage orders as allowances for gratuities, and when furnished by the employer to its employees, for meals, lodging, apparel and other such items, services and facilities. All amounts so modified shall be rounded off to the nearest five cents. The modified orders shall be promulgated by the commissioner without a public hearing, and without reference to a wage board, and shall become effective on the effective date of such increases in the minimum wage except as otherwise provided in this subdivision, notwithstanding any other provision of this article.
2. Non-profitmaking institutions. (a) Application of article. This article shall apply to non-profitmaking institutions.

(b) Option available to non-profitmaking institutions. The provisions of any wage order issued under this article shall not apply, however, to any non-profitmaking institution which pays and continues to pay to each of its employees in every occupation a wage, exclusive of allowances, of not less than the minimum wage provided in subdivision one of this section provided that such institution had certified under oath to the commissioner, on or before September first, nineteen hundred sixty, that on or before October first, nineteen hundred sixty it would pay and thereafter intended to pay such wage to each of its employees in every occupation and provided further that all the provisions of this article have not become applicable to such institution by operation of paragraph

(c) of this subdivision . If such institution was not organized or did not hire any employees as defined in subdivision five of section six hundred fifty-one of this chapter before September first, nineteen hundred sixty, such provisions shall not apply so long as, commencing six months after it was organized, or first employed such employees it

paid and continues to pay such wage to each of its employees in every occupation, provided that such institution certified under oath within six months after it was organized or first employed such employees that it would pay and thereafter intended to pay such wage to each of its employees in every occupation and provided further that all the

provisions of this article have not become applicable to such institution by operation of paragraph (c) of this subdivision .

(c) Termination of option. All the provisions of this article, including all of the provisions of any wage order issued thereunder which, but for the operation of paragraph (b) of this subdivision, would apply to any non-profitmaking institution, shall become fully applicable to such institution sixty days after such institution files a notice with the commissioner requesting that the provisions of such wage order apply to it, or immediately upon the issuance of an order by the commissioner finding that such institution has failed to pay the wages provided in paragraph (b) of this subdivision, but in no event shall any such order discharge the obligation of such institution to pay the wages provided by paragraph (b) of this subdivision for any period prior to the issuance of such order.

1. Notwithstanding subdivisions one and two of this section, the wage for an employee who is a food service worker receiving tips shall be a cash wage of at least two-thirds of the minimum wage rates set forth in subdivision one of this section, rounded to the nearest five cents or seven dollars and fifty cents, whichever is higher, provided that the tips of such an employee, when added to such cash wage, are equal to or exceed the minimum wage in effect pursuant to subdivision one of this section and provided further that no other cash wage is established pursuant to section six hundred fifty-three of this article.
2. Notwithstanding subdivisions one and two of this section, meal and lodging allowances for a food service worker receiving a cash wage pursuant to subdivision four of this section shall not increase more than two-thirds of the increase required by subdivision two of this section as applied to state wage orders in effect pursuant to subdivision one of this section.
3. Notwithstanding subdivision one of this section, and sections six hundred fifty-three and six hundred fifty-five of this article, on or after January first, two thousand nineteen, and each January first thereafter until such time as the minimum wage is fifteen dollars in all areas of the state, the division of budget shall conduct an analysis of the state of the economy in each region, and the effect of the minimum wage increases listed in this section, to determine whether there should be a temporary suspension or delay in any scheduled increases. In conducting its analysis, the division of budget shall consult the department, the department's division of research and statistics, the United States department of labor, the federal reserve bank of New York and other economic experts. The division of budget will reference well-established economic indexes and accepted economic factors, including those set forth in section six hundred fifty-four of this article, to justify and explain its decision. After reviewing such indexes and factors, the division shall determine whether scheduled increases in the minimum wage shall continue up to and including fifteen dollars. The division of budget will issue a report and recommendation to the commissioner, who shall take action on that report and recommendation pursuant to section six hundred fifty-six of this article.

**Appendix IV  
2020 Title XIX State Plan  
First Quarter Amendment  
Public Notice**

# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

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

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://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

Columbia County  
Transportation & Solid Waste Disposal Services  
Request for Proposal

A copy of the Columbia County Transportation & Solid Waste Disposal Services Request for Proposal has been filed with the Columbia County Board of Supervisors Clerk on November 12, 2019 and can be viewed on the Columbia County Government website – [www.columbiacountyny.com](http://www.columbiacountyny.com) by following the link to the "Solid Waste Department". As per NYS General Municipal Law Section 120-W a 60 day public comment period is required. *Comments are due by January 6, 2020 and should be sent to:* Jolene D. Race, Director, 401 State St., Hudson, NY 12534 or via email to: [jolene.race@columbiacountyny.com](mailto:jolene.race@columbiacountyny.com)

## PUBLIC NOTICE

Division of Criminal Justice Services  
Juvenile Justice Advisory Group

Pursuant to Public Officer Law 104, the Division of Criminal Justice Services gives notice of a meeting of the New York State Juvenile Justice Advisory Group.

Date: December 12, 2019  
Time: 9:30 a.m. - 1:00 p.m.  
Place: Division of Criminal Justice Services  
80 S. Swan St.  
3rd Fl., Rm. 348  
Albany, NY 12210

Video Conference with:  
Empire State Development Corp.  
633 Third Ave., 37th Fl.

New York, NY 10007

*For further information, contact:* Thomas R. Andriola, Chief of Policy & Implementation, Office of Youth Justice, Division of Criminal Justice Services, 80 S. Swan St., 8th Fl., Albany, NY 12210, (518) 485-1833, email: [Thomas.Andriola@dcjs.ny.gov](mailto:Thomas.Andriola@dcjs.ny.gov)

## PUBLIC NOTICE

Office of General Services

Pursuant to Section 30-a of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the Office of Children and Family Services has determined that the property known as the Middletown Residential Center located at 393 County Route 78, Town of Wallkill, County of Orange, State of New York improved with 28,000± sq. ft. of structures on 15± acres is no longer useful or necessary for their purposes and has declared the same abandoned for sale or other disposition as Unappropriated State land.

*For further information, please contact:* Thomas Pohl, Esq., Office of General Services, Legal Services, 36th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, e-mail: (518) 474-8831

## PUBLIC NOTICE

Office of General Services

Pursuant to Section 30 of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the Office of Mental Health (OMH) has determined that the 1.4 ± acres of vacant land located along US Route 11 in the Town of Hastings, County of Oswego, State of New York with tax identifier no. Section 242.13, Block 01, Lot 10 is no longer useful or necessary for their purposes and has declared the same abandoned for sale or other disposition as Unappropriated State land.

*For further information, please contact:* Thomas Pohl, Esq., Office of General Services, Legal Services, 36th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831

## 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 January 1, 2020 and April 1, 2020 respectively, the Department of Health will adjust rates statewide to reflect a 2 percent Workforce Salary Increase for the following Office of Mental Health (OMH) licensed services: Assertive Community Treatment (ACT), Continuing Day Treatment (CDT), Comprehensive Psychiatric Emergency Programs (CPEP) services, Day Treatment Services for Children, freestanding Mental Health Clinic services, Partial Hospitalization services, and Personalized Recovery Oriented Services (PROS).

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to the January 1, 2020, 2 percent Workforce Salary Increase initiative contained in the budget for State Fiscal Year 2020 is \$3,385,176.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to the April 1, 2020 2 percent Workforce Salary Increase initiative contained in the budget for State Fiscal Year 2020 is \$28,574,812.

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](http://www.health.ny.gov/regulations/state_plans/status). In addition, approved SPAs beginning in 2011, are also available for viewing on this website.

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

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

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

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

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

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

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

*For further information and to review and comment, please contact:* Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, e-mail: [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

### PUBLIC NOTICE

Oneida-Herkimer Solid Waste Management Authority  
Request for Proposals (RFP)  
Purchase and/or Marketing of  
Processed Paper Recyclables for  
Oneida-Herkimer Solid Waste Management Authority

Pursuant to New York State General Municipal Law, Section 120-w, the Oneida-Herkimer Solid Waste Authority hereby gives notice of the following:

The Oneida-Herkimer Solid Waste Authority desires to procure an agreement for 5 years beginning January 1, 2020 for the purchase and/or marketing of paper recyclables processed at the Oneida-Herkimer Recycling Center, Utica, NY. Responses to the RFP must be received by 1:00 P.M. on December 2, 2019.

In order to promote its established Affirmative Action Plan, the Authority invites proposals from minority and women's business enterprises (M/WBE). Firms that are not M/WBE's responding to this RFP are strongly encouraged to consider partnering or creating other similar joint venture arrangements with certified M/WBE's. The directory of New York State Certified M/WBE's can be viewed at <http://www.esd.ny.gov/mwbe.html>. This Affirmative Action Policy regard-

ing sealed bids and contracts applies to all persons without regard to race, color, creed, national origin, age, sex, or handicap. All qualified bidders will be afforded equal opportunities without discrimination.

*Copies of the RFP may be obtained at:* [www.ohswa.org](http://www.ohswa.org) or through Emily M. Albright, Director of Recycling, Oneida-Herkimer Solid Waste Authority, 1600 Genesee St., Utica, NY 13502, (315) 733-1224, e-mail: [emilya@ohswa.org](mailto:emilya@ohswa.org)

### PUBLIC NOTICE

Department of State  
Notice of Review of Request for  
Brownfield Opportunity Area  
Conformance Determination  
Project: 399 Ohio Street Site  
Location: Buffalo River Corridor

Brownfield Opportunity Area, City of Buffalo, Erie County

In accordance with General Municipal Law, Article 18 - C, Section 970-r, the Secretary of State designated the Buffalo River Corridor Brownfield Opportunity Area, in the City of Buffalo, on November 27, 2017. The designation of the Buffalo River Corridor Brownfield Opportunity Area was supported by a Nomination or a comprehensive planning tool that identifies strategies to revitalize the area which is affected by one or more known or suspected brownfield sites.

Pursuant to New York State Tax Law, Article 1, Section 21, the eligible taxpayer(s) of a project site located in a designated Brownfield Opportunity Area may apply for an increase in the allowable tangible property tax credit component of the brownfield redevelopment tax credit if the Secretary of State determines that the project conforms to the goals and priorities established in the Nomination for a designated Brownfield Opportunity Area.

On October 3rd, 2019, 1093 Group, LLC submitted a request for the Secretary of State to determine whether the 399 Ohio Street Site, which will be located within the designated Buffalo River Corridor Brownfield Opportunity Area, conforms to the goals and priorities identified in the Nomination that was prepared for the designated Buffalo River Corridor Brownfield Opportunity Area.

The public is permitted and encouraged to review and provide comments on the request for conformance. For this purpose, the full application for a conformance determination is available online at: [https://www.dos.ny.gov/opd/programs/pdfs/BOA/301\\_Ohio\\_BOA\\_Conformance\\_Application\\_10-2-19.pdf](https://www.dos.ny.gov/opd/programs/pdfs/BOA/301_Ohio_BOA_Conformance_Application_10-2-19.pdf)

*Comments must be submitted no later than December 6th, 2019, either by mail to:* Christopher Bauer, Department of State, Office of Planning and Development, 65 Court St., Suite 208, Buffalo, NY 14202, or by email to: [chris.bauer@dos.ny.gov](mailto:chris.bauer@dos.ny.gov)

### PUBLIC NOTICE

Department of State  
F-2019-0629  
Date of Issuance – November 20, 2019

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

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0629BerlandDock>

In F-2019-0629, or the "Berland Residential Dock", the applicant – Todd Berland – proposes to construct a dock consisting of a 4'x24' ramp leading to an 8'x30' float, two jet ski lifts and a 8'x8' seasonal swim float. The float will be anchored by concrete anchors and anchor chains. The purpose of the proposed project is to "enhance recreational mooring at private residence". The project is located at 22 Hudson

Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, spa\_inquiries@health.ny.gov

## PUBLIC NOTICE

### Department of Health

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

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

#### Non-Institutional

The following is a clarification to the November 20, 2019 noticed provision to adjust rates statewide to reflect a two percent workforce salary increase for qualified Office of Mental Health (OMH) licensed services. With clarification, this provision will also take into account labor costs resulting from statutorily required increases in the New York State minimum wage (upstate regions only). The minimum wage rate increases apply to services effective January 1, 2020 and January 1, 2021. The two percent workforce salary increases are effective January 1, 2020 and April 1, 2020 respectively.

The revised estimated annual aggregate increase in gross Medicaid expenditures attributable to the two percent workforce salary increases and minimum wage initiatives totals \$457,685 in state fiscal year 2020 and \$16,141,040 in state fiscal year 2021.

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](http://www.health.ny.gov/regulations/state_plans/status). Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

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

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

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

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

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

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

## PUBLIC NOTICE

### Department of State

#### Uniform Code Variance / Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual

notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2020-0051 Matter of Malgorzata and Christopher Becker, 67 Sammis Street, Huntington, NY 11743, for a variance concerning safety requirements, including the required ceiling height. Involved is an existing one family dwelling located at 67 Sammis Street; Town of Huntington, NY 11743, County of Suffolk, State of New York.

2020-0054 Matter of Vivian Kamath, 677 Little East Neck Rd., W. Babylon, NY 11704, for a variance concerning safety requirements, including the required ceiling height and heights under a girder/soffit. Involved is an existing one family dwelling located at 130 Barton Avenue; Town of Brookhaven, NY 11772, County of Suffolk, State of New York.

2020-0055 Matter of Emily Kasel, 150 Meadbrook Road, Garden City, NY 11530, for a variance concerning safety requirements, including the required height under a girder/soffit. Involved is an existing one family dwelling located at 150 Meadbrook Road; Village of Garden City, NY 11530, County of NASSAU, State of New York.

2020-0056 Matter of Hooshang Nejathaim, P.E., 2A Shore Park Road, Great Neck, NY 11023, for a variance concerning safety requirements, including the required ceiling height and heights under a girder/soffit. Involved is an existing one family dwelling located at 90 Bar Beach Road; Town of North Hempstead, NY 11050, County of Nassau, State of New York.

2020-0060 Matter of JW Consulting, Tracey Schleske, PO Box 674, Coram, NY 11727, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 76 Forrest Avenue; Town of Brookhaven, NY 11967, County of Suffolk, State of New York.

2020-0061 Matter of Gray Architectural SVS, P.C., Chris Gray, 2401 Capri Place, N. Bellmore, NY 11710, for a variance concerning safety requirements, including the required ceiling height. Involved is an existing one family dwelling located at 2008 Lilac Drive; Town of Hempstead, NY 11590, County of Nassau, State of New York.

2020-0062 Matter of Gray Architectural SVS, P.C., Chris Gray, 2401 Capri Place, N. Bellmore, NY 11710, for a variance concerning safety requirements, including the required ceiling height. Involved is an existing one family dwelling located at 58 Avondale Street; V. of Valley Stream, NY 11581, County of NASSAU, State of New York.

## PUBLIC NOTICE

### Department of State

#### Uniform Code Variance / Appeal Petitions

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

2020-0057 In the matter of Judy Velardi, 1159 Kossuth Avenue, Utica NY 13501 for a variance concerning requirements for a fire-rated self-closing cellar door.

Involved is an existing Multiple Residence occupancy, two stories in height, located at 1159 Kossuth Avenue, City of Utica, County of Oneida, New York.

2020-0058 In the matter of Judy Velardi, 1159 Kossuth Avenue, Utica NY 13501 for a variance concerning requirements for fire-rated self-closing cellar doors.

Involved is an existing Multiple Residence occupancy, two stories in height, located at 1171 Kossuth Avenue, City of Utica, County of Oneida, New York.

**Appendix V**  
**2020 Title XIX State Plan**  
**First Quarter Amendment**  
**Responses to Standard Funding Questions**

**NON-INSTITUTIONAL SERVICES  
State Plan Amendment #21-0019**

**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 Fund and Special Revenue Federal Funds appropriations received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. There are no new provider taxes and no existing taxes have been modified under the amendment.

**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:** Based on guidance from CMS, the State is currently working on submitting the current UPL demonstration.

- 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:** Reimbursement to local governmental providers under this amendment does not exceed the reasonable cost of providing services.

**ACA Assurances:**

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

**MOE Period.**

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

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

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

**Prior to January 1, 2014 States may potentially require contributions by local political subdivisions toward the non-Federal share of the States' expenditures at percentages greater than were required on December 31, 2009. However, because of the provisions of section 1905(cc) of the Act,**

**it is important to determine and document/flag any SPAs/State plans which have such greater percentages prior to the January 1, 2014 date in order to anticipate potential violations and/or appropriate corrective actions by the States and the Federal government.**

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

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

**Response:** 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.