NEW YORK STATE OF OPPORTUNITY. | Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

June 29, 2022

James G. Scott, Director
Division of Program Operations
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106

RE: SPA #22-0032
Non-Institutional Services

Dear Mr. Scott:

The State requests approval of the enclosed amendment #22-0032 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective April 1, 2022 (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 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 were given in the New York State Register on March 30, 2022, and clarified on May 25, 2022, 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,

[redacted]

Amir Bassiri
Acting Medicaid Director
Office of Health Insurance Programs

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 2 2 — 0 0 3 2

2. STATE: N Y

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

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
April 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION
§ 1902(a) of the Social Security Act and 42 CFR 447

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 04/01/22-09/30/22 $ 6,201
b. FFY 10/01/22-09/30/23 $ 12,402

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1-A Supplement: Pages 2(c.2), 2(c.2)(a), 2(c.3), 2(c.3)(a), 2(c.4), 2(c.4)(a), 2(c.4)(a)(1), 2(c.5)

Attachment 3.1-B Supplement: Pages 2(c.2), 2(c.2)(a), 2(c.3), 2(c.3)(a), 2(c.4), 2(c.4)(a), 2(c.4)(a)(1), 2(c.5)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*

Attachment 3.1-A Supplement: Pages 2(c.2), 2(c.3), 2(c.4), 2(c.5)

Attachment 3.1-B Supplement: Pages 2(c.2), 2(c.3), 2(c.4), 2(c.5)

9. SUBJECT OF AMENDMENT

Harm Reduction

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

- (selected) GOVERNOR'S OFFICE REPORTED NO COMMENT
- ( ) COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
- ( ) NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
- ( ) OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL
[redacted]

12. TYPED NAME
Amir Bassiri

13. TITLE
Acting Medicaid Director

14. DATE SUBMITTED
June 29, 2022

15. 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 CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

Appendix I
2022 Title XIX State Plan
Second Quarter Amendment
Amended SPA Pages

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative services

13d. Harm Reduction Services

Harm reduction services represent a fully integrated client-oriented approach to care. Such services are remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. [The role of the harm reduction service is to ensure that clients obtain needed services at the appropriate time by assessing and reducing any barriers to accessing these programs.] Harm reduction services pursue incremental change and progress towards individual goals identified and set by the individual.

Harm reduction services begin immediately as service needs are assessed. The determination of the type(s) of service, frequency, and intensity is an ongoing responsibility of the harm reduction staff, and there is no limitation in the amount, duration, and scope of services. Harm reduction services continue until the staff determine that the service goals have been met or if the client decides he/she no longer wants to participate in programming.

Harm reduction programs will provide the following:

1. [Development of a Treatment Plan] Brief Assessment and Treatment Planning
2. Individual/Group [Supportive] Harm Reduction Counseling
3. Linkage and Navigation

[3.] 4. Medication [m]Management and Treatment Adherence Counseling
[4.] 5. Psychoeducation - Support groups

[1. Development of a Treatment Plan
Definition: Development of a treatment plan through either an initial assessment or a scheduled or event-generated reassessment for harm reduction services is part of a package of remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. Referrals may be made for more intensive behavioral interventions, support groups, wellness services, substance use disorder (SUD) treatment, and overdose prevention as needed.
A reassessment is a scheduled or event-generated formal re-examination of the client's situation, functioning, substance use, and medical and psychosocial needs to identify changes which have occurred since the initial or most recent assessment. The reassessment measures progress toward the desired goals and is used to prepare a new or revised harm reduction program plan or confirm that current services remain appropriate.
There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a direct service provider who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience either 1) providing community-based services to active substance users or persons living with a history of substance use or 2) providing harm reduction or community-based social services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations;]

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

1. Brief Assessment and Treatment Planning

Definition: A brief assessment can be conducted simultaneously with other HRS and will determine eligibility and identify an initial, short-term plan for harm reduction services and referrals to other services, as needed, that would support an individual's goal(s) in mitigating the possible harms related to drug use. Reassessments and treatment planning should be conducted simultaneously with other HRS to identify new needs and/or barriers related to drug use or to confirm that current services remain appropriate.

Treatment planning identifies short-term goal(s) and/or next steps alongside the brief assessment/reassessment and other harm reduction services provided. It is not a comprehensive plan for the long-term course of services. The assessment and initial plan will be the basis of all future harm reduction services and will be included in progress notes as part of the on-going treatment planning process.

Brief Assessment and Treatment Planning may be provided in an onsite or offsite setting.

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

A Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services; Or

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

- [or a case worker who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience in case management or related supportive services position serving women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations, including one year of HIV-related experience; or]
- [director of harm reduction services who may be a clinical social worker; possess a master of social work degree; be a licensed clinical or masters social worker; or has a bachelor's degree and at least three (3) years' experience in the provision of supportive services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations] a Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or

- a [p]Peer who has been certified [through a Department-approved certification program or one conducted by another entity recognized by the Department and who is supervised by the director of harm reduction services. A person seeking harm reduction peer certification is required to complete 68 training hours of core courses such as Introduction to HIV, STIs, and Viral Hepatitis; Sex, Gender, and HIV; and Overview of Harm Reduction Counseling, as well as courses addressing health and medical needs and cultural competency among at-risk populations and health literacy. An additional 22 hours of training are required in topics specific to harm reduction among substance users and include promoting PrEP; retention in care; opioid overdose prevention; HCV prevention; safer injection and wound care; and addressing sexual risk. Other requirements for certification include completing a 500-hour practicum and passing a knowledge assessment. Certified peers must complete at least 10 hours of training annually to maintain their certification.] through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

[2. Individual/Group Supportive Counseling

Definition: Supportive counseling services are part of a package of remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. Effective supportive counseling assists individuals in understanding how to reduce the behaviors that interfere with their ability to lead healthy, safe lives and to restore them to their best possible functional level Supportive counseling may be provided to an individual or in a group setting and can cover such topics as HIV/HCV/STD status or substance use disclosure to family members and friends; addressing stigma for drug users in accessing services; how to maximize health care services interactions; how to reduce substance use or use more safely and avoid overdose; and how to address anxiety, anger, and depressive episodes. There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a direct service provider who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience either 1) providing community-based services to active substance users or persons living with a history of substance use or 2) providing harm reduction or community-based social services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations;]

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

2. Individual/Group Harm Reduction Counseling

Definition: The purpose of Harm reduction counseling is to assist individuals in reducing behaviors that interfere with their ability to lead healthier lives. Supportive counseling may be provided to an individual or in a group setting and can cover such topics as HIV/AIDS, HCV, and/or sexually transmitted infections (STIs) status and risk reduction; soft tissue infection care and risk reduction; addressing stigma for PWUD; safer drug use; overdose safety planning; wellness planning; recovery readiness/relapse prevention; and identifying and addressing the effects of mental health symptoms.

Harm reduction counseling may be provided in an onsite or offsite setting.

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- A Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services;

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

- [or a case worker who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience in case management or related supportive services position serving women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations, including one year of HIV-related experience; or] a Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or

- [director of harm reduction services who may be a clinical social worker; possess a master of social work degree; be a licensed clinical or masters social worker; or has a bachelor's degree and at least three (3) years' experience in the provision of supportive services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations.] a Peer who has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

[3. Medication Management and Treatment Adherence Counseling

Medication management and treatment adherence counseling assists clients to recognize the need for medication to address substance use or psychiatric issues, reinforce the importance of adherence to treatment regimens, and identify tools to follow the prescribed regimens. Such services are remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a direct service provider who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™)

and has earned a high school equivalency credential and has at least three (3) years' experience in case management or related supportive services position; or

- director of harm reduction services who may be a clinical social worker; possess a master of social work degree; be a licensed clinical or masters social worker; or has a bachelor's degree and has at least three (3) years' experience in the provision of supportive services and supervision of staff; or
- a peer who has achieved Department-approved certification and is supervised by the director of harm reduction services.

4. Psychoeducation - Support Groups

Definition: Support groups are stand-alone services that may also be used to supplement individual and/or group supportive counseling. Such services are remedial services recommended by a physician or other licensed practitioner. Support groups restore individuals to his or her best possible functional level by focusing on group members' issues and experiences relative to substance use, finances, medical/health care, support system, incarceration history and other factors that contribute to risk behaviors for HIV/STD/HCV. Support groups may be facilitated by a direct service provider, a case worker, or the director of harm reduction services or co-facilitated by a peer. There are no limitations on the amount, duration, and scope of these services.]

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

3. Linkage and Navigation

Definition: Linkage and navigation is transitional in nature and incorporates brief, time-limited strategies to engage, guide, and support an individual through systems of care. This service assists with the prevention, detection/diagnosis, and treatment of health conditions affecting people who use drugs—such as HIV, HCV, STIs, Substance Use Disorder, mental illness, and other medical problems—by identifying and eliminating barriers to timely care. Barriers to care may be communication/information-related, physical, financial, and emotional in nature.
Key components of this service include health promotion and education; matching individual needs with necessary services/resources; supporting engagement in quality, stigma-free services, including referrals to comprehensive case management as appropriate; appointment escorts and/or follow-up; and troubleshooting barriers to care.
Linkage and navigation may be provided in an onsite or offsite setting.
There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services; or
- A Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or
- a peer who has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

4. Medication Management and Treatment Adherence Counseling

Definition: This service provides education and identifies tools and strategies that individuals may use to recognize the need for medication to address substance use, mental health conditions, HIV/AIDS, HCV, STIs, and other health conditions; as well as best manage and adhere to a medication schedule that addresses all diagnosed conditions.
Components of medication management may include improving the use and adherence of medications for all diagnosed conditions by ensuring that the individual understands the purpose of the medications and identifying resources to support management efforts. Components of treatment adherence may include discussing the importance and need for treatment adherence, providing education and counseling on medications and adherence strategies, and troubleshooting barriers to treatment adherence.

Medication Management and Treatment Adherence Counseling may be provided in an onsite or offsite setting.

New York
2(c.4)(a)(1)

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative services

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential and has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services; or
- A Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or
- a Peer who has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

5. Psychoeducation - Support Groups

Definition: Psychoeducation support groups are designed to provide individuals with a non-judgmental space to offer and receive information on various issues that have a direct impact on their life. Psychoeducational groups should be topic-oriented and empower group members to share information and support each other in strategies relative to substance use, finances, medical/health care, support system, incarceration history and other factors that contribute to risk behaviors for HIV/AIDS, HCV, and/or STIs. Psychoeducational groups should work to actively engage participants in the group discussion and prompt them to relate what they are learning to their own experiences. There are no limitations on the amount, duration, and scope of these services.

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

Providers: Services must be provided by:

- a [direct service provider] Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience [as a direct service provider in a supportive services position] working with people who use drugs and/or providing harm reduction or community-based social services; or

- [a case worker who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience in case management or a related supportive services position; or] a Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or

- [director of harm reduction services who may be a clinical social worker; possess a master of social work degree; be a licensed clinical or masters social worker; or has a bachelor's degree and at least three (3) years' experience in the provision of supportive services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations and]

- a [p]Peer who [has achieved Department-approved certification and is supervised by the director of harm reduction services.] has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

Qualifications of Provider Organizations

Community-based organizations[, including local health units, facilities licensed under Article 28 of New York State Public Health Law, and non-profit organizations] that have been approved by the Commissioner of Health with a waiver to conduct a comprehensive harm reduction program[, including syringe exchange].

Freedom of Choice – Access to Services

The State assures that the provision of harm reduction services will not restrict an individual's free choice of providers in violation of section 1902(a)(23) of the Act.

1. Access to services will be limited to the authorized syringe exchange programs.
2. Eligible recipients will have free choice of the providers of harm reduction services within the specified geographic area identified in this Plan.
3. Eligible recipients will have free choice of the providers of other medical care under the Plan.
4. Eligible recipients who refuse harm reduction services will not be denied access to other services offered under the Plan.
5. Harm reduction program services will not be used to restrict an individual's access to other services under the Plan.

<u>**1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative services**</u>

13d. Harm Reduction Services

Harm reduction services represent a fully integrated client-oriented approach to care. Such services are remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. [The role of the harm reduction service is to ensure that clients obtain needed services at the appropriate time by assessing and reducing any barriers to accessing these programs.] <u>Harm reduction services pursue incremental change and progress towards individual goals identified and set by the individual.</u>

Harm reduction services begin immediately as service needs are assessed. The determination of the type(s) of service, frequency, and intensity is an ongoing responsibility of the harm reduction staff, and there is no limitation in the amount, duration, and scope of services. Harm reduction services continue until the staff determine that the service goals have been met or if the client decides he/she no longer wants to participate in programming.

Harm reduction programs will provide the following:

1. [Development of a Treatment Plan] <u>Brief Assessment and Treatment Planning</u>
2. Individual/Group [Supportive] <u>Harm Reduction</u> Counseling

<u>3. Linkage and Navigation</u>
[3.] <u>4.</u> Medication [m]<u>M</u>anagement and Treatment Adherence Counseling
[4.] <u>5.</u> Psychoeducation - Support groups

[1. Development of a Treatment Plan
Definition: Development of a treatment plan through either an initial assessment or a scheduled or event-generated reassessment for harm reduction services is part of a package of remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. Referrals may be made for more intensive behavioral interventions, support groups, wellness services, substance use disorder (SUD) treatment, and overdose prevention as needed.
A reassessment is a scheduled or event-generated formal re-examination of the client's situation, functioning, substance use, and medical and psychosocial needs to identify changes which have occurred since the initial or most recent assessment. The reassessment measures progress toward the desired goals and is used to prepare a new or revised harm reduction program plan or confirm that current services remain appropriate.
There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a direct service provider who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience either 1) providing community-based services to active substance users or persons living with a history of substance use or 2) providing harm reduction or community-based social services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations;]

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

1. Brief Assessment and Treatment Planning

Definition: A brief assessment can be conducted simultaneously with other HRS and will determine eligibility and identify an initial, short-term plan for harm reduction services and referrals to other services, as needed, that would support an individual's goal(s) in mitigating the possible harms related to drug use. Reassessments and treatment planning should be conducted simultaneously with other HRS to identify new needs and/or barriers related to drug use or to confirm that current services remain appropriate.

Treatment planning identifies short-term goal(s) and/or next steps alongside the brief assessment/reassessment and other harm reduction services provided. It is not a comprehensive plan for the long-term course of services. The assessment and initial plan will be the basis of all future harm reduction services and will be included in progress notes as part of the on-going treatment planning process.

Brief Assessment and Treatment Planning may be provided in an onsite or offsite setting.

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

A Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services; Or

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

- [or a case worker who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience in case management or related supportive services position serving women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations, including one year of HIV-related experience; or]
- [director of harm reduction services who may be a clinical social worker; possess a master of social work degree; be a licensed clinical or masters social worker; or has a bachelor's degree and at least three (3) years' experience in the provision of supportive services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations] a Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or

- a [p]Peer who has been certified [through a Department-approved certification program or one conducted by another entity recognized by the Department and who is supervised by the director of harm reduction services. A person seeking harm reduction peer certification is required to complete 68 training hours of core courses such as Introduction to HIV, STIs, and Viral Hepatitis; Sex, Gender, and HIV; and Overview of Harm Reduction Counseling, as well as courses addressing health and medical needs and cultural competency among at-risk populations and health literacy. An additional 22 hours of training are required in topics specific to harm reduction among substance users and include promoting PrEP; retention in care; opioid overdose prevention; HCV prevention; safer injection and wound care; and addressing sexual risk. Other requirements for certification include completing a 500-hour practicum and passing a knowledge assessment. Certified peers must complete at least 10 hours of training annually to maintain their certification.] through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

[2. Individual/Group Supportive Counseling

Definition: Supportive counseling services are part of a package of remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. Effective supportive counseling assists individuals in understanding how to reduce the behaviors that interfere with their ability to lead healthy, safe lives and to restore them to their best possible functional level Supportive counseling may be provided to an individual or in a group setting and can cover such topics as HIV/HCV/STD status or substance use disclosure to family members and friends; addressing stigma for drug users in accessing services; how to maximize health care services interactions; how to reduce substance use or use more safely and avoid overdose; and how to address anxiety, anger, and depressive episodes. There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a direct service provider who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience either 1) providing community-based services to active substance users or persons living with a history of substance use or 2) providing harm reduction or community-based social services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations;]

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

2. Individual/Group Harm Reduction Counseling

Definition: The purpose of Harm reduction counseling is to assist individuals in reducing behaviors that interfere with their ability to lead healthier lives. Supportive counseling may be provided to an individual or in a group setting and can cover such topics as HIV/AIDS, HCV, and/or sexually transmitted infections (STIs) status and risk reduction; soft tissue infection care and risk reduction; addressing stigma for PWUD; safer drug use; overdose safety planning; wellness planning; recovery readiness/relapse prevention; and identifying and addressing the effects of mental health symptoms.

Harm reduction counseling may be provided in an onsite or offsite setting.

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- A Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services;

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

- [or a case worker who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience in case management or related supportive services position serving women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations, including one year of HIV-related experience; or] a Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or

- [director of harm reduction services who may be a clinical social worker; possess a master of social work degree; be a licensed clinical or masters social worker; or has a bachelor's degree and at least three (3) years' experience in the provision of supportive services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations.] a Peer who has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

[3. Medication Management and Treatment Adherence Counseling

Medication management and treatment adherence counseling assists clients to recognize the need for medication to address substance use or psychiatric issues, reinforce the importance of adherence to treatment regimens, and identify tools to follow the prescribed regimens. Such services are remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a direct service provider who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™)

and has earned a high school equivalency credential and has at least three (3) years' experience in case management or related supportive services position; or

- director of harm reduction services who may be a clinical social worker; possess a master of social work degree; be a licensed clinical or masters social worker; or has a bachelor's degree and has at least three (3) years' experience in the provision of supportive services and supervision of staff; or
- a peer who has achieved Department-approved certification and is supervised by the director of harm reduction services.

4. Psychoeducation - Support Groups

Definition: Support groups are stand-alone services that may also be used to supplement individual and/or group supportive counseling. Such services are remedial services recommended by a physician or other licensed practitioner. Support groups restore individuals to his or her best possible functional level by focusing on group members' issues and experiences relative to substance use, finances, medical/health care, support system, incarceration history and other factors that contribute to risk behaviors for HIV/STD/HCV. Support groups may be facilitated by a direct service provider, a case worker, or the director of harm reduction services or co-facilitated by a peer. There are no limitations on the amount, duration, and scope of these services.]

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1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

3. Linkage and Navigation

Definition: Linkage and navigation is transitional in nature and incorporates brief, time-limited strategies to engage, guide, and support an individual through systems of care. This service assists with the prevention, detection/diagnosis, and treatment of health conditions affecting people who use drugs—such as HIV, HCV, STIs, Substance Use Disorder, mental illness, and other medical problems—by identifying and eliminating barriers to timely care. Barriers to care may be communication/information-related, physical, financial, and emotional in nature.
Key components of this service include health promotion and education; matching individual needs with necessary services/resources; supporting engagement in quality, stigma-free services, including referrals to comprehensive case management as appropriate; appointment escorts and/or follow-up; and troubleshooting barriers to care.
Linkage and navigation may be provided in an onsite or offsite setting.
There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services; or
- A Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or
- a peer who has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

4. Medication Management and Treatment Adherence Counseling

Definition: This service provides education and identifies tools and strategies that individuals may use to recognize the need for medication to address substance use, mental health conditions, HIV/AIDS, HCV, STIs, and other health conditions; as well as best manage and adhere to a medication schedule that addresses all diagnosed conditions.
Components of medication management may include improving the use and adherence of medications for all diagnosed conditions by ensuring that the individual understands the purpose of the medications and identifying resources to support management efforts. Components of treatment adherence may include discussing the importance and need for treatment adherence, providing education and counseling on medications and adherence strategies, and troubleshooting barriers to treatment adherence.

Medication Management and Treatment Adherence Counseling may be provided in an onsite or offsite setting.

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative services

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential and has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services; or
- A Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or
- a Peer who has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

5. Psychoeducation - Support Groups

Definition: Psychoeducation support groups are designed to provide individuals with a non-judgmental space to offer and receive information on various issues that have a direct impact on their life. Psychoeducational groups should be topic-oriented and empower group members to share information and support each other in strategies relative to substance use, finances, medical/health care, support system, incarceration history and other factors that contribute to risk behaviors for HIV/AIDS, HCV, and/or STIs. Psychoeducational groups should work to actively engage participants in the group discussion and prompt them to relate what they are learning to their own experiences. There are no limitations on the amount, duration, and scope of these services.

1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative Services

Providers: Services must be provided by:

- a [direct service provider] Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience [as a direct service provider in a supportive services position] working with people who use drugs and/or providing harm reduction or community-based social services; or

- [a case worker who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience in case management or a related supportive services position; or] a Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor may be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department, or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services, or have a high school diploma or equivalent and at least 6 years of relevant experience, or have at least 10 years of relevant experience; or
- [director of harm reduction services who may be a clinical social worker; possess a master of social work degree; be a licensed clinical or masters social worker; or has a bachelor's degree and at least three (3) years' experience in the provision of supportive services to women, children and families; substance users; mentally ill chemical abusing clients; homeless persons; adolescents; or parolees and other high-risk populations and]
- a [p]Peer who [has achieved Department-approved certification and is supervised by the director of harm reduction services.] has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor.

Qualifications of Provider Organizations

Community-based organizations[, including local health units, facilities licensed under Article 28 of New York State Public Health Law, and non-profit organizations] that have been approved by the Commissioner of Health with a waiver to conduct a comprehensive harm reduction program[, including syringe exchange].

Freedom of Choice – Access to Services

The State assures that the provision of harm reduction services will not restrict an individual's free choice of providers in violation of section 1902(a)(23) of the Act.

1. Access to services will be limited to the authorized syringe exchange programs.
2. Eligible recipients will have free choice of the providers of harm reduction services within the specified geographic area identified in this Plan.
3. Eligible recipients will have free choice of the providers of other medical care under the Plan.
4. Eligible recipients who refuse harm reduction services will not be denied access to other services offered under the Plan.
5. Harm reduction program services will not be used to restrict an individual's access to other services under the Plan.

Appendix II
2022 Title XIX State Plan
Second Quarter Amendment
Summary

SUMMARY
SPA #22-0032

This State Plan Amendment proposes to expand Medicaid Harm Reduction Services for people who actively use drugs, provided at New York State Commissioner of Health waivered comprehensive harm reduction programs. Proposed reimbursement changes include increasing Rest of State and group service rates, as well as adding reimbursement for the provision of off-site services. These rates are set forth in page 11(h) of Attachment 4.19-B and no SPA change is required, but the increases are included in the fiscal impact provided with this SPA. Proposed service changes include adding reimbursement for a new service—Linkage and Navigation, clarifying service definitions for existing services, and clarifying qualified providers and organizations that can provide Medicaid Harm Reduction Services.

Appendix III
2022 Title XIX State Plan
Second Quarter Amendment
Authorizing Provisions

SPA 22-0032

Social Services Law §365-a(2)(y)

2. "Standard coverage" shall mean payment of part or all of the cost of medically necessary medical, dental and remedial care, services and supplies, as authorized in this title or the regulations of the department, which are necessary to prevent, diagnose, correct or cure conditions in the person that cause acute suffering, endanger life, result in illness or infirmity, interfere with such person's capacity for normal activity, or threaten some significant handicap and which are furnished an eligible person in accordance with this title and the regulations of the department. Such care, services and supplies shall include the following medical care, services and supplies, together with such medical care, services and supplies provided for in subdivisions three, four and five of this section, and such medical care, services and supplies as are authorized in the regulations of the department:

(y) harm reduction counseling and services to reduce or minimize the adverse health consequences associated with drug use, provided by a qualified drug treatment program or community-based organization, as determined by the commissioner of health; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of health care services provided pursuant to this paragraph. Nothing in this paragraph shall be construed to modify any licensure, certification or scope of practice provision under title eight of the education law.

Appendix IV
2022 Title XIX State Plan
Second Quarter Amendment
Public Notice

PUBLIC NOTICE

Department of Health

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

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

All Services

Effective on or after April 1, 2022, the Department of Health will adjust rates statewide to reflect a 5.4% percent Cost of Living Adjustment for the following Office of Mental Health (OMH), Office of Addiction Services and Supports (OASAS), and Office for People With Developmental Disabilities (OPWDD) State Plan Services: OMH Outpatient Services, OMH Clinic Services, OMH Rehabilitative Services, Children Family Treatment Support Services, Health Home Plus, Residential Treatment Facilities for Children and Youth, OASAS outpatient addiction services, OASAS freestanding (non-hospital) inpatient rehabilitation services, OASAS freestanding inpatient detox services, OASAS addiction treatment centers, OASAS Part 820 residential services, OASAS residential rehabilitation services for youth, Intermediate Care Facility (ICF/IDD), Day Treatment, Article 16 Clinic services, Specialty Hospital, Health Home Services Provided by Care Coordination Organizations, Independent Practitioner Services for Individual with Developmental Disabilities (IPSIDD), and OPWDD Crisis Services.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to the April 1, 2022, 5.4% percent Cost of Living Adjustment contained in the budget for State Fiscal Year 2023 is $109.9 million.

Effective on or after April 1, 2022, Health care and mental hygiene worker bonuses will be provided to New York's essential front line health care and mental hygiene workers. These bonuses are intended to attract talented people into the profession and retain people who have been working during the COVID-19 Pandemic by rewarding them financially for their service.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 2023 is $1.85 billion.

Effective for dates of service on or after April 1, 2022, through March 31, 2024, all Medicaid rate-based claims will receive a 1% operating increase. Payments exempted from this increase, are as follows:

- Payments not subject to federal financial participation;
- Payments that would violate federal law including, but not limited to, hospital disproportionate share payments that would be in excess of federal statutory caps;
- Payments made by other state agencies including, but not limited to, those made pursuant to articles 16, 31 and 32 of the mental hygiene laws;
- Payments the state is obligated to make pursuant to court orders or judgments;
- Payments for which the non-federal share does not reflect any state funding; and
- At the discretion of the Commissioner of Health and the Director of the Budget, payments with regard to which it is determined that application of increases pursuant to this section would result, by operation of federal law, in a lower federal medical assistance percentage applicable to such payments.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 2023 is $165 million.

Effective for dates of service on or after April 1, 2022, the 1.5% uniform reduction for all non-exempt Department of Health state funds Medicaid payments will be restored.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 2023 is $280 million.

Non-Institutional Services

Effective on or after April 1, 2022, this proposal continues the supplemental upper payment limit payments made to general hospitals, other than major public general hospitals under non-institutional services of $339 million annually.

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

For state fiscal year beginning April 1, 2022, through March 31, 2023, this proposal continues hospital outpatient payment adjustments that increase the operating cost components of rates of payment for hospital outpatient and emergency departments on and after April 1, 2011, for public general hospitals other than those operated by the State of New York or the State University of New York, which are located in a city with a population of over one million. The amount to be paid will be up to $287 million annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Such adjustments shall be paid by means of one or more estimated payments. Payments may be added to rates of payment or made as aggregate payments.

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

For state fiscal year beginning April 1, 2022, through March 31, 2023, this proposal continues payment of up to $5.4 million in additional annual Medicaid payments to county operated free-standing clinics, not including facilities operated by the New York City Health and Hospitals Corporation, for services provided by such DTC and those provided by a county operated freestanding mental health or substance abuse DTC. Distributions shall be based on each eligible facility's proportionate share of the sum of all DTC and clinic visits for all eligible facilities receiving payments for the base year two years prior to the rate year. The proportionate share payments may be added to rates of payment or made as aggregate payments to eligible facilities.

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

Effective April 1, 2022, and each state fiscal year thereafter, this amendment proposes to revise the final payment component of the calculation to account for claim runout. The current authority to make supplemental payments for services provided by physicians, nurse practitioners and physician assistants will continue.

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

Effective on or after April 1, 2022, payments in quarter-hour units for the following harm reduction services for people who actively use drugs provided at New York State Commissioner of Health waivered comprehensive harm reduction programs (community-based organizations) will be revised. The intention is to combat the opioid overdose crisis and reduce health care costs for people who use drugs. Harm reduction services improve population health and have been shown to reduce health care costs by preventing disease transmission (HIV, HBV, and HCV), injection site infections, emergency department and inpatient care from drug overdose, injury, and death. Comprehensive harm reduction programs are effective at engaging high-risk populations and serving as a bridge for entry into drug treatment and other health and social services.

Regional monthly rates will be established for New York City and the rest of the state and are based on the expected direct service costs in each region. Billable activities encompass those components of harm reduction attributable to direct client service, such as brief assessment and treatment planning, harm reduction counseling, linkage and navigation, medication management and treatment adherence counseling, psychoeducation support groups. Direct and indirect costs are budgeted as part of the rate. No funds shall be used to carry out the purchase or distribution of sterile needles or syringes for the hypodermic injection of any illegal drug.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 2023 is $34.6 million.

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

Division of Criminal Justice Services
Commission on Forensic Science

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

Date: June 3, 2022

Time: 9:00 a.m. - 1:00 p.m.

Primary Conference Site:

Empire State Development Corporation
(ESDC)
633 3rd Avenue
37th Floor/Conference Room
New York, NY

*Identification and sign-in required

Secondary Conference Site:

Division of Criminal Justice Services
Alfred E. Smith Office Building
CrimeStat Room 118
80 South Swan Street
Albany, NY

Web Streaming information: The webcast information for this meeting will be posted on the Division of Criminal Justice website under the Newsroom, Open Meeting/Webcasts.

https://www.criminaljustice.ny.gov/pio/openmeetings.htm

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

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

The following is a clarification to the March 30, 2022, noticed provision regarding payments in quarter-hour units for harm reduction services for people who actively use drugs provided at New York State Commissioner of Health waivered comprehensive harm reduction programs (community-based organizations).

With clarification, the estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 2023 is $ 39,757. The originally published fiscal impact contained a typographical error.

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

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

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

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

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

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

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

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

PUBLIC NOTICE

Department of State
F-2021-1106
Date of Issuance – May 25, 2022

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.

In F-2021-1106- Cow Neck Preserve LLC, is proposing to construct a 4' x 8' ramp, 4' x 175' fixed dock utilizing Thru-Flow decking, 3' x 14' ramp and a 6' x 20' chocked float.

Town of Southampton, Suffolk County, Scallop Pond

The stated purpose of the proposed action is access to water dependent recreation.

The applicant's consistency certification and supporting information are available for review at: https://dos.ny.gov/system/files/documents/2022/05/f-2021-1106consistcert.pdf or at https://dos.ny.gov/public-notices

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s): Cow Neck Significant Coastal Fish and Wildlife Habitat cow_neck.pdf (ny.gov)

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or June 9, 2022.

Comments should be addressed to: Consistency Review Unit, New York State Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231. Telephone (518) 474-6000; Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2021-1172
Date of Issuance – May 25, 2022

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 (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2021-1172 Sabrina Pezzino is proposing to construction of a 4' x 50' fixed pier off the existing over-water platform. Remove the existing 33' long wavescreen and relocate the existing 16' x 16' boatlift to the waterward end of the proposed fixed pier. The site is located on Great South Bay at 220 Harbor Lane, Massapequa Park, NY 11762, Nassau County.

The applicant's consistency certification and supporting information are available for review at: https://dos.ny.gov/system/files/documents/2022/05/f-2021-1172pezzino.pdf or at https://dos.ny.gov/public-notices

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or June 24, 2022.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2022-0073
Date of Issuance – May 25, 2022

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.

In F-2022-0073, Wellesley Island Water Corp., is proposing to make various improvements to an existing drinking water system. The proposed improvements include replacement of a water storage tank, construction of a new water pumping station, construction of a new water treatment plant, and installing new underground waterlines.

The new waterlines will include ~3,000 linear feet of 8″ HDPE pipe (3 separate lines) installed by open cut trench (1,000 feet long by 10 feet wide by 7 feet 8 inches deep. Approximately 3,500 linear feet of 8″ HDPE pipe will be installed by Hydraulic Directional Drilling (HDD). Of the above ~ 20lf of open cut trench would be within regulated wetlands and ~115lf of HDD would be within/ under regulated wetlands. Wetland disturbance would be restored with clean fill in the bottom of the trench then backfilled with excavated native materials to restore to preexisting conditions. Approximately 80lf of HDD pipe installation would occur under a regulated water way, minimum depth below the water way bottom would be 5 feet. All HDD drill pits would be placed outside regulated waters and wetlands and an inadvertent release plan has been provided.

The proposed work would be conducted at the eastern end of Wellesley Island in the Town of Alexandria, Jefferson County. Specifically, the proposed new HDD installed waterlines would be placed generally along Bullhead Bay Road from Sunset Drive to Club Road. The open trench pipe installation would be from the proposed water tank located north of Club Road to the proposed filtration building, generally along Stone Gate Lane.

The stated purpose of the proposed action is to update the water system to bring it into state and federal compliance including to bring it into compliance with the Surface Water Treatment Rule of the Safe Drinking Water Act.

The applicant's consistency certification and supporting information are available for review at: https://dos.ny.gov/system/files/documents/2022/05/f-2022-0073publicnotice.pdf or at https://dos.ny.gov/public-notices

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or June 24, 2022.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

Appendix V
2022 Title XIX State Plan
Second Quarter Amendment
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #22-0032

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.

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 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 receive and retain the total Medicaid expenditures claimed by the State and the State does not require any provider to return any portion of such payments to the State, local government entities, or any other intermediary organization.

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 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 government 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: The Non-Federal share Medicaid provider payment is funded by a combination of the following funds/funding sources through enacted appropriations authority to the Department of Health (DOH) for the New York State Medicaid program.

		4/1/22 – 3/31/23	
Payment Type	**Non-Federal Share Funding**	**Non-Federal**	**Gross**
Normal Per Diem	General Fund; Special Revenue Funds; County Contribution	$95,397,558	$190,795,116

1) General Fund: Revenue resources for the State's General Fund includes taxes (e.g., income, sales, etc.), and miscellaneous fees (including audit recoveries). Medicaid expenditures from the State's General Fund are authorized from Department of Health Medicaid.

a. New York State Audit Recoveries: The Department of Health collaborates with the Office of the Medical Inspector General (OMIG) and the Office of the Attorney General (AG) in recovering improperly expended Medicaid funds. OMIG conducts and coordinates the investigation, detection, audit, and review of Medicaid providers and recipients to ensure they are complying with all applicable laws and regulation. OMIG recovers any improper payments through cash collections and voided claim recoveries. Cash collections are deposited into the State's General Fund to offset Medicaid costs.

   In addition to cash collections, OMIG finds inappropriately billed claims within provider claims. To correct an error, OMIG and DOH process the current accurate claim, and reduce this claim by the inappropriate claim value to recoup the previous overclaim and decrease state spending.

2) Special Revenue Funds:

a. Health Care Reform Act (HCRA) Resource Fund: as authorized in section 92-dd of New York State Finance Law and was established in 1996, pursuant to New York State Public Health Law 2807-j. HCRA resources include health care related surcharges, assessments on hospital revenues, and a "covered lives" assessment paid by insurance carriers pursuant to chapter 820 of the laws of 2021.

b. Health Facility Cash Assessment Program (HFCAP) Fund: HFCAP requires New York State designated providers to pay an assessment on cash operating receipts on a monthly basis. The assessment includes Article 28 Residential Health Care Facilities, Article 28 General Hospitals, Article 36 Long Term Home Health Care Programs, Article 36 Certified Home Health Agencies and Personal Care Providers that possess a Title XIX (i.e. Medicaid) contract with a Local Social Services District for the delivery of personal care services pursuant to Section 367-i of the New York State Social Services Law.

   NOTE: New York's Health Care taxes are either broad based and uniform (as in all HFCAP assessments except for the Personal Care Provider Cash Assessment) or have a specific exemption known as the "D'Amato provision (Federal PHL section 105-33 4722 (c)" which allows the HCRA surcharges to exist in their current format. The single tax which has been determined by the State to be an impermissible provider tax is the HFCAP charge on Personal Care Providers. The State does not claim any Federal dollars for the surcharge collected in this manner in order to comply with all Federal provider tax rules.

3) Additional Resources for State Share Funding:

a. County Contribution: In State Fiscal Year 2006, through enacted State legislation (Part C of Chapter 58 of the laws of 2005), New York State "capped" the amount localities contributed to the non-Federal share of providers claims. This was designed to relieve pressure on county property taxes and the NYC budget by limiting local contributions having New York State absorb all local program costs above this fixed statutory inflation rate (3% at the time).

   However, in State Fiscal Year 2013 New York State provided additional relief to Localities by reducing local contributions annual growth from three precent to zero over a three-year period. Beginning in State Fiscal Year 2016, counties began paying a fixed cost in perpetuity. By eliminating the growth in localities Medicaid costs, the State has statutorily capped total Statewide County Medicaid expenditures at 2015 levels. All additional county Medicaid costs are funded by the State through State funding as described above. DOH provides annual letters to counties providing weekly contributions. Contributions are deposited directly into State escrow account and used to offset 'total' State share Medicaid funding.

   NOTE: The Local Contribution is not tied to a specific claim or service category and instead is a capped amount based on 2015 county spending levels as stated above.

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 Medicaid payments under this State Plan Amendment are not supplemental 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. Under regulations at 42 CFR 447.272, States are prohibited from setting payment rates for Medicaid inpatient services that exceed a reasonable estimate of the amount that would be paid under Medicare payment principals.**

   Response: The Medicaid payments authorized under this State Plan Amendment do not impact the UPL demonstrations.

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: Providers do not receive payments that in the aggregate exceed their reasonable costs of providing services. If any providers received payments that in the aggregate exceeded their reasonable costs of providing services, the State would recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report.

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**

- **<u>Ends on:</u> 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.**

<u>Response:</u> 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.**

   <u>Prior to January 1, 2014</u> States may potentially require contributions by local political subdivisions toward the non-Federal share of the States' expenditures at percentages <u>greater than</u> were required on December 31, 2009. <u>However</u>, 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 <u>anticipate potential violations and/or appropriate corrective actions</u> by the States and the Federal government.

   <u>Response:</u> This SPA would [ ] / would <u>not</u> [✓] 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.**

   <u>Response:</u> The State complies with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

<u>Tribal Assurance:</u>

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.