

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and CHIP Services (CMCS)

DEC 13 2012

Jason A. Helgerson
State Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs
New York State Department of Health
Corning Tower (OCP - 1211) Albany, New York 12237

RE: TN 12-026

Dear Mr. Helgerson:

We have reviewed the proposed amendment to Attachment 4.19-A of your Medicaid State plan submitted under transmittal number (TN) 12-026. Effective July 1, 2012 through June 30, 2013, this amendment will maintain Medicaid inpatient rates at their current levels for services furnished by psychiatric residential treatment facilities (PRTFs). This amendment will also change the timing for implementing the drug carve-out to September 1, 2012.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a), and 1923 of the Social Security Act and the regulations at 42 CFR 447 Subpart C. This is to inform you that New York 12-026 is approved effective July 1, 2012 and I have enclosed the HCFA-179 and the approved plan pages.

If you have any questions, please contact Tom Brady at 518-396-3810 or Rob Weaver at 410-786-5914.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Mann", is written over the typed name.

Cindy Mann
Director, CMCS

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 12-26	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2012	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR § 447.272(a)		7. FEDERAL BUDGET IMPACT: a. FFY 07/01/12-09/30/12 (\$ 409,021) ¹ b. FFY 10/01/12-09/30/13 (\$1,886,079) ²	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-A, Part III: Page 3		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-A, Part III: Page 3	
10. SUBJECT OF AMENDMENT: OMH 2012/13 RTF Continuance of Rate (Freeze) & Revisions to OMH 2011/12 Residential Treatment Facilities (RTF) Drug Carve Out ¹ Includes \$31,250 for 9/1/12-9/30/12 and ² \$375,000 for 10/1/12-9/30/13 attributable to drug carve out. (FMAP = 50%)			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO:	
13. TYPED NAME: Jason A. Helgerson		New York State Department of Health Bureau of HCRA Oper & Financial Analysis 99 Washington Ave – One Commerce Plaza Suite 810 Albany, NY 12210	
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health			
15. DATE SUBMITTED:			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: DEC 13 2012	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: JUL -1 2012		20. SIGNATURE OF REGIONAL OFFICIAL: <i>Thony</i>	
21. TYPED NAME: Penny Thompson		22. TITLE: Deputy Director, CMCS	
23. REMARKS:			

New York

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B. RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN AND YOUTH

Medicaid rates for Residential Treatment Facilities for Children and Youth ("RTFs") are established prospectively, based upon actual costs and patient days as reported on cost reports for the fiscal year two years prior to the rate year. The RTF fiscal year and rate year are for the twelve months July 1 through June 30. Actual patient days are subject to a maximum utilization of 98 percent and a minimum utilization of 95 percent. For the rate years July 1, 1994 through June 30, 1995 and July 1, 1995 through June 30, 1996 the base year for both rate years for the purpose of setting rates will be July 1, 1992 through June 30, 1993.

Effective July 1, 2011 through June 30, 2012, the rate of payment shall be that which was in effect June 30, 2011.

Effective July 1, 2012 through June 30, 2013, the rate of payment shall be that which was in effect June 30, 2011.

Effective [July] September 1, 2012, such rate of payment will be lowered to reflect the removal of pharmaceutical costs, except as provided for in Section 1, below.

1. OPERATING COSTS

Allowable operating costs are subject to the review and approval of the Office of Mental Health, and will exclude eligible pharmaceuticals which will be reimbursed using the Fee-for-Service Program through the Medicaid formulary administered by the New York State Department of Health. Notwithstanding this program change, for those children who are deemed eligible for Medicaid subsequent to admission, and the eligibility is retroactive to date of admission, and who have received clinically documented necessary medications during the entire first 90 days of their stay, the pharmacy will bill the Medicaid formulary for the medications provided to the child beginning on day 91 of the stay. The cost of medications provided to the Medicaid eligible child during the first 90 days of stay will be the responsibility of the RTF and considered an allowable cost in the development of the provider's reimbursement rate for inpatient stays. In determining the allowability of costs, the Office of Mental Health reviews the categories of cost, described below, with consideration given to the special needs of the patient population to be served by the RTF. The categories of costs include:

- (i) Clinical Care. This category of costs includes salaries and fringe benefits for clinical staff.
- (ii) Other than Clinical Care. This category of costs includes the costs associated with administration, maintenance and child support.

Allowable per diem operating costs in the category of clinical care are limited to the lesser of the reported costs or the amount derived from the number of clinical staff approved by the Commissioner multiplied by a standard salary and fringe benefit amount. Clinical services such as dental services, purchased on a contractual basis will be considered allowable and not subject to the clinical standard if the services are not uniformly provided by all RTFs and thus not considered by the Commissioner in the establishment of the approved staffing levels.

TN #12-26 _____

Supersedes TN #11-88 _____

Approval Date DEC 13 2012Effective Date JUL -1 2012

OS Notification**State/Title/Plan Number:** NY-12-26**Type of Action:** SPA Approval**Required Date for State Notification:** Dec 27, 2012**Fiscal Impact:** FY 2011 (\$ 409,021) FFP
FY 2012 (\$1,886,079) FFP**Number of Services Provided by Enhanced Coverage, Benefits or Retained Enrollment:** 0**Number of Potential Newly Eligible People:** 0**Eligibility Simplification:** No**Provider Payment Increase:** No**Delivery System Innovation:** No**Number of People Losing Medicaid Eligibility:** 0**Reduces Benefits:** No**Detail:**

Effective July 1, 2012 through June 30, 2013, this SPA will maintain PRTF rates at the same level that was in effect in the immediate preceding rate year. The amendment will also delay the implementation of the drug carve-out to September 1, 2012. After wards, Medicaid children in PRTFs will continue to have access to needed medications, just that they will now be paid for separately under the pharmacy benefit to capture savings attributable to the drug rebate program. New York has stated it will continue to claim these drug costs as mental health facility services. The State policy is consistent with the recently issued CMS guidance:

http://content.govdelivery.com/attachments/USCMS/2012/11/28/file_attachments/177551/CIB-11-28-12.pdf

In the fiscal impact, the State is estimating the impact of maintaining rate at their currently level for another year, as opposed to applying an adjustment for inflation. This is the second year the State has not provided a price increase.

The Upper Payment Limits for PRTFs are governed by regulations at 447.325 and CMS determined the State's payment rates are in compliance with the limit.

The State provided satisfactory responses to the standard funding questions. The funding for this SPA is from General Appropriations.

While this SPA maintains current payment levels, in doing so, the State considered Medicaid access requirements in section 1902(a)(30). The State did not believe this amendment will have any negative impact on access. The State does not believe any providers will reduce their participation in the program—and they cannot do so without alerting the State if they wished to reduce the number of beds participating in the program or if they wish to discontinue participation completely. The State indicated one provider did discontinue operations in Westchester County, but explained this was due to a lack of referrals and not because of Medicaid payment levels. Subsequently, a new provider signed up with the Medicaid program in Brooklyn maintaining the level of PTRFs at 19.

Other Considerations:

This amendment has not generated significant outside interest. We do not recommend the Secretary contact the governor.

Affordable Care Act Impact – NY assured CMS that:

1. 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. The State does not 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.
3. This State is not a Disaster-Recovery FMAP Adjustment State as defined in ACA
4. This SPA complies with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

No Tribal providers are impacted by this amendment.

CMS Contact: **Rob Weaver/Tom Brady, NIRT 518-396-3810 x109**