KATHY HOCHUL
Governor

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

December 30, 2022

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

RE: SPA #22-0091
Non-Institutional Services

Dear Mr. McMillion:

The State requests approval of the enclosed amendment #22-0091 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective October 1, 2022 (Appendix I). This amendment is being submitted to continue the additional 25 percent rate enhancement initially authorized as a temporary increase under provisions of section 9817 of the American Rescue Act of 2021 (ARPA) for Children and Family Treatment and Support Services (CFTSS). This includes Other Licensed for Practitioners (OLP), Community Psychiatric Supports and Treatment (CPST), Psychosocial Rehabilitation (PSR), Youth Peer Support (YPS), Crisis Intervention (CI) and Family Peer Support Services (FPSS). 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 the public notice of this plan amendment, which was given in the New York State Register on September 28, 2022, is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

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

Sincerely,

Amir Bassiri
Medicaid Director
Office of Health Insurance Programs

Enclosures

DEPARTMENT OF HEALTH ANDHUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER

2. STATE

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

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

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY_________ $ _________
b. FFY_________ $ _________

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*

9. SUBJECT OF AMENDMENT

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

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

OTHER, AS SPECIFIED:

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

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: New York
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

1905(a)(6) Medical Care, or Any Other Type of Remedial Care

Non-Physician Licensed Behavioral Health Practitioner Services (EPSDT only)

Reimbursement for EPSDT NP-LBHP as outlined in Item 6.d(i). per Attachment 3.1-A, are paid based upon Medicaid rates established by the State of New York.
Except as otherwise noted in the State Plan, the State-developed rates are the same for both governmental and private providers. The provider agency's rates were set as of January 1, 2019 for Other Licensed Practitioner, Community Psychiatric Support and Treatment, and Psychosocial Rehabilitation Supports, and are effective for these services provided on or after that date. Provider agency's rates were set as of July 1, 2019 for Family Peer Support Services and are effective for these services provided on or after that date. Additionally, the agency's rates were set as of January 1, 2020 for Crisis Intervention and Youth Peer Supports and Training are effective for these services provided on or after that date.
Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of Other Licensed Practitioner, Psychosocial Rehabilitation Supports, Family Peer Support Services, Crisis Intervention, Youth Peer Supports and Training.

Effective 4/01/2022 the rates were increased by the 5.4% Cost of Living Adjustment (COLA).

Effective 10/01/2022 the 25% temporary rate increase, initially authorized under provisions of Section 9817 of the American Rescue Plan Act of 2021 (ARPA) was extended permanently.

All rates are published on the Department of Health website:

Crisis Intervention Rates:
https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/child-family_rate_summary.pdf

Family Peer Supports Services and Youth Peer supports Rates:
https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/fpss_bh_kids_ffs_rates.pdf

Other Licensed Practitioner, Community Psychiatric Support and Treatment, and Psychosocial Rehabilitation Supports Rates:
https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/bh_kids_ffs_rates.pdf

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: New York
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

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

Rehabilitative Services (EPSDT only)

Reimbursement for EPSDT Rehabilitative Services as outlined in item 13.d per Attachment 3.1-A, are paid based upon Medicaid rates established by the State of New York.
Except as otherwise noted in the State Plan, the State-developed rates are the same for both governmental and private providers. The provider agency's rates were set as of January 1, 2019 for Other Licensed Practitioner, Community Psychiatric Support and Treatment, and Psychosocial Rehabilitation Supports, and are effective for these services provided on or after that date.
Provider agency's rates were set as of July 1, 2019 for Family Peer Support Services and are effective for these services provided on or after that date. Additionally, the agency's rates were set as of January 1, 2020 for Crisis Intervention and Youth Peer Supports and Training and are effective for these services provided on or after that date.
Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of Other Licensed Practitioner, Psychosocial Rehabilitation Supports, Family Peer Support Services, Crisis Intervention, Youth Peer Supports and Training.

Effective 4/01/2022 the rates were increased by the 5.4% Cost of Living Adjustment (COLA).

Effective 10/01/2022 the 25% temporary rate increase, initially authorized under provisions of Section 9817 of the American Rescue Plan Act of 2021 (ARPA) was extended permanently.

All rates are published on the Department of Health website:
Crisis Intervention Rates:
https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/child-family_rate_summary.pdf

Family Peer Supports Services and Youth Peer supports Rates:
https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/fpss_bh_kids_ffs_rates.pdf

Other Licensed Practitioner, Community Psychiatric Support and Treatment, and Psychosocial Rehabilitation Supports Rates:
https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/docs/bh_kids_ffs_rates.pdf

~~The rate development methodology will primarily be composed of provider cost modeling, through New York provider compensation studies and cost data. Rates from similar State Medicaid programs may be considered, as well. The following list outlines the major components of the cost model to be used in rate development.~~

- ~~Staffing assumptions and staff wages.~~
- ~~Employee-related expenses — benefits, employer taxes (e.g., Federal Insurance Contributions Act (FICA), unemployment, and workers compensation).~~
- ~~Program-related expenses (e.g., supplies).~~
- ~~Provider overhead expenses.~~
- ~~Program billable units.~~

~~The rates will be developed as the ratio of total annual modeled provider costs to the estimated annual billable units.~~

Appendix II
2022 Title XIX State Plan
Fourth Quarter Amendment
Summary

SUMMARY
SPA #22-0091

This State Plan Amendment proposes to continue the additional 25 percent rate increase effective October 1, 2022, initially authorized as a temporary increase under provisions of Section 9817 of the American Rescue Plan Act of 2021 (ARPA) for Children and Family Treatment and Support Services. This includes Other Licensed Practitioners (OLP), Community Psychiatric Supports and Treatment (CPST), Psychosocial Rehabilitation (PSR), Youth Peer Support (YPS), Crisis Intervention (CI) and Family Peer Support Services (FPSS).

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

WESTLAW

New York Codes, Rules and Regulations

18 CRR-NY 505.38 NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 18. DEPARTMENT OF SOCIAL SERVICES
CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES
SUBCHAPTER E. MEDICAL CARE
ARTICLE 3. POLICIES AND STANDARDS GOVERNING PROVISION OF MEDICAL AND DENTAL CARE
PART 505. MEDICAL CARE

18 CRR-NY 505.38
18 CRR-NY 505.38

505.38 Children's behavioral health and health services.

(a) Purpose.

This section promotes the expansion of health and behavioral health services for children/youth under 21 years of age. The New York State Department of Health (DOH), the New York State Office of Mental Health (OMH), the New York State Office of Alcoholism and Substance Abuse Services (OASAS), and the New York State Office of Children and Family Services (OCFS) (the State agencies) shall designate licensed, certified or approved providers to deliver specifically defined services under the Medicaid program.

(b) Services.

The following services shall be available to children and youth who are eligible for Medicaid. when provided in accordance with the provisions of this section.

(1) Crisis intervention (Cl). Cl services are provided to a child/youth under age 21, and his/her family/caregiver who is experiencing a psychiatric or substance use (behavioral health) crisis, and are designed to:

(i) interrupt and/or ameliorate the crisis experience:

(ii) include an assessment that is culturally and linguistically sensitive:

(iii) result in immediate crisis resolution and de-escalation;

(iv) develop a crisisplan.

(2) Other licensed practitioner.

(i) A non-physician licensed behavioral health practitioner (NP-LBHP) is an individual who is licensed and acting within his or her lawful scope of practice under Title VIII of the Education Law and in any setting permissible under State law.

(ii) Individual staff qualifications:

(a) NP-LBHPs include the following practitioners; each is permitted to practice independently within his or her scope of practice:

(1) licensed psychoanalysts;

(2) licensed clinical social workers (LCSWs);

(3) licensed marriage and family therapists; and

(4) licensed mental health counselors;

(b) NP-LBHPs also include licensed master social workers (LMSWs) under the supervision of licensed clinical social workers (LCSWs), licensed psychologists, or psychiatrists.

(3) Community psychiatric support and treatment (CPST). CPST services are goal-directed supports and solution-focused interventions intended to achieve identified goals or objectives as set forth in the child's/youth's individualized treatment plan. CPST is designed to provide community-based services to children or youth and their families or caregivers who may have difficulty engaging in formal office settings, but can benefit from community based rehabilitative services. CPST allows for delivery of services within **a variety** of.permissible settings including community locations where the child/youth lives, works,

attends school, engages in services (e.g., provider office sites), and/or socializes. This includes the implementation of evidence based practices with approval by the State agencies.

(4) Psychosocial rehabilitation (PSR). PSR services are provided to children or youth and their families or caregivers to implement interventions outlined in the individualized treatment plan to compensate for or eliminate functional deficits and interpersonal and/or environmental barriers associated with a child/youth's behavioral health needs. The intent of PSR is to restore, rehabilitate, and support a child/youth's functional level as much as possible and as necessary for the integration of the child/youth as an active and productive member of their community and family with minimal ongoing professional interventions. Activities included must be task oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's individualized treatment plan.

(5) Family peer support (FPS). FPS services are an array of formal and informal services and supports provided to families caring for/raising a child/youth who is experiencing social, emotional, developmental, medical, substance use, and/or behavioral challenges in their home, school, placement, and/or community. FPS services provide a structured, strength-based relationship between a credentialed family peer with relevant lived experience as determined appropriate by the State agencies as defined in subdivision (a) of this section and the parenUfamily member/caregiver for the benefit of the child/youth. Activities must be task oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's individualized treatment plan.

(6) Youth peer support and training (YPST). YPST services are youth formal and informal services and supports provided to youth who are experiencing social, emotional, medical, developmental, substance use, and/or behavioral challenges in their home, school, placement, and/or community centered services. These services provide the training and support necessary by a credentialed youth peer with relevant lived experience as determined appropriate by the State agencies as defined in subdivision (a) of this section to ensure engagement and active participation of the youth in the treatment planning process and with the ongoing implementation and reinforcement of skills learned throughout the treatment processes. YPST activities must be intended to develop and achieve the identified goals and/or objectives as set forth in the youth's individualized treatment plan. YPST services delivered are based on the individualized treatment plan developed by the licensed practitioner working with the youth.

(a) Provider qualifications.

(1) Any child serving agency or agency with children's behavioral health and health experience must have the necessary licensure, certification, designation, or approval from DOH, OMH, OASAS, or OCFS to provide the services authorized by this section.

(2) Any licensed practitioner providing behavioral health or health services authorized under this section must work in a child serving agency or agency with children's behavioral health and health experience, as described in paragraph (1) of this subdivision.

(3) Crisis intervention practitioners must work in a child serving agency. or agency with children's behavioral health and health experience, that obtains or possesses a current license or authorization to provide crisis and/or crisis treatment services. consistent with the requirements of paragraph (1) of this subdivision.

(4) Any organization seeking to provide any service authorized by this regulation and to serve the general population needing mental health services must be licensed or authorized to do so by OMH in addition to obtaining the licensure, certification. designation, or approval described in paragraph (1) of this subdivision.

(5) Any organization seeking to provide any service authorized by this regulation and to serve the general population needing substance use disorder services must be certified. designated or authorized to do so by OASAS in addition to obtaining the licensure, certification. designation. or approval described in paragraph (1) of this subdivision.

(b) Designation of providers.

(1) As a prerequisite to providing any of the services authorized by this section, a provider must receive a designation from DOH, OMH, OASAS, or OCFS. Being designated to provide services authorized by this section is not a substitute for possessing any required State licensure, certification, authorization or credential, and any such designation may be conditioned upon obtaining or modifying a required licensure, certification, authorization or credential.

(2) To be eiigible for designation, a provider must submit an application on a form required by the State agencies and must

(i) be enrolled in the Medicaid program prior to commencing service delivery;

(ii) be a qualified provider as described in subdivision (c) of this section and maintain its license, certification or approval with that State agency;

(iii) be in good standing according to the standards of each agency by which it is licensed, certified or approved;

(iv) be a fiscally viable agency;

(v) meet developed criteria as outlined in the provider designation application guidance and form, including adequate explanation of how the provider meets such criteria; and

(vi) adhere to the standards of care described in the *Children's Health and Behavioral Health Services Transformation Medicaid State Plan Provider Manual for Children's BH Early and Periodic Screening and Diagnostic Testing (EPSDT)*

Services which have been incorporated by reference in this Part and have been filed in the office of the Secretary of State of the State of New York, the publication so filed being the document entitled: *Children's Health and Behavioral Health Services Transformation Medicaid State Plan Provider Manual for Children's BH Early and Periodic Screening and Diagnostic Testing (EPSDT) Services,* published in December, 2016, and any subsequent updates. This document incorporated by reference may be examined at the office of the Department of State, 99 Washington Ave., Albany, NY 12231 or obtained from the Department of Health, 99 Washington Ave., Albany, NY 12231.

(3) A provider designated to provide services authorized by this section will be assigned a lead State agency (DOH, OASAS, OCFS or OMH), based on the primary population served, location, and indicated line of business on the provider application, which will be responsible, in collaboration with the other Stale agencies, for monitoring and oversight of the provider.

(4) If a provider is designated lo provide community support and treatment services, ii may seek approval of the lead Slate agency and DOH to utilize, in the provision of services, specified evidence-based techniques drawn from cognitive-behavioral therapy and/or other evidence based psychotherapeutic interventions.

(5) Nothing contained herein shall authorize a provider lo provide medical services, except as otherwise authorized by law.

(c) Rescinding a designation.

(1) A provider who fails to comply with laws, regulations and policies may have its designation rescinded by the lead State agency, which will consult with the other Stale agencies before taking such action. The provider has 14 business days to appeal the action to the lead State agency. The lead State agency shall respond with a final decision within 14 business days of appeal.

(2) A provider whose designation was rescinded may apply for redesignation pursuant to subdivision (d) of this section. The provider must show that ii corrected the problems that led lo the rescission. An on-site and/or desk evaluation may be conducted by the lead State agency prior to approving the redesignation request.

(d) Reimbursement.

Reimbursement for children's behavioral health and health services must be in accordance with the rates established by the department and approved by the Director of the Division of Budget.

18 CRR-NY 505.38
Current through July 15, 2019

END OF DOCUMENT

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

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 services to comply with recently enacted statutory provisions in § 365-g of the Social Services Law with regards to certain prospective utilization thresholds.

The following changes are proposed:

Non-Institutional Services

Effective on or after October 1, 2022, this notice proposes to decrease an administrative burden on enrolled fee-for-service Medicaid members and providers by eliminating the requirement for provider submitted benefit increase requests for certain services. The current regulatory thresholds established pursuant to the statutory authority of § 365-g are physician and clinic services (excluding anesthesiology and psychiatric services, mental health clinic services; and article 28 ambulatory clinic services ordered to test, diagnose, or treat a member); laboratory services, and dental clinic services. This proposal does not affect drug utilization review. The Department will continue to meet the federal regulatory requirements at 42 CFR Part 456, Subparts A and B, through continued utilization monitoring, in a post-payment review process, with referral to the Department's prepayment Provider on Review Program, and to the Office of the Medicaid Inspector General (OMIG) where suspected fraud, waste or abuse are identified in the unnecessary or inappropriate use of care, services or supplies by members or providers.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2022/2023 is ($23,100).

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 services.

Non-Institutional Services

State established rates for state-plan approved Children and Family Treatment and Support Services (CFTSS) will continue the additional 25 percent enhancement initially authorized as a temporary increase under provisions of Section 9817 of the American Rescue Plan Act of 2021 (ARPA). Effective on or after October 1, 2022, the following CFTSS rate enhancements will continue under the state-plan: Other Licensed Practitioners (OLP), Community Psychiatric Supports and Treatment (CPST), Psychosocial Rehabilitation (PSR), Youth Peer Support (YPS), Crisis Intervention (CI) and Family Peer Support Services (FPSS).

The estimated net aggregate increase in gross Medicaid expenditures as a result of the proposed amendments for CFTSS services is $1,167,032.

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 services to comply with 1945 of the Social Security Act and other enacted statutory provisions. The following changes are proposed:

Non-Institutional Services

Effective on or after October 1, 2022, the proposed amendment adds an annual assessment fee to the Health Home program to ensure that any child eligible for Home and Community-Based Services (HCBS) under a waiver, demonstration, or State Plan authority will be

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

NON-INSTITUTIONAL SERVICES
State Plan Amendment #22-0091

CMS Standard Funding Questions

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-B of the state plan.

1. **Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)**

   Response: Providers receive and retain 100 percent of total Medicaid expenditures claimed by the State and the State does not require any provider to return any portion of such payments to the State, local government entities, or any other intermediary organization.

2. **Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local government entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:**
   (i) a complete list of the names of entities transferring or certifying funds;
   (ii) the operational nature of the entity (state, county, city, other);

(iii) **the total amounts transferred or certified by each entity;**
(iv) **clarify whether the certifying or transferring entity has general taxing authority: and,**
(v) **whether the certifying or transferring entity received appropriations (identify level of appropriations).**

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

		4/1/22 – 3/31/23	
Payment Type	**Non-Federal Share Funding**	**Non-Federal**	**Gross**
Normal Per Diem	General Fund; County Contribution	$583.5K	$1.167M

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

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

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

B. Additional Resources for Non-Federal Share Funding:

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

However, in State Fiscal Year 2013 New York State provided additional relief to Localities by reducing local contributions annual growth from three precent to zero over a three-year period. Beginning in State Fiscal Year 2016, counties began paying a fixed cost in perpetuity as follows:

Entity	Annual Amount

New York City	$4.882B
Suffolk County	$216M
Nassau County	$213M
Westchester County	$199M
Erie County	$185M
Rest of State (53 Counties)	$979M
Total	**$6.835B**

By eliminating the growth in localities Medicaid costs, the State has statutorily capped total Statewide County Medicaid expenditures at 2015 levels. All additional county Medicaid costs are funded by the State through State funding as described above. DOH provides annual letters to counties providing weekly contributions. Contributions are deposited directly into State escrow account and used to offset 'total' State share Medicaid funding.

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

3. **Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.**

   Response: The Medicaid payments under this State Plan Amendment are not supplemental payments.

4. **For clinic or outpatient hospital services please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (state owned or operated, non-state government owned or operated, and privately owned or operated). Please provide a current (i.e., applicable to the current rate year) UPL demonstration. Under regulations at 42 CFR 447.272, States are prohibited from setting payment rates for Medicaid inpatient services that exceed a reasonable estimate of the amount that would be paid under Medicare payment principals.**

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

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

   Response: Providers do not receive payments that in the aggregate exceed their reasonable costs of providing services. If any providers received payments that in the

aggregate exceeded their reasonable costs of providing services, the State would recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report.

ACA Assurances:

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

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

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

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

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

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

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

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

Tribal Assurance:

Section 1902(a)(73) of the Social Security Act the Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular ongoing basis from designees of Indian health programs whether operated by the Indian Health Service HIS Tribes or Tribal organizations under the Indian Self Determination and Education Assistance Act ISDEAA or Urban Indian Organizations under the Indian Health Care Improvement Act.

IHCIA Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program CHIP. Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.

a) **Please describe the process the State uses to seek advice on a regular ongoing basis from federally recognized tribes Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments waiver proposals waiver extensions waiver amendments waiver renewals and proposals for demonstration projects prior to submission to CMS.**
b) **Please include information about the frequency inclusiveness and process for seeking such advice.**
c) **Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment when it occurred and who was involved.**

Response: Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 17-0065, and documentation of such is included with this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.