



Department of Health

KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

December 30, 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 #22-0090
Non-Institutional Services

Dear Mr. Scott:

The State requests approval of the enclosed amendment #22-0090 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective the day after the Public Health Emergency (PHE) ends (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). A copy of the public notice of this plan amendment, which was given in the New York State Register on October 26, 2022, is also enclosed for your information (Appendix IV).

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

Sincerely,

Amir Bassiri
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. STATE ____
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3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI
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TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION
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6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY _____ \$ _____
b. FFY _____ \$ _____

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)	OTHER, AS SPECIFIED:
GOVERNOR'S OFFICE REPORTED NO COMMENT	
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	

11. SIGNATURE OF STATE AGENCY OFFICIAL 
12. TYPED NAME
13. TITLE
14. DATE SUBMITTED December 30, 2022

15. RETURN TO

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
Fourth Quarter Amendment
Amended SPA Pages

New York
3b-12.4

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

4.b. Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services Continued

13.c. Preventive Services - 42 CFR 440.130(c)

The following explanations apply to all Preventive Residential Treatment (PRT) services for children under the age of 21:

EPSDT Preventive Attestations: The State assures that all preventive services are provided to, or directed exclusively toward the treatment of, the Medicaid eligible child. Medically necessary services will be furnished to those under age 21 without limitation in accordance with Section 1905(r) of the Social Security Act. The State also assures that preventive services do not include any of the following:

- A. Educational, vocational and job training services;
- B. Room and board;
- C. Services to inmates in public institutions as defined in 42 CFR §435.1010;
- D. Services to individuals residing in institutions for mental diseases as described in 42 CFR §435.1010;
- E. Recreational and social activities; and
- F. Services that must be covered elsewhere in the New York Medicaid State Plan.

Additional assurances related to PRT services under this State Plan and Other Limited Health Benefits:

- The State assures that the provision of PRT services will not restrict an individual's free choice of Medicaid providers.
- The State assures that the PRT services will not be used to restrict an individual's access to other services under the plan
- Individuals will not be compelled to receive PRT services, condition receipt of preventive residential services on the receipt of other Medicaid services, or condition receipt of other Medicaid services on receipt of these PRT services.
- Providers of PRT services do not exercise the agency's authority to authorize or deny the provision of other services under the plan.
- Payment for PRT services under the plan does not duplicate payments made to public agencies or private entities under other program authorities for the same purposes.
- Any individual, group of individuals or entity who meets the State's provider and practitioner qualifications ~~may~~ will enroll in Medicaid and furnish the services under the plan.

PRT provides community-based preventive residential services recommended by and under the supervision and oversight of one of the following licensed practitioners operating within the scope of their practice of their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, ~~or registered professional nurse,~~ or previously license exempt, unlicensed professionals who were employed by an authorized setting as of June 24, 2022 and continue to work there or in another authorized setting under the supervision of an appropriate licensed individual. ~~The~~ Services should prevent disease, disability, and other health conditions or their progression; to prolong life; and to promote physical and mental health. PRT delivers preventive services to address the health issues identified on the treatment plan.

TN # 22-0090

Approval Date _____

Supersedes TN # 21-0003

Effective Date Day after PHE ends

New York
3b-12.6

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

Practitioner qualifications: Behavioral health counselors must be at least 21 years of age and licensed by the State of New York Department of Education and operating within the scope of his or her practice as: Licensed Psychoanalyst, Licensed Clinical Social Worker (LCSW), Licensed Marriage & Family Therapist, Licensed Mental Health Counselor, Licensed Creative Arts Therapist or Licensed Master Social Worker (LMSW)-, or be a previously license exempt, unlicensed professional who was employed by an authorized setting as of June 24, 2022 and continues to work there or in another authorized setting under the supervision of an appropriate licensed individual.

- B. Nursing services and medication management – The PRT service must prevent disease, disability and other health conditions or their progression and will include twenty-four (24) hour medical availability when medically necessary. Coverage for the cost of medications is under the Medicaid pharmacy authority in the State Plan. Components include:
- Nursing assessments, including: HIV risk assessments, intake assessments, general first aid and triage activities
 - Routine screening for child abuse, drug abuse, and developmental milestones
 - Routine health management ordered during medical appointments, urgent/emergency care or hospitalization and training to prevent the progression of chronic diseases, such as diabetes and asthma
 - Training and health education including reproductive health education
 - Medical care for children on home visits, as medically necessary and monitoring of child healthcare needs, as medically necessary,
 - Educate caregivers on the medical needs of the child
 - Medical care for children on community provider visits, as medically necessary.

Practitioner qualifications: Nursing services and medication management must be performed by an individual licensed by the State of New York Department of Education as a nurse practitioner or registered professional nurse within the scope of his or her practice. The nurse practitioner or registered professional nurse must be at least 21 years old. Prescribers must be available to prescribe medications and provide medical orders as necessary. Nursing services are provided within the PRT in the costs for the level of care. Nursing services do not substitute for Private Duty Nursing or Certified Home Health Aide Care in Foster Boarding Homes. Private Duty Nursing or Certified Home Health Aide Care continues to be available under EPSDT if the resources already in the PRT rate cannot meet the needs of an individual child. The State will prior authorize these services to ensure that there is no duplication of funding.

- C. Service Coordination including the development/implementation of the Treatment Plan and Discharge Planning – Components include:
- Treatment Plan Development – A service coordinator within the agency providing PRT must develop a treatment plan for the Medicaid services provided to the child by the agency. The treatment plan is developed under the supervision of a licensed practitioner.
 - Service Coordination - Service coordination entails the coordination of Medicaid-covered services in the community, including medical care that the child **may will** receive at school.

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Approval Date _____

Supersedes TN # 21-0003

Effective Date Day after PHE ends

New York
3b-12.7

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

- Discharge Planning - The PRT must transition the child from PRT to home or community based living with outpatient treatment (e.g., individual and family therapy) as part of discharge planning.

Practitioner qualifications: Service Coordination staff must be at least 21 years old, and have a high school diploma or equivalent certification in the State of New York and must be supervised by one of the following licensed practitioners operating within the scope of their practice under their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, or registered professional nurse: or previously license exempt, unlicensed professional who was employed by an authorized setting as of June 24, 2022 and continues to work there or in another authorized setting under the supervision of an appropriate licensed individual.

Provider Agency Qualifications: Any unlicensed practitioner providing health services must operate within an agency licensed, certified or designated by DOH or its designee qualified to provide the supervision required of an unlicensed practitioner for that service. The State will ensure, consistent with Section 1905(r)(5) of the Social Security Act, that medically necessary EPSDT services reflecting the medical practices for children will be provided in a timely manner even if the evidence-based practice is not otherwise listed in the State Plan.

An agency providing PRT must be licensed as a health facility by Department of Health in conjunction with the Office of Children and Family Services and **may will** not be an Institute for Mental Disease (IMD). PRT staff must be supervised by one of the following licensed practitioners operating within the scope of their practice under their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, or registered professional nurse. The licensed practitioner must provide twenty-four (24) hour, on-call coverage seven (7) days a week for emergency consultation.

An agency providing PRT must provide twenty-four (24) hours/day, seven (7) days/week structured and supportive living environment. Integration with community resources is provided to plan and arrange access to a range of educational and therapeutic services. Room and board is reimbursed separately using non-Medicaid funding.

PRT services are provided according to an individualized person-centered treatment plan, which **may will** be subject to prior approval by DOH or its designee. The activities included in the service must be intended to achieve identified treatment plan goals or objectives of the Medicaid eligible child. The treatment plan should be developed in a person-centered manner with the active participation of the individual, family and providers and be based on the individual's condition and the standards of practice for the provision of these specific preventive services.

An agency providing PRT must coordinate with the child's community resources including Medicaid community-based providers when possible, with the goal of transitioning the child out of the PRT as soon as possible and appropriate. Discharge planning begins upon admission with concrete plans for the child to transition back into the community beginning within the first thirty (30) days of admission with clear action steps and target dates outlined in the treatment plan. The treatment plan must include measurable discharge goals.

TN # 22-0090 Approval Date _____

Supersedes TN # 21-0003 Effective Date Day after PHE ends

New York
3b-40

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

4.b. Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services Continued

13.d. Rehabilitative Services - 42 CFR 440.130(d)

The following explanations apply to all Rehabilitative Residential Treatment (RRT) services for children under the age of 21:

EPSDT Rehabilitative Attestations: The State assures that all rehabilitative services are provided to, or directed exclusively toward the treatment of, the Medicaid eligible child. Medically necessary services will be furnished to those under age 21 without limitation in accordance with Section 1905(r) of the Social Security Act. The State also assures that rehabilitative services do not include any of the following:

- A. Educational, vocational and job training services;
- B. Room and board;
- C. Services to inmates in public institutions as defined in 42 CFR §435.1010;
- D. Services to individuals residing in institutions for mental diseases as described in 42 CFR §435.1010;
- E. Recreational and social activities; and
- F. Services that must be covered elsewhere in the New York Medicaid State Plan.

Additional assurances related to RRT services under this State Plan and Other Limited Health Benefits:

- The State assures that the provision of RRT services will not restrict an individual's free choice of Medicaid providers.
- The State assures that the RRT services will not be used to restrict an individual's access to other services under the plan
- Individuals will not be compelled to receive RRT services, condition receipt of RRT services on the receipt of other Medicaid services, or condition receipt of other Medicaid services on receipt of these RRT services.
- Providers of RRT services do not exercise the agency's authority to authorize or deny the provision of other services under the plan.
- Payment for RRT services under the plan does not duplicate payments made to public agencies or private entities under other program authorities for the same purposes.
- Any individual, group of individuals or entity who meets the State's provider and practitioner qualifications ~~may~~ will enroll in Medicaid and furnish the services under the plan.

RRT provides community-based rehabilitative residential services recommended by and under the supervision and oversight of one of the following licensed practitioners operating within the scope of their practice of their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, or registered professional nurse ~~or previously license exempt, unlicensed professionals who were employed by an authorized setting as of June 24, 2022 and continue to work there or in another authorized setting under the supervision of an appropriate licensed individual.~~

The treatment includes the medical or remedial services listed below, for maximum reduction of physical or mental disability and restoration of a beneficiary to his best possible functional level. RRT delivers rehabilitative services including psychiatric services, service coordination and skill-building. RRT must address the health issues identified on the treatment plan. Treatment will relate directly to restoring the child's ability to function successfully in the home and school environment (e.g., compliance with reasonable behavioral expectations; safe behavior and appropriate responses to social cues and conflicts or medically appropriate care).

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Effective Date Day after PHE ends

New York
3b-42

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

Practitioner qualifications: Behavioral health counselors must be at least 21 years of age and licensed by the State of New York Department of Education as: Licensed Psychoanalyst, Licensed Clinical Social Worker (LCSW), Licensed Marriage & Family Therapist, Licensed Mental Health Counselor, Licensed Creative Arts Therapist or Licensed Master Social Worker (LMSW) within the scope of his or her practice- , or be a previously license exempt, unlicensed professional who was employed by an authorized setting as of June 24, 2022 and continues to work there or in another authorized setting under the supervision of an appropriate licensed individual.

- B. Nursing services and medication management – The RRT service must provide medical care to meet the needs of children with monitoring and twenty-four (24) hour medical availability, when appropriate, medically necessary and relevant within their scope of practice. Coverage for the cost of medications is under the Medicaid pharmacy authority in the State Plan. Components include:
- Nursing assessments, including: HIV risk assessments, intake assessments, general first aid and triage activities
 - Routine screening for child abuse, drug abuse, and developmental milestones
 - Routine health care management ordered during medical appointments, urgent/emergency care or hospitalization and training regarding chronic conditions, such as diabetes and asthma
 - Training and health education including reproductive health education
 - Medical care for children on home visits as medically necessary and monitor child healthcare needs, as medically necessary,
 - Educate caregivers on the medical needs of the child,
 - Medical care for children on community provider visits, as medically necessary.

Practitioner qualifications: Nursing services and medication management must be performed by an individual licensed by the State of New York Department of Education as a nurse practitioner or registered professional nurse within the scope of his or her practice. The nurse practitioner or registered professional nurse must be at least 21 years old. Prescribers must be available to prescribe medications and provide medical orders as necessary. Nursing services are provided within the RRT in the costs for the level of care. Nursing services do not substitute for Private Duty Nursing or Certified Home Health Aide Care in Foster Boarding Homes. Private Duty Nursing or Certified Home Health Aide Care continues to be available under EPSDT if the resources already in the RRT rate cannot meet the needs of an individual child. The State will prior authorize these services to ensure that there is no duplication of funding.

- C. Service Coordination including the development/implementation of the Treatment Plan and Discharge Planning – Components include:
- Treatment Plan Development – A service coordinator within the agency providing RRT must develop a treatment plan for the Medicaid services provided to the child by the agency. The treatment plan is developed under the supervision of a licensed practitioner.
 - Service Coordination - Service coordination entails the coordination of Medicaid-covered services in the community, including medical care the child ~~may~~ will receive at school.

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Effective Date Day after PHE ends

New York
3b-43

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

- Discharge Planning - The RRT must transition the child from RRT to home or community based living with outpatient treatment (e.g., individual and family therapy) as part of discharge planning.

Practitioner qualifications: Direct care staff must be at least 21 years old, and have a high school diploma or equivalent, certification in the State of New York and must be supervised by one of the following licensed practitioners operating within the scope of their practice under their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, or registered professional nurse ~~or previously license exempt, unlicensed professionals who were employed by an authorized setting as of June 24, 2022 and continue to work there or in another authorized setting under the supervision of an appropriate licensed individual.~~

Provider Agency Qualifications: Any unlicensed practitioner providing health services must operate within an agency licensed, certified or designated by DOH or its designee qualified to provide the supervision required of an unlicensed practitioner for that service. The State will ensure, consistent with Section 1905(r)(5) of the Social Security Act, that medically necessary EPSDT services reflecting the medical practices for children will be provided in a timely manner even if the evidence-based practice is not otherwise listed in the State Plan.

An agency providing RRT must be licensed as a health facility by Department of Health in conjunction with the Office of Children and Family Services and **may will** not be an Institute for Mental Disease (IMD). RRT staff must be supervised by one of the following licensed practitioners operating within the scope of their practice under their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, or registered professional nurse. The licensed practitioner must provide twenty-four (24) hour, on-call coverage seven (7) days a week for emergency consultation.

An agency providing RRT must provide twenty-four (24) hours/day, seven (7) days/week structured and supportive living environment. Integration with community resources is provided to plan and arrange access to a range of educational and therapeutic services. Room and board is reimbursed separately using non-Medicaid funding.

RRT services are provided according to an individualized person-centered treatment plan, which **may will** be subject to prior approval by DOH or its designee. The activities included in the service must be intended to achieve identified treatment plan goals or objectives of the Medicaid eligible child. The treatment plan should be developed in a person-centered manner with the active participation of the individual, family and providers and be based on the individual's condition and the standards of practice for the provision of these specific rehabilitation services.

An agency providing RRT must coordinate with the child's community resources including Medicaid community-based providers when possible, with the goal of transitioning the child out of the RRT as soon as possible and appropriate. Discharge planning begins upon admission with concrete plans for the child to transition back into the community beginning within the first thirty (30) days of admission with clear action steps and target dates outlined in the treatment plan. The treatment plan must include measurable discharge goals.

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New York
3b-12.4

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

4.b. Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services Continued

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The following explanations apply to all Preventive Residential Treatment (PRT) services for children under the age of 21:

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3b-40

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- Payment for RRT services under the plan does not duplicate payments made to public agencies or private entities under other program authorities for the same purposes.
- Any individual, group of individuals or entity who meets the State's provider and practitioner qualifications ~~may~~ will enroll in Medicaid and furnish the services under the plan.

RRT provides community-based rehabilitative residential services recommended by and under the supervision and oversight of one of the following licensed practitioners operating within the scope of their practice of their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, or registered professional nurse ~~or previously license exempt, unlicensed professionals who were employed by an authorized setting as of June 24, 2022 and continue to work there or in another authorized setting under the supervision of an appropriate licensed individual.~~

The treatment includes the medical or remedial services listed below, for maximum reduction of physical or mental disability and restoration of a beneficiary to his best possible functional level. RRT delivers rehabilitative services including psychiatric services, service coordination and skill-building. RRT must address the health issues identified on the treatment plan. Treatment will relate directly to restoring the child's ability to function successfully in the home and school environment (e.g., compliance with reasonable behavioral expectations; safe behavior and appropriate responses to social cues and conflicts or medically appropriate care).

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New York
3b-42

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

Practitioner qualifications: Behavioral health counselors must be at least 21 years of age and licensed by the State of New York Department of Education as: Licensed Psychoanalyst, Licensed Clinical Social Worker (LCSW), Licensed Marriage & Family Therapist, Licensed Mental Health Counselor, Licensed Creative Arts Therapist or Licensed Master Social Worker (LMSW) within the scope of his or her practice- , or be a previously license exempt, unlicensed professional who was employed by an authorized setting as of June 24, 2022 and continues to work there or in another authorized setting under the supervision of an appropriate licensed individual.

B. Nursing services and medication management – The RRT service must provide medical care to meet the needs of children with monitoring and twenty-four (24) hour medical availability, when appropriate, medically necessary and relevant within their scope of practice. Coverage for the cost of medications is under the Medicaid pharmacy authority in the State Plan. Components include:

- Nursing assessments, including: HIV risk assessments, intake assessments, general first aid and triage activities
- Routine screening for child abuse, drug abuse, and developmental milestones
- Routine health care management ordered during medical appointments, urgent/emergency care or hospitalization and training regarding chronic conditions, such as diabetes and asthma
- Training and health education including reproductive health education
- Medical care for children on home visits as medically necessary and monitor child healthcare needs, as medically necessary,
- Educate caregivers on the medical needs of the child,
- Medical care for children on community provider visits, as medically necessary.

Practitioner qualifications: Nursing services and medication management must be performed by an individual licensed by the State of New York Department of Education as a nurse practitioner or registered professional nurse within the scope of his or her practice. The nurse practitioner or registered professional nurse must be at least 21 years old. Prescribers must be available to prescribe medications and provide medical orders as necessary. Nursing services are provided within the RRT in the costs for the level of care. Nursing services do not substitute for Private Duty Nursing or Certified Home Health Aide Care in Foster Boarding Homes. Private Duty Nursing or Certified Home Health Aide Care continues to be available under EPSDT if the resources already in the RRT rate cannot meet the needs of an individual child. The State will prior authorize these services to ensure that there is no duplication of funding.

C. Service Coordination including the development/implementation of the Treatment Plan and Discharge Planning – Components include:

- Treatment Plan Development – A service coordinator within the agency providing RRT must develop a treatment plan for the Medicaid services provided to the child by the agency. The treatment plan is developed under the supervision of a licensed practitioner.
- Service Coordination - Service coordination entails the coordination of Medicaid-covered services in the community, including medical care the child ~~may~~ will receive at school.

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New York
3b-43

1905(a)(4)(B) Nursing Facility Services & 1905(a)(13)(C) Other Diagnostic, Screening, Preventive, and Rehabilitative Services

- Discharge Planning - The RRT must transition the child from RRT to home or community based living with outpatient treatment (e.g., individual and family therapy) as part of discharge planning.

Practitioner qualifications: Direct care staff must be at least 21 years old, and have a high school diploma or equivalent, certification in the State of New York and must be supervised by one of the following licensed practitioners operating within the scope of their practice under their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, or registered professional nurse or previously license exempt, unlicensed professionals who were employed by an authorized setting as of June 24, 2022 and continue to work there or in another authorized setting under the supervision of an appropriate licensed individual.

Provider Agency Qualifications: Any unlicensed practitioner providing health services must operate within an agency licensed, certified or designated by DOH or its designee qualified to provide the supervision required of an unlicensed practitioner for that service. The State will ensure, consistent with Section 1905(r)(5) of the Social Security Act, that medically necessary EPSDT services reflecting the medical practices for children will be provided in a timely manner even if the evidence-based practice is not otherwise listed in the State Plan.

An agency providing RRT must be licensed as a health facility by Department of Health in conjunction with the Office of Children and Family Services and **may will** not be an Institute for Mental Disease (IMD). RRT staff must be supervised by one of the following licensed practitioners operating within the scope of their practice under their State license: a licensed psychiatrist, physician, psychologist, master social worker, clinical social worker, mental health counselor, marriage and family therapist, or psychoanalyst, licensed creative arts therapist, nurse practitioner, or registered professional nurse. The licensed practitioner must provide twenty-four (24) hour, on-call coverage seven (7) days a week for emergency consultation.

An agency providing RRT must provide twenty-four (24) hours/day, seven (7) days/week structured and supportive living environment. Integration with community resources is provided to plan and arrange access to a range of educational and therapeutic services. Room and board is reimbursed separately using non-Medicaid funding.

RRT services are provided according to an individualized person-centered treatment plan, which **may will** be subject to prior approval by DOH or its designee. The activities included in the service must be intended to achieve identified treatment plan goals or objectives of the Medicaid eligible child. The treatment plan should be developed in a person-centered manner with the active participation of the individual, family and providers and be based on the individual's condition and the standards of practice for the provision of these specific rehabilitation services.

An agency providing RRT must coordinate with the child's community resources including Medicaid community-based providers when possible, with the goal of transitioning the child out of the RRT as soon as possible and appropriate. Discharge planning begins upon admission with concrete plans for the child to transition back into the community beginning within the first thirty (30) days of admission with clear action steps and target dates outlined in the treatment plan. The treatment plan must include measurable discharge goals.

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Appendix II
2022 Title XIX State Plan
Fourth Quarter Amendment
Summary

SUMMARY
SPA #22-0090

This State Plan Amendment proposes to allow Article 29-I Health Facilities to be reimbursed for care and services provided by exempt practitioners as defined under State law who were employed by an authorized setting as of June 24, 2022 and continue to work there or in another authorized setting, working under the supervision of a professional licensed pursuant to Article 153 (psychologists), 154 (social workers) or 163 (mental health practitioners) of the State Education law.

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

SPA 22-0090
Education Law

§ 7605. Exempt persons. Nothing in this article shall be construed to affect or prevent:

* 1. The activities, services, and use of the title of psychologist, or any derivation thereof, on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of his salaried position; or on the part of a person in the employ as a certified school psychologist on a full-time or part-time salary basis, which may include on an hourly, weekly, or monthly basis, or on a fee for evaluation services basis provided that such person employed as a certified school psychologist is employed by and under the dominion and control of a preschool special education program approved pursuant to paragraph b of subdivision nine or subdivision nine-a of section forty-four hundred ten of this chapter to provide activities, services and to use the title "certified school psychologist", so long as this shall not be construed to permit the use of the title "licensed psychologist", to students enrolled in such approved program or to conduct a multidisciplinary evaluation of a preschool child having or suspected of having a disability; or on the part of a person in the employ as a certified school psychologist on a full-time or part-time salary basis, which may include on an hourly, weekly or monthly basis, or on a fee for evaluation services basis provided that such person employed as a certified school psychologist is employed by and under the dominion and control of an agency approved in accordance with title two-A of article twenty-five of the public health law to deliver early intervention program multidisciplinary evaluations, service coordination services and early intervention program services, where each such preschool special education program or early intervention provider is authorized by paragraph a or b of subdivision six of section sixty-five hundred three of this title, each in the course of their employment. Nothing in this subdivision shall be construed to authorize a certified school psychologist or group of such school psychologists to engage in independent practice or practice outside of an employment relationship.

* NB Effective until June 30, 2024

* 1. The activities, services, and use of the title of psychologist, or any derivation thereof, on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of his salaried position.

* NB Effective June 30, 2024

2. The activities and services required of a student, intern, or resident in psychology, pursuing a course of study leading to a doctoral degree in psychology in an institution approved by the department, provided that such activities and services constitute a part of his supervised course of study in psychology. Such persons shall be designated by title as "psychological intern", "psychological trainee" or other such title which clearly indicates his training status.

3. The practice, conduct, activities or services by any person licensed or otherwise authorized to practice medicine within the state

pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title.

4. The practice, conduct, activities, or services by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within the state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice social work within the state pursuant to article one hundred fifty-four of this title, or by any person licensed or otherwise authorized to practice mental health counseling, marriage and family therapy, creative arts therapy, or psychoanalysis within the state pursuant to article one hundred sixty-three of this title, or any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to article one hundred sixty-seven of this title or any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors, and certified substance abuse counselors from providing mental health services within their respective established authorities.

5. The conduct, activities, or services of any member of the clergy or Christian Science practitioner, in the provision of pastoral counseling services within the context of his or her ministerial charge or obligation.

6. The conduct, activities, or services of individuals, churches, schools, teachers, organizations, or not-for-profit businesses in providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups.

7. The practice, conduct, activities, or services of an occupational therapist from performing work consistent with article one hundred fifty-six of this title.

8. The representation as a psychologist and the rendering of services as such in this state for a temporary period of a person who resides outside the state of New York and who engages in practice as a psychologist and conducts the major part of his practice as such outside this state, provided such person has filed with the department evidence that he has been licensed or certified in another state or has been admitted to the examination in this state pursuant to section seventy-six hundred three of this article. Such temporary period shall not exceed ten consecutive business days in any period of ninety consecutive days or in the aggregate exceed more than fifteen business days in any such ninety-day period.

9. The provision of psychotherapy as defined in subdivision two of section eighty-four hundred one of this title to the extent permissible within the scope of practice of psychology, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering psychology services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

10. (a) A person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of

benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

(b) A person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management as such terms are defined in the regulations of the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development.

(c)(i) A person without a license from participating as a member of a multi-disciplinary team to assist in the development of or implementation of a behavioral health services or treatment plan; provided that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-four or one hundred sixty-three of this chapter; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; or independently developing and implementing assessment-based treatment plans as defined in section seventy-seven hundred one of this title.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(1) helping an individual with the completion of forms or questionnaires;

(2) reviewing existing case records and collecting background

information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) gathering and reporting information about previous behavioral health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

(d) Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

11. The conduct, activities or services of a technician to administer and score standardized objective (non-projective) psychological or neuropsychological tests which have specific predetermined and manualized administrative procedures which entail observing and describing test behavior and test responses, and which do not require evaluation, interpretation or other judgments; provided, however, that such technician shall: (i) hold no less than a Bachelor's degree in psychology or a related field; (ii) undergo a process of regular training by a licensed psychologist, which shall include, but not be limited to a minimum of eighty total hours of (a) professional ethics, (b) studying and mastering information from test manuals, and (c) direct

observation of a licensed psychologist or trained technician administering and scoring tests, in addition to a minimum of forty total hours of administering and scoring tests in the presence of a licensed psychologist or trained technician, provided such interaction with the licensed psychologist equals or exceeds fifty percent of the total training time; (iii) be under the direct and ongoing supervision of a licensed psychologist in no greater than a 3:1 ratio or the part time equivalent thereto; (iv) not be employed within a school setting and (v) not select tests, analyze patient data or communicate results to patients. The supervising licensed psychologist must submit, pursuant to a form to be prescribed and developed within ninety days of the effective date of this subdivision by the department, a sworn statement detailing compliance with the above requirements. The licensed psychologist's use of such individual pursuant to the terms of this subdivision shall be undertaken only with special care and professional judgment in order to ensure the safety and well-being of the patient considering the severity of the symptoms, the age of the patient and the length of the examination process, and shall include appropriate ongoing contact with the licensed psychologist at appropriate intervals. Such use shall be subject to the full disciplinary and regulatory authority of the board of regents and the department pursuant to this title. The licensed psychologist must notify the patient or designated health care surrogate that the licensed psychologist may utilize the services of a technician to administer certain exams, and must provide the patient or designated health care surrogate the opportunity to object to the licensed psychologist's plan to utilize a technician.

12. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided, however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

13. The activities or services provided by a person with a master's level degree in psychology or its equivalent, working under the supervision of a licensed psychologist in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

SPA 22-0090
Education Law

§ 7706. Exempt persons. Nothing contained in this article shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred fifty-three of this title or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice occupational therapy within this state pursuant to article one hundred fifty-six of this title or by any person licensed or otherwise authorized to practice mental health counseling, marriage and family therapy, creative arts therapy, or psychoanalysis within the state pursuant to article one hundred sixty-three of this title or by any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to article one hundred sixty-seven of this title; provided, however, that no physician, physician assistant, registered professional nurse, nurse practitioner, psychologist, occupational therapist, licensed mental health counselor, licensed marriage and family therapist, licensed creative arts therapist, licensed psychoanalyst, licensed behavior analyst or certified behavior analyst assistant may use the titles "licensed clinical social worker" or "licensed master social worker", unless licensed under this article.

2. Prevent or prohibit an individual possessing a baccalaureate of social work degree or its equivalent from the performance of activities and services within the scope of practice of licensed master social work as defined in paragraphs (a) and (b) of subdivision one of section seventy-seven hundred one of this article under supervision by a licensed master social worker, a licensed clinical social worker or in accordance with the commissioner's regulations.

3. Prevent or prohibit a licensed master social worker from the performance of activities and services within the scope of practice of licensed clinical social work as defined in subdivision two of section seventy-seven hundred one of this article in a facility setting and under supervision in accordance with the commissioner's regulations.

4. Prevent or prohibit the performance of activities and services within the scope of practice of licensed master social work as defined in subdivision one of section seventy-seven hundred one of this article by individuals, churches, schools, teachers, organizations, or not-for-profit businesses which are providing instruction, advice, support, encouragement or information to individuals, families and relational groups.

5. Prevent or prohibit the performance of activities and services within the scope of practice of licensed master social work or licensed clinical social work as defined in section seventy-seven hundred one of this article by the following:

(a) any individual who is credentialed under any law, including

attorneys, rape crisis counselors, credentialed alcoholism and substance abuse counselors whose scope of practice includes the practices defined in section seventy-seven hundred one of this article from performing or claiming to perform work authorized by applicable provisions of this chapter and the mental hygiene law;

(b) provision of pastoral counseling services by any member of the clergy or christian science practitioner, from providing pastoral counselling services within the context of his or her ministerial charge or obligation;

(c) students who are enrolled in a baccalaureate of social work or professional graduate level social work program of study, and which are required to perform as part of the field work component of that program, services provided under the supervision of a field work supervisor approved by the program;

(d) on the part of a student or trainee who is enrolled in an institution or program registered by the department or accredited by an accrediting organization acceptable to the department to provide training in a discipline or profession, other than social work or clinical social work, that is licensed pursuant to this title, where such activities and services are authorized within the definition of the scope of practice of the profession, or discipline in which he or she is being trained as set forth in the education law or the commissioner's regulations, provided that such services are performed under the regular and ongoing supervision of a licensee in the profession or discipline in which he or she is being trained who assumes professional responsibility for the services performed under his or her supervision and that such activities and the provision of such services are a formal part of the professional training program in which he or she is enrolled;

(e) any federal, state, county or municipal employee performing clinical social work services upon the effective date of this section for the period during which they maintain such employment with such governmental unit within the context of such employment and shall be limited to the services provided upon such effective date; and

(f) any employee performing clinical social work services on the effective date of this section for the period during which they maintain such employment with such entity within the context of such employment, and shall be limited to the services provided prior to such effective date.

6. Prohibit the practice of licensed master social work or licensed clinical social work, to the extent permissible within the scope of practice of such professions, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering licensed master social work or licensed clinical social work services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

7. (a) Prevent a person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and

organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

(b) Prevent a person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management as such terms are defined in the regulations of the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development.

(c)(i) Prevent a person without a license from participating as a member of a multi-disciplinary team to assist in the development of or implementation of a behavioral health services or treatment plan; provided that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three or one hundred sixty-three of this chapter; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; or independently developing and implementing assessment-based treatment plans as defined in section seventy-seven hundred one of this article.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(1) helping an individual with the completion of forms or questionnaires;

(2) reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) gathering and reporting information about previous behavioral

health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

(d) Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

8. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such

prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

SPA 22-0090
Education Law

§ 8410. Exemptions. Nothing contained in this article shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred fifty-three of this title or by any person licensed or otherwise authorized to practice social work within this state pursuant to article one hundred fifty-four of this title, or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to article one hundred sixty-seven of this title; provided, however, that no physician, physician's assistant, registered professional nurse, nurse practitioner, psychologist, licensed master social worker, licensed clinical social worker, licensed behavior analyst or certified behavior analyst assistant may use the titles "licensed mental health counselor", "licensed marriage and family therapist", "licensed creative arts therapist", or "licensed psychoanalyst", unless licensed under this article.

2. Prohibit or limit any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors and certified substance abuse counselors from providing mental health services within their respective established authorities.

3. Prohibit or limit the practice of a profession licensed pursuant to this article by a student, intern or resident in, and as part of, a supervised educational program in an institution approved by the department.

4. Prohibit or limit the provision of pastoral counseling services by any member of the clergy or Christian Science practitioner, within the context of his or her ministerial charge or obligation.

5. Prohibit or limit individuals, churches, schools, teachers, organizations, or not-for-profit businesses, from providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups.

6. Prohibit or limit an occupational therapist from performing work consistent with article one hundred fifty-six of this title.

7. Prohibit the practice of mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis, to the extent permissible within the scope of practice of such professions, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

8. (a) Prevent a person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

(b) Prevent a person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management as such terms are defined in the regulations of the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development.

(c)(i) Prevent a person without a license from participating as a member of a multi-disciplinary team to assist in the development of or implementation of a behavioral health services or treatment plan; provided that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three or one hundred fifty-four of this chapter; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; or independently developing and implementing assessment-based treatment plans as defined in section seventy-seven hundred one of this chapter.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs

operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(1) helping an individual with the completion of forms or questionnaires;

(2) reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) gathering and reporting information about previous behavioral health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

(d) Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

9. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of

children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

10. The activities or services provided by a person with a master's level degree required for licensure pursuant to this article, working under the supervision of a professional licensed pursuant to article one hundred fifty-three, one hundred fifty-four or this article in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

* 11. Prohibit or limit a mental health counselor, marriage and family therapist, or psychoanalyst licensed and registered pursuant to this article from engaging in diagnosis and the development of assessment-based treatment plans, as defined in section eighty-four hundred one of this article, in a facility setting or other supervised settings approved by the department under supervision in accordance with the commissioner's regulations.

* NB Repealed June 24, 2025

Guidelines to Implement Part Y of Chapter 57 of the Laws of 2018

Chapters 420 and 676 of the Laws of 2002 amended the Education Law to, among other things, establish the professions of “licensed master social worker” and “licensed clinical social worker”, define the practice of psychology, and establish four mental health practitioner licenses (mental health counselor, marriage and family therapists, creative arts therapists and psychoanalysts). Articles 153, 154 and 163 of the Education Law define the requirements for licensure as a psychologist, social worker and mental health practitioner, respectively. The statutes provide that commencing with the profession of psychology on September 1, 2003, continuing with social work on September 1, 2004, and concluding on January 1, 2006 for the mental health practitioner professions, the practices of the seven professions became restricted to those licensed, otherwise authorized, or exempt. Exemptions, which are established in statute, include students under supervision, other individuals in licensed professions or in specific occupations, and individuals in certain settings.

In addition, the 2002 statutes enacted an exemption from licensure until January 1, 2010 for “any person in the employ of a program or service that is regulated, operated, funded or approved by the department of mental hygiene or a local government unit...of the mental hygiene law.” This exemption was broadened and extended by the Legislature in subsequent years.

The original exemptions for individuals employed in certain programs and services in the 2002 law were expanded in 2003 to include individuals in programs that are operated, regulated, funded or approved by the Office of Children and Family Services (OCFS) or a local social services district. The exemption was again extended to July 1, 2013 by chapters 130 and 132 of the Laws of 2010. With regard to the professions of social work and mental health practitioners, Chapters 130 and 132 also expanded the exempt settings to include persons in the employ of programs or services operated, regulated, funded or approved by the Department of Health (DOH), State Office for the Aging (SOFA), and the Department of Corrections and Community Supervision (DOCCS). The expansion of the exemptions to these agencies did not include the profession of psychology. The implementation of these licensure laws revealed a number of unforeseen and unintended consequences of the law, including uncertainty about what tasks and activities in these settings were required to be provided by licensed personnel and what types of activities could be provided by unlicensed personnel. The State Education Department (“SED”) has worked collaboratively for many years with the impacted state agencies and other stakeholders to address these critical issues.

In order to collect information about the provider workforce and to clarify the services and activities that, if not for the exemption, must only be performed by licensed or authorized personnel, in 2012, SED and the exempt State agencies collaborated on the development and administration of a survey. In developing the survey, the Office of the Professions and the exempt agencies identified five activities (diagnosis,

assessment/evaluation, psychotherapy, assessment-based treatment planning, and services other than psychotherapy) that, if not for the exemption, could only be provided by those appropriately licensed or otherwise authorized under law. To assist programs in completing the survey, it provided examples of activities that would constitute restricted professional practice and of tasks that could be performed by an unlicensed person.

The Office of the Professions in collaboration with the exempt state agencies disseminated the survey to their service providers. More than 2,200 programs completed the online survey, and the Office of the Professions shared the results with representatives of the exempt agencies, the Governor's office and the Legislature. The executive agencies, as required by statute, provided alternative plans, which are posted online (www.op.nysed.gov/surveys/mhpsw/exemp-agencyrpts.htm).

Part AA of Chapter 57 of the Laws of 2013 extended the exemption from licensure as a social worker, psychologist or mental health practitioner for individuals employed in programs that are operated, regulated, approved or funded by certain state or local government agencies until July 1, 2016. Part AA added Education Law §7605(10), §7706(7) and §8410(8) to define exempt activities that do not require licensure as a psychologist, social worker or mental health practitioner, respectively. The law also required SED, in consultation with the affected agencies, professional associations, providers and consumers, to issue a report to the Governor and Legislature regarding implementation of the law. The 2015 report and additional information about the licensing laws and exemptions can be found on the Department's website at:

www.op.nysed.gov/surveys/mhpsw/complete_sed_2015_report_agency_statements.pdf.

The exemption was subsequently extended to July 1, 2018, pursuant to Part J of Chapter 59 of the Laws of 2016.

Part Y of Chapter 57 of the Laws of 2018 ("Part Y"), amended Articles 153 (Psychology), 154 (Social Work), and 163 (Mental Health Practitioners) of the Education Law to further extend the exemptions in the licensed social work, mental health, and psychology professions. Below is a summary of the affected licensed professions and exempt employment settings.

Chapter 57 of the Laws of 2018 included amendments to Education Law that extend current exemptions in the licensed social work, mental health, and psychology professions.

Per [Chapter 159 of the Laws of 2021](#), these exemptions continue for two years after the Board of Regents adopts regulations to implement the amended law. The regulations were adopted on June 24, 2020 so the exemption ends on June 24, 2022. Here is a summary of the affected licensed professionals and employment settings:

Licensed Professions	Exempt Employment Settings
<ul style="list-style-type: none"> • Creative Arts Therapy • Licensed Clinical Social Work • Licensed Master Social Work • Marriage and Family Therapy • Mental Health Counseling • Psychoanalysis 	<p>Employees of a program or service operated, regulated, funded, or approved by the following:</p> <ul style="list-style-type: none"> • Department of Mental Hygiene (OMH, OPWDD & OASAS) • Office of Children and Family Services • Office of Temporary and Disability Assistance • Department of Corrections and Community Supervision • State Office for the Aging • Department of Health • Local governmental unit¹ • Social services district²

<ul style="list-style-type: none"> • Psychology 	<p>Employees of a program or service operated, regulated, funded, or approved by the following:</p> <ul style="list-style-type: none"> • Department of Mental Hygiene (OMH, OPWDD & OASAS) • Office of Children and Family Services • Local governmental unit¹ • Social services district²
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¹Per Article 41 of the Mental Hygiene Law

²Per section 61 of the Social Services Law

Under the new law, the current licensing exemptions reflected in the chart above will continue until one year after the Board of Regents adopts regulations to implement the amended law. The new law further clarifies and expands the list of activities that do not require licensure and establishes grandparenting provisions for current employees in these exempt settings¹

Part Y also requires SED, *in consultation with the exempt agencies*, to “develop formal guidance consistent with this chapter for service providers authorized to operate under the respective executive agencies, to identify the tasks and functions performed by each agency’s service provider workforce categorized as tasks and functions restricted to licensed personnel including tasks and functions that do not require a license under articles 153, 154, and 163 of the education law.” This document provides this formal guidance for service providers. This guidance identifies tasks and services that do (and do not) require licensure and addresses many frequently asked questions that the Department has received since the enactment of Part Y.

¹ Please note that the permanent exemption for psychologists in Section 7605(1) of Article 153 employed in salaried positions operated by the Department of Mental Hygiene agencies, as well as other specified settings, is not affected by this amendment.

**Appendix IV
2022 Title XIX State Plan
Fourth Quarter Amendment
Public Notice**

mgd (peak day), and renewal with modification to increase consumptive use (peak day) by an additional 0.480 mgd, for a total consumptive use of up to 0.750 mgd (Docket No. 20021010).

10. Project Sponsor and Facility: SWN Production Company, LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.500 mgd (peak day) (Docket No. 20171208).

11. Project Sponsor and Facility: SWN Production Company, LLC (Lycoming Creek), McIntyre Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.500 mgd (peak day) (Docket No. 20171209).

12. Project Sponsor: The United States Department of Veterans Affairs. Project Facility: Indiantown Gap National Cemetery, East Hanover and Union Townships, Lebanon County, Pa. Application for consumptive use of up to 0.099 mgd (30-day average).

13. Project Sponsor: Veolia Water Pennsylvania, Inc. Project Facility: Grantham Operation, Upper Allen Township, Cumberland County, Pa. Application for renewal of groundwater withdrawal of up to 0.395 mgd (30-day average) from Well 2 (Docket No. 19901104).

Project Scheduled for Action Involving a Diversion:

14. Project Sponsor and Facility: BlueTriton Brands, Inc. (Valley View Springs), Hegins Township, Schuylkill County, Pa. Application for approval of an out-of-basin diversion of up to 0.200 mgd (peak day).

Opportunity to Appear and Comment:

Interested parties may call into the hearing to offer comments to the Commission on any business listed above, including the fee schedule, required to be the subject of a public hearing. Given the nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by e-mailing Jason Oyler at joyler@srbc.net prior to the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Access to the hearing via telephone will begin at 2:15 p.m. Guidelines for the public hearing are posted on the Commission's website, www.srbc.net, prior to the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be the subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through <https://www.srbc.net/regulatory/public-comment/>. Comments mailed or electronically submitted must be received by the Commission on or before November 14, 2021, to be considered.

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

Dated: October 7, 2022

Jason E. Oyler,

General Counsel and Secretary to the Commission

PUBLIC NOTICE

Department of Civil Service

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

Please take notice that the regular monthly meeting of the State Civil Service Commission for November 2022 will be conducted on November 16 and November 17 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at <https://www.cs.ny.gov/commission/>.

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

PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for Institutional and Non-Institutional Services. The following changes are proposed:

Non-Institutional

Effective on or after November 1, 2022, the Department of Health will adjust rates statewide to reflect a 5.0% percent rate adjustment for the following Office of Addiction Services and Supports (OASAS) State Plan Services: OASAS outpatient addiction services (hospital and non-hospital), OASAS freestanding (non-hospital) inpatient rehabilitation services, OASAS freestanding inpatient detox services, and OASAS Part 820 residential services. OASAS will also further enhance freestanding outpatient addiction services in-community rates by 40%.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this change for State Fiscal Year 2023 is \$1.83 million.

Institutional Services

Effective on or after November 1, 2022, the Department of Health will adjust rates statewide to reflect a 5.0% percent rate adjustment for Office of Addiction Services and Supports Residential Rehabilitation Services for Youth.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this change for State Fiscal Year 2023 is \$220,000.

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

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

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

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

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

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

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

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, 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 for coverage and reimbursement for Medicaid services. The following changes are proposed:

Non-Institutional Services

Effective at the end of the Public Health Emergency, the Medicaid State Plan will be amended to authorize payment for services provided in an article 29-I Health Facility by formerly license-exempt staff

members who were employed by an authorized setting on June 24, 2022.

Formerly exempt practitioners as defined under State law, will work under the supervision of a professionally licensed practitioner pursuant to Article 153 (psychologists), 154 (social workers) or 163 (mental health practitioners) of the State Education law. State Education law Articles 153 (§ 7605), 154 (§ 7706), and 163 (§ 8410) authorize exempt individuals who were previously employed in a program or service operated, regulated, funded or approved by the Office of Mental Health (OMH), the Office of Addiction Services and Supports (OASAS), the Office for People with Developmental Disabilities (OPWDD), the Office of Children and Family Services (OCFS), the Department of Corrections and Community Supervision (DOCCS), the Office of Temporary and Disability Assistance (OTDA), the New York State Office for the Aging (NYSOFA), the Department of Health (DOH) or a local government unit defined by Section 41.03 of the Mental Hygiene Law or a social services district as defined in Section 61 of the Social Services Law to practice under an exemption from licensing requirements.

Due to the workforce shortage and challenges of hiring behavioral health providers and the difficulties providing on-going services to children and families who have also faced tremendous hardships due to the pandemic, NYS will authorize exempt practitioners who meet the NYS Education law licensure exemption requirements to provide services in Article 29-I Health Facilities. It is imperative that exempt practitioners be authorized to provide these important and necessary services to children and youth who are served by the 29-I Health Facilities during this ongoing crisis. Additionally, these services are needed to maintain the health and safety of children and youth who have histories of trauma and neglect in addition to the impact of the pandemic.

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

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

Oneida-Herkimer Solid Waste
Management Authority
Award of Contract for Landfill Gas Utilization
at Oneida-Herkimer Regional Landfill

On September 12, 2022 the Oneida-Herkimer Solid Waste Management Authority awarded a contract to BerQ RNG pursuant to section one hundred twenty-w of the general municipal law for the Utilization of Landfill Gas produced at the Oneida-Herkimer Regional Landfill. The validity of this contract or the procedures which led to its award may be hereafter contested only by action, suit or proceeding commenced within sixty days after the date of this notice and only upon the ground or grounds that: (1) such award or procedure was not authorized pursuant to that section; or (2) any of the provisions of that section which should be complied with at the date of this publication have not been substantially complied with; or (3) a conflict of interest can be shown in the manner in which the contract was awarded; or by action, suit or proceeding commenced on the grounds that such contract was awarded in violation of the provisions of the Constitution.

For further information, contact Oneida-Herkimer Solid Waste Authority, Emily M. Albright, Director of Recycling, 1600 Genesee St., Utica, NY 13502

PUBLIC NOTICE

Department of State
F-2022-0424
Date of Issuance – October 26, 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. 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:

<https://dos.ny.gov/system/files/documents/2022/09/f-2022-0424a.pdf>

<https://dos.ny.gov/system/files/documents/2022/09/f-2022-0424b.pdf>

In F-2022-0424 or the “Safe Harbors Haverstraw Marina”, the applicant – SHM Haverstraw, LLC – proposes to over sheet the four existing bulkheads with steel sheet piles, replace the deteriorated members and hardware in order to maintain the existing wave screen to the south east of the marina entrance, and reconfigure the floating docks within the existing marina perimeter.

The proposed project will take place at 600 Beach Road in the town of Haverstraw, Rockland County on the Hudson River. The purpose of this project is to replace the existing significantly deteriorated bulkheads and repair the wave screen surrounding the Safe Harbor Haverstraw Marina. In addition, the reconfiguration of the marina is to better accommodate vessels and provide safer navigation through the marina.

Any interested parties and/or agencies desiring to express their views concerning 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, November 10, 2022.

Comments should be addressed to: Consistency Review Unit, Department of State, 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

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