



Department of Health

KATHY HOCHUL
Governor

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

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

September 26, 2024

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 #24-0064
Non-Institutional Services

Dear Director McMillion:

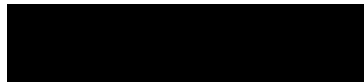
The State requests approval of the enclosed amendment #24-0064 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective July 1, 2024 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

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

A copy of pertinent sections of enacted legislation is enclosed for your information (Appendix III). Copies of the public notice of this plan amendment, which were given in the New York State Register on June 26, 2024, and subsequently clarified on September 25, 2024, are also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

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

Sincerely,



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 4 — 0 0 6 4 2. STATE NY

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
July 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION
§ 1905(a)(7); 1905(a)(18); 1905(a)(22)

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 07/01/24-09/30/24 \$ 9,750,000
b. FFY 10/01/24-09/30/25 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-B: Page A(7.12)

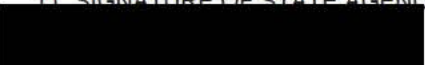
8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

New Page(s)

9. SUBJECT OF AMENDMENT

ALP, ADHC, and Hospice One-Time Funding Increase

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

11. SIGNATURE OF STATE AGENCY OFFICIAL


12. TYPED NAME
Amir Bassiri

13. TITLE
Medicaid Director

14. DATE SUBMITTED September 26, 2024

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
2024 Title XIX State Plan
Third Quarter Amendment
Amended SPA Pages

New York
A (7.12)

1905(a)(7) Home Health Services, 1905(a)(18) Hospice Care, 1905(a)(22) Home or Community Care

For the period beginning July 1, 2024 and ending March 31, 2025, a one-time across-the-board (ATB) increase will be provided to non-institutional long term care providers, increasing overall Medicaid reimbursement by up to \$19.5 million.

- a. Programs to receive funding as a part of this increase include:
 - i. Assisted Living Programs
 - ii. Adult Day Health Care Facilities
 - iii. Hospice Programs
- b. In order to fully distribute the available funding, one-time lump sum payments will be made to each facility. The lump sum payment per facility will be calculated as follows:
 - i. Divide the available amount of the ATB increase by the total of all facility patient days for the most recent reported calendar year (2022). This will result in an ATB increase per patient day.
 - ii. Then, take the ATB increase per patient day and multiply it by each facility's patient days.

TN #24-0064

Approval Date _____

Supersedes TN NEW

Effective Date July 1, 2024

Appendix II
2024 Title XIX State Plan
Third Quarter Amendment
Summary

SUMMARY
SPA #24-0064

This State Plan Amendment proposes to provide a one time across the board funding increase of up \$19.5 million to Assisted Living Programs (ALPS), Adult Day Health Centers (ADHC) and Hospice providers for the period July 1, 2024 to March 31, 2025.

Appendix III
2024 Title XIX State Plan
Third Quarter Amendment
Authorizing Provisions

Authorizing Provisions

Chapter 57 of the Laws of 2024

Part NN

§ 2. Section 1-a of part I of chapter 57 of the laws of 2022 providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, as added by section 7 of part I of chapter 57 of the laws of 2023, is amended to read as follows:

§ ~~1-a~~ 1-b. Notwithstanding any provision of law to the contrary, for the state fiscal years beginning April 1, 2023, and thereafter, Medicaid payments made for the operating component of residential health care facilities services shall be subject to a uniform rate increase of 6.5 percent in addition to the increase contained in subdivision 1 of section 1 of this part, subject to the approval of the commissioner of the department of health and the director of the division of the budget; provided, however, that such Medicaid payments shall be subject to a uniform rate increase of up to 7.5 percent in addition to the increase contained in subdivision 1 of section 1 of this part contingent upon approval of the commissioner of the department of health, the director of the division of the budget, and the Centers for Medicare and Medicaid Services. Notwithstanding any provision of law to the contrary, for the period April 1, 2024 through March 31, 2025 Medicaid payments made for nursing home services shall be increased by an aggregate amount of up to \$285,000,000 in addition to the increase contained in sections one and one-c of this act subject to the approval of the commissioner of health and the director of the budget. Such rate [~~increase~~] increases shall be subject to federal financial participation.

§ 3. Section 1-b of part I of chapter 57 of the laws of 2022 providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, as added by section 7 of part I of chapter 57 of the laws of 2023, is amended to read as follows:

§ ~~1-b~~ 1-c. Notwithstanding any provision of law to the contrary, for the state fiscal years beginning April 1, 2023, and thereafter, Medicaid payments made for the operating component of assisted living programs as defined by paragraph (a) of subdivision one of section 461-1 of the social services law shall be subject to a uniform rate increase of 6.5 percent in addition to the increase contained in section one of this part, subject to the approval of the commissioner of the department of health and the director of division of the budget. Notwithstanding any provision of law to the contrary, for the period April 1, 2024 through March 31, 2025, Medicaid payments for assisted living programs shall be increased by up to \$15,000,000 in addition to the increase contained in this section subject to the approval of the commissioner of health and the director of the budget. Such rate [~~increase~~] increases shall be subject to federal financial participation.

§ 4. Part I of chapter 57 of the laws of 2022 providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, is amended by adding a new section 1-d to read as follows:

§ 1-d. Such increases as added by the chapter of the laws of 2024 that added this section may take the form of increased rates of payment in Medicaid fee-for-service and/or Medicaid managed care, lump sum payments, or state directed payments under 42 CFR 438.6(c). Such rate increases shall be subject to federal financial participation.

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2024.

Appendix IV
2024 Title XIX State Plan
Third Quarter Amendment
Public Notice

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

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

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

PUBLIC NOTICE

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 July 2024 will be conducted on July 17 and July 18 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. 1, 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 long term care services to comply with the 2024-2025 enacted budget. The following changes are proposed:

Long Term Care Services

Effective on or after July 1, 2024, this proposal would provide a one-time increase in funding associated with reimbursement of residential health care facilities.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is \$282.5 million.

Non Institutional Services

Effective on or after July 1, 2024, this proposal would provide a one-time increase in funding associated with reimbursement of Assisted Living Programs (ALPs).

The estimated net aggregate increase in gross Medicaid expendi-

tures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is \$15 million.

Effective on or after July 1, 2024, this proposal would provide a one-time increase in funding associated with reimbursement of Adult Day Health Centers (ADHCs).

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is \$2 million.

Effective on or after July 1, 2024, this proposal would provide a one-time increase in funding associated with reimbursement of Hospice programs.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is \$500,000.

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 services to revise provisions of the Ambulatory Patient Group (APG) reimbursement method-

ology in accordance with the Public Health Law § 2807(2-a)(e). The following changes are proposed:

Non-Institutional Services

Effective on or after July 1, 2024, the Ambulatory Patient Group (APG) reimbursement methodology is revised to include recalculated weight and component updates in order to update reimbursement for APG payments.

The estimated annual aggregate increase in gross Medicaid expenditures as a result of this proposed amendment is \$597,564.

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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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 sections 7.15, 43.01 and 43.02 of the New York State Mental Hygiene Law. The following changes are proposed:

Non-Institutional Services

Effective on or after July 1, 2024, the Department of Health will amend the New York State Plan to establish Medical Assistance coverage and rates of payment for Critical Time Intervention (CTI) services provided by providers licensed by the New York State Office of Mental Health. CTI services are time-limited interventions to assist individuals during the transition from inpatient psychiatric hospital, emergency, and crisis services or other institutional or incarceration settings.

The estimated annual net aggregate increase in gross Medicaid expenditures attributed to this initiative is \$33 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:

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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 institutional services methods and standards for setting Medicaid payment rates for Office of People With Developmental Disabilities (OPWDD) Specialty Hospitals pursuant to Mental Hygiene Law 43.02(a). The following changes are proposed:

Institutional Services

Effective on or after July 1, 2024, the operating reimbursement for OPWDD Specialty Hospitals will be updated to recognize differences in provider cost structure associated with service capacity.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative for state fiscal year 2024-2025 is \$6.1 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:

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Bronx, New York 10457

Richmond County, Richmond Center

The medical practitioner would never be reimbursed lower than either the SMAC or for drugs that do not have a SMAC, the wholesale acquisition cost of the drug based on package size.

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.

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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 long term care and non-institutional services to comply with the 2024-2025 enacted budget. The following changes are proposed:

Long Term Care Services

The following is a clarification to the June 26, 2024, noticed provision to provide a one-time increase in funding associated with reimbursement of residential health care facilities.

With clarification, the estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is now \$280.5 million.

Non-Institutional Services

The following is a clarification to the June 26, 2024, noticed provision to provide a one-time increase in funding associated with reimbursement of Adult Day Health Centers (ADHCs).

With clarification, the estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is now \$4.0 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:

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

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

PUBLIC NOTICE

Department of State

F-2024-0258

Date of Issuance – September 25, 2024

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

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2024-0258, the applicant, Suffolk County Department of Public Works, is proposing maintenance dredging of a 1,625' long x 40' wide and variable channel (133,500 sqft total) to a depth of 6' below mean low water. Approx 10,500 CY of material to be hydraulically dredged and placed via dredge pipeline into an existing upland disposal area west of Swan River. This project is located in Corey Creek, Town of Brookhaven, Suffolk County, south of Middle Road and west of Corey Avenue.

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2024/09/f-2024-0258.pdf> or at <https://dos.ny.gov/public-notices>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Great South Bay-East Significant Coastal Fish and Wildlife Habitat:

https://dos.ny.gov/system/files/documents/2020/03/great_south_bay_east.pdf

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

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or October 10, 2024.

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

Appendix V
2024 Title XIX State Plan
Third Quarter Amendment
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #24-0064

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 | 4/1/24 – 3/31/25 | |
|--------------|---------------------------|------------------|---------|
| | | Non-Federal | Gross |
| Supplemental | General Fund | \$9.75M | \$19.5M |

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.

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 supplemental payments and total \$19.5 million for State Fiscal Year 2024-25.

| | Private | State Government | Non-State1.1 Government | 4/1/24-3/31/25 Total |
|--------------|---------|------------------|-------------------------|----------------------|
| Supplemental | \$18.3M | \$0.1M | \$1.1M | \$19.5M |

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.