



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Acting Executive Deputy Commissioner

December 28, 2023

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 #23-0103
Non-Institutional Services

Dear Mr. McMillion:

The State requests approval of the enclosed amendment #23-0103 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective October 1, 2023 (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 September 27, 2023, 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

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

1. TRANSMITTAL NUMBER

2 3 — 0 1 0 3

2. STATE

N Y

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

October 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION

§ 1905(a)(9) Clinic Svcs, 1905(a)(2)(A) Outpatient Hospital Svcs

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 10/01/23-09/30/24 \$ 10,470
b. FFY 10/01/24-09/30/25 \$ 10,470

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-B: Pages 2(ao), 3(j.1a), 3(j.2), 3k(1a), 3k(2a),3k(4)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-B: Pages 2(ao), 3(j.1a), 3(j.2), 3k(1a), 3k(2a), 3k(4)

9. SUBJECT OF AMENDMENT

OMH-Licensed Outpatient and Clinic Services 2023 Minimum Wage Increase

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

Amir Bassiri

13. TITLE

Medicaid Director

14. DATE SUBMITTED December 28, 2023

15. RETURN TO

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

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

Appendix I
2023 Title XIX State Plan
Fourth Quarter Amendment
Amended SPA Pages

New York
2(ao)

1905(a)(2)(A) Outpatient Hospital Services

42 C.F.R. § 440.20

Comprehensive Psychiatric Emergency Program (CPEP) hospital outpatient services are reimbursed on a daily basis. A CPEP provider may receive reimbursement for one Triage and Referral visit or one Full Emergency visit service in one calendar day.

Effective ~~April~~ October 1, 2023, statewide fees for Comprehensive Psychiatric Emergency Program Services are available at the following Office of Mental Health website link:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/cpep.xlsx

TN #23-0103

Approval Date

Supersedes TN #23-0068

Effective Date October 1, 2023

New York
3k(1a)

1905(a)(9) Clinic Services

Regional Partial Hospitalization Rates for Freestanding Clinic and Outpatient Hospital
Partial Hospitalization Services

The agency's fee schedule rate was set as of ~~April~~ October 1, 2023, and is effective for services provided on or after that date. All rates are published on the State's website at:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/partial-hospitalization.xlsx

TN #23-0103

Approval Date _____

Supersedes TN #23-0068

Effective Date October 1, 2023

New York
3k(4)

1905(a)(9) Clinic Services

Regional Day Treatment for Children Rates for Outpatient Hospital Services
(Non-State Operated)

Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of OMH Day Treatment Services for Children providers. The agency's fee schedule rate was set as of ~~July~~ October 1, 2023, and is effective for services provided on or after that date. All rates are published on the State's website at:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/day-treatment.xlsx

Reimbursement will include a per-visit payment for the cost of capital, which will be determined by dividing the provider's total allowable capital costs, as reported on the Institutional Cost Report (ICR) for its licensed Mental Health Outpatient Treatment and Rehabilitative Services, Continuing Day Treatment and Day Treatment Services for children, by the sum of the total annual number of visits for all of such services. The per-visit capital payment will be updated annually and will be developed using the costs and visits based on an ICR that is 2-years prior to the rate year. The allowable capital, as reported on the ICR, will also be adjusted prior to the rate add-on development to exclude costs related to statutory exclusions as follows: (1) forty-four percent of the costs of major moveable equipment and (2) staff housing.

TN #23-0103

Approval Date _____

Supersedes TN #23-0076

Effective Date October 1, 2023

Appendix II
2023 Title XIX State Plan
Fourth Quarter Amendment
Summary

SUMMARY
SPA #23-0103

This amendment proposes to revise the State Plan to authorize statutorily enacted minimum wage increases for the following services: Partial Hospitalization, Day Treatment Services for Children, Continuing Day Treatment and, Comprehensive Psychiatric Emergency Program (CPEP) Services.

Appendix III
2023 Title XIX State Plan
Fourth Quarter Amendment
Authorizing Provisions

Authorizing Provisions (23-0103)

New York State Mental Hygiene Laws §7.15

(a) The commissioner shall plan, promote, establish, develop, coordinate, evaluate, and conduct programs and services of prevention, diagnosis, examination, care, treatment, rehabilitation, training, and research for the benefit of the mentally ill. Such programs shall include but not be limited to in-patient, out-patient, partial hospitalization, day care, emergency, rehabilitative, and other appropriate treatments and services. He or she shall take all actions that are necessary, desirable, or proper to implement the purposes of this chapter and to carry out the purposes and objectives of the department within the amounts made available therefor by appropriation, grant, gift, devise, bequest, or allocation from the mental health services fund established under section ninety-seven-f of the state finance law.

(b) The activities described in subdivision (a) of this section may be undertaken in cooperation and agreement with other offices of the department and with other departments or agencies of the state, local or federal government, or with other organizations and individuals.

New York State Mental Hygiene Laws §43.02

(a) Notwithstanding any inconsistent provision of law, payment made by government agencies pursuant to title eleven of article five of the social services law for services provided by any facility licensed by the office of mental health pursuant to article thirty-one of this chapter or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services, as defined in section 1.03 of this chapter, shall be at rates or fees certified by the commissioner of the respective office and approved by the director of the division of the budget, provided, however, the commissioner of mental health shall annually certify such rates or fees which may vary for distinct geographical areas of the state and, provided, further, that rates or fees for service for inpatient psychiatric services or inpatient chemical dependence services, at hospitals otherwise licensed pursuant to article twenty-eight of the public health law shall be established in accordance with section two thousand eight hundred seven of the public health law and, provided, further, that rates or fees for services provided by any facility or program licensed, operated or approved by the office for people with developmental disabilities, shall be certified by the commissioner of health; provided, however, that such methodologies shall be subject to approval by the office for people with developmental disabilities and shall take into account the policies and goals of such office.

(b) Operators of facilities licensed by the office of mental health pursuant to article thirty-one of this chapter, licensed by the office for people with developmental disabilities pursuant to article sixteen of this chapter or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services shall provide to the commissioner of the respective office such financial, statistical and program information as the commissioner may determine

to be necessary. The commissioner of the appropriate office shall have the power to conduct on-site audits of books and records of such facilities.

(c) The commissioner of the office of mental health, the commissioner of the office for people with developmental disabilities and the commissioner of the office of alcoholism and substance abuse services shall adopt rules and regulations to effectuate the provisions of this section. Such rules and regulations shall include, but not be limited to, provisions relating to:

(i) the establishment of a uniform statewide system of reports and audits relating to the quality of care provided, facility utilization and costs of providing services; such a uniform statewide system may provide for appropriate variation in the application of the system to different classes or subclasses of facilities licensed by the office of mental health pursuant to article thirty-one of this chapter or licensed or operated by the office for people with developmental disabilities pursuant to article sixteen of this chapter, or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services; and

(ii) methodologies used in the establishment of the schedules of rates or fees pursuant to this section provided, however, that the commissioner of health shall adopt rules and regulations including methodologies developed by him or her for services provided by any facility or program licensed, operated or approved by the office for people with developmental disabilities; provided, however, that such rules and regulations shall be subject to the approval of the office for people with developmental disabilities and shall take into account the policies and goals of such office.

SECTION 43.01

Fees and rates for department services

Mental Hygiene (MHY) CHAPTER 27, TITLE E, ARTICLE 43

§ 43.01 Fees and rates for department services.

(a) The department shall charge fees for its services to patients and residents, provided, however, that no person shall be denied services because of inability or failure to pay a fee.

(b) The commissioner may establish, at least annually, schedules of rates for inpatient services that reflect the costs of services, care, treatment, maintenance, overhead, and administration which assure maximum recovery of such costs.

In addition, the commissioner may establish, at least annually, schedules of fees for noninpatient services which need not reflect the costs of services, care, treatment, maintenance, overhead, and administration.

(c) The executive budget, as recommended, shall reflect, by individual facility, the costs of services, care, treatment, maintenance, overhead, and administration.

(d) All schedules of fees and rates which are established by the commissioner, shall be subject to the approval of the director of the division of the budget. Immediately upon their approval, copies of all schedules of fees and rates established pursuant to this section shall be forwarded to the chairman of the assembly ways and means committee and the chairman of the senate finance committee.

DEPARTMENT OF MENTAL HYGIENE

OFFICE OF MENTAL HEALTH

AID TO LOCALITIES 2023-24

1 cost of living adjustment, for the period
 2 commencing on April 1, 2023 and ending
 3 March 31, 2024 the commissioner shall not
 4 apply any other cost of living adjustment
 5 for the purpose of establishing rates of
 6 payments, contracts or any other form of
 7 reimbursement. For services and expenses
 8 of the office of mental health to imple-
 9 ment a chapter of the laws of 2023, to
 10 provide funding for a cost of living
 11 adjustment for the purpose of establishing
 12 rates of payments, contracts or any other
 13 form of reimbursement for the period April
 14 1, 2023 through March 31, 2024. Notwith-
 15 standing any other provision of law to the
 16 contrary, and subject to the approval of
 17 the director of the budget, the amounts
 18 appropriated herein may be increased or
 19 decreased by interchange or transfer with-
 20 out limit to any local assistance appro-
 21 priation, and may include advances to
 22 local governments and voluntary agencies,
 23 to accomplish this purpose (36928) 81,018,000 COLA
 24 Notwithstanding any inconsistent provision
 25 of law, funding made available by this
 26 appropriation shall support direct salary
 27 costs and related fringe benefits associ-
 28 ated with any minimum wage increase that
 29 takes effect on or after December 31, min wage
 30 2016, pursuant to section 652 of the labor
 31 law. Organizations eligible for funding
 32 made available by this appropriation shall
 33 be limited to those that are required to
 34 file a consolidated fiscal report with the
 35 office of mental health. Each eligible
 36 organization in receipt of funding made
 37 available by this appropriation shall
 38 submit written certification, in such form
 39 and at such time as the commissioner shall
 40 prescribe, attesting to how such funding
 41 will be or was used for purposes eligible
 42 under this appropriation. Notwithstanding
 43 any inconsistent provision of law, and
 44 subject to the approval of the director of
 45 the budget, the amounts appropriated here-
 46 in may be increased or decreased by inter-
 47 change or transfer without limit to any
 48 local assistance appropriation of the
 49 office of mental health, and may include
 50 advances to organizations authorized to

DEPARTMENT OF MENTAL HYGIENE

OFFICE OF MENTAL HEALTH

AID TO LOCALITIES 2023-24

1 receive such funds to accomplish this
2 purpose (36987) 5,300,000 *MW*

3 Funds appropriated herein shall be used for
4 services and expenses associated with
5 reinvestment for the expansion of state
6 community hubs and voluntary operated *RIV*
7 services for adults and children, includ-
8 ing, but not limited to, expanding crisis
9 and respite beds, home and community based
10 services waiver slots, supported housing,
11 mental health urgent care walk-in centers,
12 mobile engagement teams, first episode
13 psychosis teams, family resource centers,
14 evidence-based family support services,
15 peer-operated recovery centers, suicide
16 prevention services, community forensic
17 and diversion services, tele-psychiatry,
18 transportation services, family concierge
19 services, and adjustments to managed care
20 premiums. The amounts in this appropri-
21 ation shall be deemed to satisfy the fund-
22 ing requirements of section 41.55 of the
23 mental hygiene law.

24 Notwithstanding any other provision of law
25 to the contrary, any of the amounts appro-
26 priated herein may be increased or
27 decreased by interchange or transfer with-
28 out limit, with any appropriation of the
29 office of mental health, with the approval
30 of the director of the budget:

31 For services and expenses associated with
32 reinvestment for the expansion of state
33 community hubs and voluntary operated
34 services for adults and children (37013) ... 119,500,000 *RIV*

35 For services and expenses associated with
36 the provision of education, assessments,
37 training, in-reach, care coordination,
38 supported housing and the services needed
39 by mentally ill residents of adult homes
40 and persons with mental illness who are
41 discharged from adult homes, including,
42 but not limited to, the individuals
43 included in the implementation of the
44 settlement of O'Toole et. al. v. Cuomo
45 provided, however, no funds from this
46 appropriation shall be used to pay for the
47 services of an independent reviewer
48 appointed by such district court (36958) ... 64,500,000 *Adult Homes*
49 For services and expenses associated with
50 the provision of care coordination,

Appendix IV
2023 Title XIX State Plan
Fourth Quarter Amendment
Public Notice

PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for long term care services to comply with Social Services Law, Section 363-a and Public Health Law, Section 201(1)(v). The following changes are proposed:

Long Term Care Services

Effective on or after October 1, 2023, the Department of Health will make necessary updates to the Intermediate Care Facility (ICF/IDD) rate methodology including but not limited to amending the language pertaining to rebasing, budget neutrality, trends, and other changes to align to the recent updates within the OPWDD Comprehensive Waiver Amendment.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative is \$2.5 million.

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 consistent with the New York State enacted budget. The following changes are proposed:

Non-Institutional Services

Effective on or after October 1, 2023, the Department of Health will adjust Medicaid rates of payment by 1.86% statewide for those Mental Health Outpatient Treatment and Rehabilitative Services (MHOTRS) providers licensed by the Office of Mental Health who participate in the OMH Quality Improvement initiative. The existing quality improvement initiative program will be expanded to include hospital-based MHOTRS providers and the quality program will be enhanced

to support expansion of access to mental health services and improved patient outcomes.

The estimated net aggregate increase in gross fee-for-service Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024 is \$10 million.

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.

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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 the enacted New York State budget. The following changes are proposed:

Non-Institutional Services

Effective on or after October 1, 2023, the Department of Health will adjust rates statewide to reflect the impact of New York State Minimum Wage increases for the following services: Assertive Community Treatment, Partial Hospitalization, Mental Health Outpatient Treatment and Rehabilitative Services, Day Treatment Services for Children, Continuing Day Treatment, Personalized Recovery Oriented Services, and Comprehensive Psychiatric Emergency Program (CPEP) Services.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$81,000.

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.

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For further information and to review and comment, please contact:
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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 institutional services methods and standards for setting Medicaid payment rates for Office of People With Developmental Disabilities (OPWDD) Specialty Hospitals. The following changes are proposed:

Institutional Services

Effective on or after October 1, 2023, the Department of Health will make updates to the OPWDD Specialty Hospital rate methodology to facilitate expansion of the voluntary service provider network, and to more accurately reflect provider costs and to ensure the continuation of services.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative is \$19.4 million.

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.

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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 implement coverage and reimbursement changes to NYS Office of Mental Health licensed Personalized Recovery Oriented Services (PROS) to better address the mental health needs of Medicaid beneficiaries. The following changes are proposed:

Non-Institutional Services

Effective on or after October 1, 2023, the New York State Department of Health proposes to amend the State Plan to modernize and simplify the Personalized Recovery Oriented Services (PROS) program to improve access to services and quality of care. The proposed amendment will amend PROS provider qualifications and service definitions and add new services.

The proposed amendment will also amend the reimbursement methodology for PROS to reduce the number of the base rate tiers from five to three and remove program participation time from the definition of service units.

There is no estimated change in gross Medicaid expenditures as a result of this 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.

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PUBLIC NOTICE

Department of Health

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

Appendix V
2023 Title XIX State Plan
Fourth Quarter Amendment
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #23-0103

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.

Payment Type	Non-Federal Share Funding	4/1/23 – 3/31/24	
		Non-Federal	Gross
Normal Per Diem	General Fund; County Contribution	\$50.6M	\$101.2M

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 percent 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	\$5.200B
Suffolk County	\$226M
Nassau County	\$217M
Westchester County	\$204M
Erie County	\$194M
Rest of State (53 Counties)	\$1.187B
Total	\$7.228B

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 authorized under this State Plan Amendment are not supplemental payments.

- 4. For both clinic and 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.**

Outpatient Response: The outpatient UPL demonstration utilizes a cost-to-payment methodology to estimate the upper payment limit for each class of providers. The Medicaid payments under this State Plan Amendment will be included in the 2023 outpatient UPL when it is submitted to CMS.

Clinic Response: The clinic UPL demonstration utilizes cost-to-payment methodology to estimate the upper payment limit for each class of providers. The Medicaid payments under this State Plan Amendment were included in the 2023 clinic UPL submitted to CMS on July 24, 2023.

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.