



Department of Health

KATHY HOCHUL
Governor

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

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

September 27, 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 #24-0069
Non-Institutional Services

Dear Director McMillion:

The State requests approval of the enclosed amendment #24-0069 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). A copy of the public notice of this plan amendment, which was given in the New York State Register on June 12, 2024, is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions and the standard access questions are also enclosed (Appendix V and VI, respectively).

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 9

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

July 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION

§ 1905(a)(22) Home or Community Care

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a FFY 07/01/24-09/30/24 \$ (16,667)

b FFY 10/01/24-09/30/25 \$ (66,667)

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment: 4.19-B: Page 7(a)(ii)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment: 4.19-B: Page 7(a)(ii)

9. SUBJECT OF AMENDMENT

Adult Day Health Care 10% Capital Reduction

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

[Redacted Signature]

12. TYPED NAME

Amir Bassiri

13. TITLE

Medicaid Director

14. DATE SUBMITTED

September 27, 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
7(a)(ii)**

1905(a)(22) Home or Community Care

For rates of payment effective for adult day health care services provided on and after January 1, 2009 through March 31, 2009, the otherwise applicable final trend factor attributable to the 2008 calendar year period will be adjusted such that any increase to the average trend factor for the period April 1, 2008 through December 31, 2008 will be reduced, on an annualized basis, by 1.3%. However, no retroactive adjustment to such trend factor will be made for the period April 1, 2008 through December 31, 2008. Effective on and after April 1, 2009, the otherwise applicable final trend factor attributable to the 2008 calendar year period will be zero.

For rates of payment effective for adult day health care services provided on and after January 1, 2009 through March 31, 2009, a trend factor equal to the otherwise applicable trend factor attributable to the period January 1, 2009 through December 31, 2009, less 1% will be applied. Effective on and after April 1, 2009 the otherwise applicable trend factor attributable to the 2009 calendar year period will be zero.

For rates of payment effective for services provided on and after January 1, 2010 through March 31, 2010, the otherwise applicable final trend factor attributable to the 2010 calendar year period will be zero.

For rates of payment effective for adult day health care services provided on and after April 1, 2010, the otherwise applicable trend factor attributable to the 2010 calendar year period will be zero.

For rates of payment effective for adult day health care services provided on and after April 1, 2011, the otherwise applicable trend factors attributable to the 2011 through 2014 calendar year periods will be no greater than zero. For such rates effective for the period January 1, 2015 through March 31, 2015 and for the period April 23, 2015 through December 31, 2015 otherwise applicable trend factors attributable to the 2015 calendar year period will be no greater than zero. For rates of payment effective for adult day health care services provided on and after January 1, 2016 through March 31, 2017 and for the period April 1, 2017 through December 31, 2017, the otherwise applicable trend factor attributable to the 2016 and 2017 calendar year periods will be zero. For rates of payment effective for adult day health care services provided on and after January 1, 2018 through March 31, 2019 and for the period April 1, 2019 through December 31, 2019, the otherwise applicable trend factor attributable to the 2018 and 2019 calendar year periods will be zero. For rates of payment effective for adult day health care services provided on and after January 1, 2020, the otherwise applicable trend factor will be zero.

Effective on April 2, 2020, the capital component of the Medicaid rate will be adjusted to eliminate reimbursement for residual equity payments and reduce capital reimbursement by 5% for all Adult Day Health Care Facilities.

Effective on July 1, 2024, the capital component of the Medicaid rate will be adjusted to reduce capital reimbursement by 10% for all Adult Day Health Care Facilities. This is in addition to all existing rate add-ons and reductions.

TN #24-0069

Approval Date _____

Supersedes TN #20-0049

Effective Date July 1, 2024

Appendix II
2024 Title XIX State Plan
Third Quarter Amendment
Summary

SUMMARY
SPA #24-0069

This State Plan Amendment proposes to reduce the capital component of the Medicaid rates for all Adult Day Health Care facilities by 10%.

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

6 § 2. Subparagraph (iv) of paragraph (b) of subdivision 2-b of section
7 2808 of the public health law, as amended by section 1 of part NN of
8 chapter 56 of the laws of 2020, is amended to read as follows:

9 (iv) The capital cost component of rates on and after January first,
10 two thousand nine shall: (A) fully reflect the cost of local property
11 taxes and payments made in lieu of local property taxes, as reported in
12 each facility's cost report submitted for the year two years prior to
13 the rate year; (B) provided, however, notwithstanding any inconsistent
14 provision of this article, commencing April first, two thousand twenty
15 for rates of payment for patients eligible for payments made by state
16 governmental agencies, the capital cost component determined in accord-
17 ance with this subparagraph and inclusive of any shared savings for
18 eligible facilities that elect to refinance their mortgage loans pursu-
19 ant to paragraph (d) of subdivision two-a of this section, shall be
20 reduced by the commissioner by five percent; and (C) provided, however,
21 notwithstanding any inconsistent provision of this article, commencing
22 April first, two thousand twenty-four for rates of payment for patients
23 eligible for payments made by state governmental agencies, the capital
24 cost component determined in accordance with this subparagraph and
25 inclusive of any shared savings for eligible facilities that elect to
26 refinance their mortgage loans pursuant to paragraph (d) of subdivision
27 two-a of this section, shall be reduced by the commissioner by an addi-
28 tional ten percent, provided, however, that such reduction shall not
29 apply to rates of payment for patients in pediatric residential health
30 care facilities as defined in paragraph (c) of subdivision two of
31 section twenty-eight hundred eight-e of this article.

21 § 5. This act shall take effect immediately and shall be deemed to
22 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 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 section 1, Subparagraph (iv) of paragraph (b) of subdivision 2-b of section 2808 of the Public Health Law, as amended by section 2 of Part E of Chapter 57 of the laws of 2024. The following changes are proposed:

Non-Institutional Services

Effective on or after July 1, 2024, and each SFY thereafter, this proposal would reduce funding associated with Adult Day Health Care capital reimbursement by an additional 10 percent.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is (\$100,000).

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 State F-2024-0228

Date of Issuance – June 12, 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-2024-0228, River Road Solar A LLC and River Road Solar B LLC are proposing the development of a 10 MW-ac ground mount, fixed tilt, community solar PV array located on a portion of a 91.4-acre parcel. Actions required for the development of this Project include minor permanent impacts to a federally jurisdictional stream for a necessary culvert replacement and filling and grading to widen the existing gravel access road to accommodate construction vehicle access and emergency vehicle access to the project area.

This project is located along River Road in the Town of Bethlehem, Albany County, Tributary to the Hudson River.

The stated purpose of the proposed action is to “[develop a] solar array to meet renewable energy demands and New York State goals for renewable energy.”

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2024/6/f-2024-0228a.pdf>, <https://dos.ny.gov/system/files/documents/2024/6/f-2024-0228b.pdf>, <https://dos.ny.gov/system/files/documents/2024/6/f-2024-0228c.pdf>, <https://dos.ny.gov/system/files/documents/2024/6/f-2024-0228d.pdf> or at <https://dos.ny.gov/public-notices>

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

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or July 12, 2024.

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

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

PUBLIC NOTICE

Department of State
F-2024-0287

Date of Issuance – June 12, 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-2024-0287, Nassau County DPW is proposing to upgrade the drainage system of Bayville and Adams Avenues with larger diameter pipes or box culverts. Excavate 740 SF of channel (65cys) and plant with wetland vegetation. Bound the west and east sides of proposed channel with two 33LF runs of cantilevered steel bulkhead, placing stone at existing revetment on shoreline above MHW at the road ending of Adams Avenue, in the Village of Bayville, Nassau County, Mill Neck Creek.

The stated purpose of the proposed action: To mitigate flooding through the maintenance construction of storm drainage improvements, increasing both capacity and providing water quality facilities.

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2024/06/f-2024-0287.pdf> or at <https://dos.ny.gov/public-notices>

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

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or July 12, 2024.

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

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

PUBLIC NOTICE

Department of State
F-2024-0288

Date of Issuance – June 12, 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-2024-0288, the Palisades Interstate Park Commission is proposing various amenities/improvements at Sojourner Truth State Park (STSP). The park is located within the City of Kingston and Town of Ulster in Ulster County. The proposed amenities include general access roads, trails and building as well as additional facilities located in five focus areas in the park and include:

Entrances and Roads

- An entrance is proposed on the east side of Route 32, continuing east into STSP along a currently gravel and rocky unimproved access road. This entrance would continue to the Main Street/First Avenue entrance.
- An emergency vehicle access road to connect into Quarry Lake west of First Avenue.
- A vehicular road extending south from the entrance road east of First Avenue to a parking area east of First Avenue opposite the emergency road to Quarry Lake.
- The North Trail Entrance located at John Street near the Empire State Trail.
- The Southern entrance would provide connection into the Site at the Empire State Trail at the boundary with Hutton Brickyards to the south.
- A road to the north from Sojourner Truth Way, connecting to Main Street.
- Parking areas are proposed: a) at John Street near the northern entrance and the kayak launch; b) on the east side of Main Street opposite Quarry Lake; c) along Sojourner Truth Way; d) at an existing informal parking area north of the Commons (Focus Area 3); and 4) at the southern gateway entrance on North Street.
- Additional roadway improvements are proposed to facilitate these entrances, including an upgrade through signalization at the intersection of Frank Sottile Boulevard and Route 32 north of the western entrance and an upgrade through signalization at the intersection of Route 9W and Route 32.

Administration, Maintenance and Operation:

- A Service Drive to Main Street, with connection on the southeast end with Sojourner Truth Way east of Main Street/First Avenue.
 - Three single story buildings are proposed including a Maintenance Center, an Administration Building and a smaller Salt Storage Shed.
 - A year-round rest room is proposed at this location served by a septic system. Municipal water will be provided from the City of Kingston.
 - Staff Parking and Staff and Visitor Parking are provided.
- Shultz Brickyard: This Focus Area is in the northeast corner of STSP
- Parking and arrival area, accessible path to launch, and the Shultz Chimney.
 - West of the Empire State Trail is the existing Shultz Mule Barn, which is currently being stabilized and may have future potential upgrades including a storytelling circle and a future bathroom, served by a septic system. Municipal water will be provided from the Town of Ulster.
 - Further south is a solar array, fishing post and swings, and path to the Scenic Hudson Barge Dock.

West Quarry Lakes: This Focus Area is located west of Main Street/First Avenue

- Activities proposed include swimming in Quarry Lake, the Poplar Pool Overlook, gathering areas, water stations and restrooms and showers. This will be served by a sanitary force main from the City of Kingston. Municipal water will be provided from the City of Kingston.
- A trail is proposed along the west side of Quarry Lake.
- Wetland restoration is proposed within Wetland G.
- A swimming pavilion.

The Commons: This Focus Area is east of Main Street and found at the eastern limit of Sojourner Truth Way.

- Activities include The Kingston Commons, Cement Industry, Commons Meadows, Remnant Ramble, The Shed, Event Ground and Plug+Play Flex/Pop Up area.
- A three-season restroom/pavilion, served by a septic system. Municipal water will be from the City of Kingston.

Steep Rocks Trail: This Focus Area is south of The Commons

- 0.7-mile accessible trail to Steep Rocks and includes an Overlook, and Arrival Area.

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

NON-INSTITUTIONAL SERVICES
State Plan Amendment #24-0069

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
Normal Per Diem	General Fund; County Contribution	\$4.331B	\$8.662B

- 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	\$5.210B
Suffolk County	\$243M
Nassau County	\$231M
Westchester County	\$215M
Erie County	\$205M
Rest of State (53 Counties)	\$1.260B
Total	\$7.364B

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.

Appendix VI
2024 Title XIX State Plan
Third Quarter Amendment
Responses to Standard Access Questions

APPENDIX VI
NON-INSTITUTIONAL SERVICES
State Plan Amendment # 24-0069

CMS Standard Access Questions

The following questions have been asked by CMS and are answered by the State in relation to all payments made to all providers under Attachment 4.19-B of the state plan.

- 1. Specifically, how did the State determine that the Medicaid provider payments that will result from the change in this amendment are sufficient to comply with the requirements of 1902(a)(30)?**

Response: This amendment seeks to reduce capital reimbursement by 10% for all Adult Day Health Care facilities. Although these actions will cause a reduction in reimbursement, it is being uniformly applied and it is not expected to result in major impacts to the payments made for provision of services. Home and Community Care providers are required to meet licensure and certification requirements to ensure providers are qualified to deliver services to Medicaid patients. These requirements, as well as other methods and procedures the state has to assure efficiency, economy and quality of care are not impacted in anyway by the amendment. Secondly, all licensed Home and Community Care providers currently participate in the New York's Medicaid program and are located across the state so that Medicaid recipients in any geographic area have access to services that are available to the general population in those communities.

- 2. How does the State intend to monitor the impact of the new rates and implement a remedy should rates be insufficient to guarantee required access levels?**

Response: The State has various ways to ensure that access levels in the Medicaid program are retained and is currently not aware of any access issues. The State monitors and considers requests in the context of access as they approve/deny changes in services. Finally, providers cannot discriminate based on source of payment.

For providers that are not subject to an approval process, the State will continue to monitor provider complaint hotlines to identify geographic areas of concern and/or service type needs. If Medicaid beneficiaries begin to encounter access issues, the Department would expect to see a marked increase in complaints. These complaints will be identified and analyzed in light of the changes proposed in this State Plan Amendment.

Finally, the State ensures that there is sufficient provider capacity for Medicaid Managed Care plans as part of its process to approve managed care rates and plans.

Should sufficient access to services be compromised, the State would be alerted and would take appropriate action to ensure retention of access to such services.

3. How were providers, advocates and beneficiaries engaged in the discussion around rate modifications? What were their concerns and how did the State address these concerns?

Response: This change was enacted by the State Legislature as part of the negotiation of the 2024-25 Budget. The impact of this change was weighed in the context of the overall Budget in the State. The legislative process provides opportunities for all stakeholders to lobby their concerns, objections, or support for various legislative initiatives. In addition, NY published notice in the state register of the proposed policy and did not receive any comment.

4. What action(s) does the State plan to implement after the rate change takes place to counter any decrease to access if the rate decrease is found to prevent sufficient access to care?

Response: Should any essential community provider experience Medicaid or other revenue issues that would prevent access to needed community services, per usual practice, the State would meet with them to explore the situation and discuss possible solutions, if necessary.

5. Is the State modifying anything else in the State Plan which will counterbalance any impact on access that may be caused by the decrease in rates (e.g. increasing scope of services that other provider types may provide or providing care in other settings)?

Response: In the past two years there have been major investments within the Residential Health Care system and Home and Community services. In the 2023-24 Enacted Budget, a 7.5% increase was applied to the operating component of the rates (pending CMS approval – SPA 23-0041). In the current 2024-25 Budget another funding increase for this program area was enacted (SPA pending development).