NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

December 11, 2012

National Institutional Reimbursement Team
Attention: Mark Cooley
CMS, CMCS
7500 Security Boulevard, M/S S3-14-28
Baltimore, MD 21244-1850

RE: SPA #12-27
Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #12-27 to the Title XIX (Medicaid) State Plan for institutional services to be effective January 1, 2013 (Appendix I). This amendment is being submitted based on recently promulgated regulations and proposes to continue the 2011 rates for the 2013 calendar year for private psychiatric hospitals licensed by the Office of Mental Health. 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 and promote 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.

Copies of pertinent sections of adopted regulations are 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 20, 2012, 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 John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Health Care Financing, at (518) 474-6350.

Sincerely,

Jason A. Helgerson
Medicaid Director
Office of Health Insurance Programs

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL **FOR: HEALTH CARE FINANCING ADMINISTRATION**	1. TRANSMITTAL NUMBER: **12-27**	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 **January 1, 2013**	

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ 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 01/01/13-09/30/13 ($868,352)** **b. FFY 10/01/13-09/30/14 ($1,157,804)**
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: **Attachment 4.19-A, Part III: Page 2**	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: **Attachment 4.19-A, Part III: Page 2**

10. SUBJECT OF AMENDMENT:
OMH – Private Psychiatric Hospital Continuance of Rates (FMAP = 50%)

11. 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:

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO: **New York State Department of Health** **Bureau of HCRA Oper & Financial Analysis** **99 Washington Ave – One Commerce Plaza** **Suite 810** **Albany, NY 12210**
13. TYPED NAME: **Jason A. Helgerson**	
14. TITLE: **Medicaid Director** **Department of Health**	
15. DATE SUBMITTED: December 11, 2012	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED:
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME:	22. TITLE:

23. REMARKS:

Appendix I
2013 Title XIX State Plan
First Quarter Amendment
Hospital Inpatient Services
Amended SPA Pages

In determining allowable operating costs for any base year there is applied a limitation, which is derived from the fiscal year one year prior to the base year, increased by the Medicare inflation factor for hospitals and units excluded from the prospective payment system. Both the base year and the limitation are subject to an administration cost screen. The administration cost screen is derived from the costs in the fiscal year one year prior to the base year (i.e. the same cost year the limitation is derived from), and is the group average cost plus ten percent. Separate administration cost screens are calculated for hospitals greater than 100 beds (group one), and hospitals less than 100 beds (group two). The allowable costs are the lesser of the base year operating costs or the limitation. The allowable operating costs are then increased for inflation to the rate year by the Medicare inflation factor described above, except that the 1996 Medicaid rates will not include an inflation factor for 1996 effective July 1, 1996, and the 2010 Medicaid rates will not include an inflation factor for 2010 effective January 1, 2010. Such inflation factor shall be as determined by the Federal Government each year prior to the effective date of the payment rates calculated herein.

Rates of payment in effect on December 31, 2011, will continue in effect for the periods January 1, 2012 through December 31, 2012[.], and January 1, 2013 through December 31, 2013.

Appeals from rate determinations are heard by the Commissioner. The Commissioner may hear requests for rate revisions which are based on errors in the calculation of the rate or in the data submitted by the facility or based on significant changes in operating costs resulting from changes in services, programs or capital projects approved by the Commissioner in connection with OMH's certificate of need procedures. Revised rates must be certified by the Commissioner and approved by the Director of the Budget.

1. CAPITAL COSTS

To allowable operating costs are added allowable capital costs. Allowable capital costs are determined by the application of the principles developed for determining reasonable cost payments under the Medicare program. Allowable capital costs include an allowance for depreciation and interest. To be allowable, capital expenditures subject to the Office of Mental Health's certificate of need procedures must be reviewed and approved by the Office of Mental Health.

The allowed capital cost component of the budget based rate will be based upon approved annual budgeted costs and approved budgeted patient days retroactively adjusted to actual certified costs divided by the higher of the actual patient days or the approved budgeted patient days.

Transfer of Ownership

In establishing an appropriate allowance for depreciation and for interest on capital indebtedness with respect to an asset of a hospital which has undergone a change of ownership, that the valuation of the asset after such change of ownership shall be the lesser of the allowable acquisition cost of such asset to the owner of record as of July 18, 1984 (or, in the case of an asset not in existence as of such date, the first owner of record of the asset after such date), or the acquisition cost of such asset to the new owner.

Appendix II
2013 Title XIX State Plan
First Quarter Amendment
Hospital Inpatient Services
Summary

SUMMARY
SPA #12-27

This State Plan Amendment proposes to continue the 2011 rates for the 2013 rate year for private psychiatric hospitals licensed by the Office of Mental Health.

Appendix III
2013 Title XIX State Plan
First Quarter Amendment
Hospital Inpatient Services
Authorizing Provisions

dard form contracts (the "Form Contracts") for cooperative, condominium, and home sales prepared by the New York City and New York State Bar Associations by providing that the escrow agent may release funds to the sponsor upon prior written notice to the purchaser unless the purchaser provides timely notice of objection to the release of funds, in which case the escrow agent must retain the funds in escrow until receipt of a further written directive signed by the parties to the purchase agreement or final non-judicial adjudication of the merits of the dispute. This revised language is consistent with the existing practices in the resale market and provides greater protection to purchasers (and sponsors) by allowing them to preserve the status quo by simply putting the escrow agent on notice of the dispute.

Both the original regulations and the Form Contracts give the objecting parties only 10 business days to object to the release of funds. The Department of Law has seen several situations in which purchasers were unaware of the impending release of funds or may even have been misled by ongoing settlement negotiations. For this reason, both the original proposed amendments and the revised proposed amendments require written notice 30 days before the release of escrowed funds.

Jurisdictional Threshold

One commenter noted that the Attorney General should consider retaining the determination function for disputes falling below an unspecified jurisdictional threshold. The Attorney General considered and rejected this alternative, for the reasons explained in the Regulatory Impact Statement, and sees no reason to revisit those conclusions. Simply put, in this regard purchasers of units from sponsors are similarly-situated to purchasers of units at resale and purchasers of private homes, who must resort to other fora to resolve such disputes.

Office of Mental Health

NOTICE OF ADOPTION

Rates of Reimbursement - Hospitals Licensed by the Office of Mental Health

I.D. No. OMH-25-12-00007-A
Filing No. 849
Filing Date: 2012-08-20
Effective Date: 2012-09-05

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 577 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09 and 43.02

Subject: Rates of Reimbursement - Hospitals Licensed by the Office of Mental Health.

Purpose: To continue the 2011 rates paid to freestanding psychiatric hospitals for the 2013 rate year, effective January 1, 2013.

Text or summary was published in the June 20, 2012 issue of the Register, I.D. No. OMH-25-12-00007-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Sue Watson, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: Sue.Watson@omh.ny.gov

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Prior Approval Review for Quality and Appropriateness

I.D. No. OMH-36-12-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend Part 551 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 31.04 and 31.23

Subject: Prior Approval Review for Quality and Appropriateness.

Purpose: To repeal an outdated reference and establish consistency with Federal requirements regarding accessibility standards.

Text of proposed rule: 1. Subdivision (b) of Section 551.11 of Title 14 NYCRR is amended to read as follows:

(b) Projects which include new construction or substantial renovation as defined in section 551.4 of this Part shall meet the following requirements:

(1) the facility shall be designed and constructed to be readily accessible to, and usable by, persons with physical disabilities;

(2) the design of the facility shall meet the most current requirements of the [Uniform Federal Accessibility Standards (41 CFR, part 101-19.6, appendix A)] *applicable sections of the Americans with Disabilities Act and the ADA Standards for Accessible Design (28 CFR parts 35 and 36)*;

(3) all common use space shall be accessible; and

(4) no less than five percent of the facility's occupancy, or at least one bedroom, whichever is greater, shall be accessible.

Text of proposed rule and any required statements and analyses may be obtained from: Sue Watson, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: Sue.Watson@omh.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Consensus Rule Making Determination

This rule making is filed as a Consensus rule on the grounds that its purpose is to make a technical change and comply with non-discretionary statutory requirements.

Part 551 of Title 14 NYCRR establishes the minimum standards necessary for entities seeking an operating certificate from the Office of Mental Health with respect to quality and safety of persons receiving mental health services. On September 15, 2010, the United States Department of Justice published revised regulations for Titles II and III of the Americans with Disabilities Act of 1990 (ADA) in the Federal Register. These regulations adopted revised, enforceable accessibility standards called the 2010 ADA Standards for Accessible Design ("2010 Standards"). Effective March 15, 2012, compliance with the 2010 Standards is required for new construction and alterations to existing structures. Use of the "Uniform Federal Accessibility Standards" is no longer allowable. This consensus rule making is needed to repeal the outdated reference in Part 551 and establish consistency with Federal requirements.

Statutory Authority: Section 31.04 of the Mental Hygiene Law grants the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction and to establish procedures for the issuance and amendment of operating certificates. Section 31.23 of the Mental Hygiene Law establishes the criteria for the approval of facility programs, services and sites.

Job Impact Statement

A Job Impact Statement is not submitted with this notice because it is evident from the subject matter of the rule making that there will be no impact upon jobs and employment opportunities. The rule making merely corrects an inaccurate reference in existing regulations and provides consistency with Federal requirements regarding accessibility standards for new construction and alterations of existing structures.

Real Estate Finance Bureau; (2) reflects that the New York State Insurance Department and New York State Banking Department are now the New York State Department of Financial Services; (3) makes capitalization and singular vs. plural of certain terms consistent; (4) updates all references to limits on deposit insurance by the Federal Deposit Insurance Corporation to reflect the fact that those limits are no longer $100,000; and (5) replaces reference to submission of "six" copies of certain documents with a requirement to submit "three" copies, consistent with current Department of Law practice.

Text of proposed rule and any required statements and analyses may be obtained from: Lewis A. Polishook, Chief Counsel for Real Estate Finance, New York State Department of Law, 120 Broadway, 23rd Floor, New York, New York 10271, (212) 416-8372, email: lewis.polishook@ag.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Consensus Rule Making Determination

No person is likely to object to the proposed rule as written. The proposed makes the following minor changes: (1) corrects the name and address of the New York State Department of Law's Real Estate Finance Bureau; (2) reflects that the New York State Insurance Department and New York State Banking Department are now the New York State Department of Financial Services; (3) makes capitalization of certain terms and singular vs. plural consistent; (4) updates all references to limits on deposit insurance by the Federal Deposit Insurance Corporation to reflect the fact that those limits are no longer $100,000; and (5) replaces reference to submission of "six" copies of certain documents with a requirement to submit "three" copies, consistent with current Department of Law practice.

Job Impact Statement

1. Nature of impact. The proposed regulations will have no impact on jobs and/or employment opportunities, as it merely corrects name and address information for the Real Estate Finance Bureau of the New York State Department of Law (the ''Department'') and other agencies, corrects the use of capital letters and singular vs. plural, and updates the Department's disclosure requirements to reflect that the limits for federal deposit insurance have not been $100,000 for several years.

2. Categories and numbers affected. None.

3. Regions of adverse impact. The proposed amendments will have no adverse impact on any region of the State.

4. Minimizing adverse impact. The proposed amendments will have absolutely no job impact, so there is no way to minimize any adverse impact.

5. Self employment opportunities. The proposed amendments will have no adverse impact on self-employment opportunities.

Office of Mental Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Rates of Reimbursement - Hospitals Licensed by the Office of Mental Health

I.D. No. OMH-25-12-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend Part 577 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09 and 43.02

Subject: Rates of Reimbursement - Hospitals Licensed by the Office of Mental Health.

Purpose: To continue the 2011 rates paid to freestanding psychiatric hospitals for the 2013 rate year, effective January 1, 2013.

Text of proposed rule: Subdivision (a) of Section 577.7 of Title 14 NYCRR is amended to read as follows:

(a) Payment rates shall be established on a prospective basis effective January 1, 1992 and each January 1st thereafter, except that the rate of payment effective January 1, 2012 through December 31, 2012, *and January 1, 2013 through December 31, 2013,* shall be a continuance of the rate of payment effective December 31, 2011, and shall be provisional pending the completion of an audit in accordance with section 577.6 of this Part.

Text of proposed rule and any required statements and analyses may be obtained from: Sue Watson, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: Sue.Watson@omh.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Consensus Rule Making Determination

This rule making is filed as a Consensus rule on the grounds that its purpose is to conform to non-discretionary statutory requirements.

Chapter 53 of the Laws of 2012 includes a series of programmatic changes and cost-containment measures that are expected to generate savings in fiscal year 2012-2013 and restrain growth in future years. The 2012-2013 enacted State Budget prohibits any cost of living adjustments for the purpose of establishing rates of payment, contracts or any other form of reimbursement for mental health providers. This proposed rule ensures consistency with the enacted State Budget by amending 14 NCYRR Part 577 by freezing rates paid to freestanding psychiatric hospitals that are licensed under Article 31 of the Mental Hygiene Law and issued an operating certificate in accordance with 14 NYCRR Part 582. This rate freeze will be effective as of January 1, 2013, and shall continue the rate of payment in effect as of December 31, 2011. This continuation of current rates is consistent with the 2012-2013 enacted State budget and is the result of the serious fiscal condition of the State.

Statutory Authority: Sections 7.09 and 43.02 of the Mental Hygiene Law grant the Commissioner of the Office of Mental Health the authority and responsibility to adopt regulations that are necessary and proper to implement matters under his/her jurisdiction and to establish standards and methods for determining rates of payment made by government agencies pursuant to Title 11 of Article 5 of the Social Services Law for services provided by facilities, including hospitals, licensed by the Office of Mental Health pursuant to Article 31 of the Mental Hygiene Law. All payments by such agencies shall be at rates certified by the Commissioner and approved by the Director of the Budget. Chapter 53 of the Laws of 2012 prohibits the application of any cost of living adjustments for the purpose of establishing rates of payments, contracts or any other form of reimbursement for mental health providers.

Job Impact Statement

A Job Impact Statement is not submitted with this notice because it is evident from the subject matter of the rule making that there will be no impact upon jobs and employment opportunities. The rule is needed to provide consistency with the enacted State budget by freezing rates of payments to freestanding psychiatric hospitals that are licensed under Article 31 of the Mental Hygiene Law and issued an operating certificate in accordance with 14 NYCRR Part 582. The rate freeze will be effective January 1, 2013.

Public Service Commission

NOTICE OF WITHDRAWAL

LIWC Proposed to Retain a Portion of Property Tax Refunds

I.D. No. PSC-51-11-00018-W

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Notice of proposed rule making, I.D. No. PSC-51-11-00018-P, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on December 21, 2011.

Subject: LIWC proposed to retain a portion of property tax refunds.

Reason(s) for withdrawal of the proposed rule: Withdrawn by staff for correction to the amount of property tax refund.

Appendix IV
2013 Title XIX State Plan
First Quarter Amendment
Hospital Inpatient Services
Public Notice

dresses below for a period of thirty (30) days from the date of this notice.

Additionally, the public is invited to sign up for an email list serve which will provide updates throughout the waiver public engagement and application process at http://www.health.ny.gov/health_care/medicaid/redesign/listserv.htm.

For further information, contact: Department of Health, MRT Waiver Team, Office of Health Insurance Programs, OCP-1211, Corning Tower, Albany, NY 12237, e-mail: mrtwaiver@health.state.ny.us

PUBLIC NOTICE

Office of Mental Health

As a result of the 2012-13 Enacted State Budget, the New York State Office of Mental Health hereby gives notice that it is proposing to amend its Medicaid State Plan to reflect the continuation of the 2011 rates for the 2013 rate year for private psychiatric hospitals, effective January 1, 2013.

PUBLIC NOTICE

Department of State

F-2012-0042

Date of Issuance – June 20, 2012

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. The applicant's consistency certification and accompanying public information and data 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.

In F-2012-0042, The Castaways Yacht Club, New Rochelle, NY, is proposing to perform maintenance dredging of the existing marina facility within New Rochelle Creek, with subsequent un-confined and/or confined disposal of approximately 12,400 cubic yards of dredged material at the Western Long Island Sound Disposal Site (WLIS) and/or Central Long Island Sound Disposal Site (CLIS). The WLIS is located within Long Island Sound, approximately 2.8 nautical miles south of Long Neck Point, Noroton, CT and the CLIS is located within Long Island Sound, approximately 5.6 nautical miles south of East Haven, CT.

Any interested parties and/or agencies desiring to express their views concerning 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, by Thursday, July 5, 2012.

Comments should be addressed to the New York State Department of State, Division of Coastal Resources, ATTN: Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Avenue, Albany, New York 12231. Telephone (518) 474-6000; Fax (518) 473-2464. Comments can also be submitted electronically via e-mail at: LINK"mailto:CR@dos.ny.gov"CR@dos.ny.gov.

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

PUBLIC NOTICE

Department of State

A meeting of the NYS Hearing Aid Dispensing Advisory Board will be held on Tuesday, June 26, 2012 at 10:30 a.m. at the New York State Department of State, 99 Washington Avenue, 5th Floor Conference Room, Albany, NY.

Should you require further information, please contact Carol Fansler at Carol.Fanslera@dos.ny.gov or 518-486-3857.

PUBLIC NOTICE

Susquehanna River Basin Commission

Projects Approved for Consumptive Uses of Water

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATE: April 1, 2012, through April 30, 2012.

ADDRESS: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 306; fax: (717) 238-2436; e-mail: rcairo@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR § 806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR § 806.22(f):

1. SWEPI, LP, Pad ID: Shedd 514, ABR-201204001, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: April 11, 2012.

2. Chief Oil & Gas LLC, Pad ID: Leh Drilling Pad #1, ABR-201204002, Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: April 11, 2012.

3. Chief Oil & Gas LLC, Pad ID: Yanavitch Drilling Pad #1, ABR-201204003, Stevens Township, Bradford County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: April 11, 2012.

4. Chief Oil & Gas LLC, Pad ID: D & J Farms Drilling Pad #1, ABR-201204004, Sheshequin Township, Bradford County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: April 11, 2012.

5. EXCO Resources (PA), Inc., Pad ID: Murray Unit Pad, ABR-201204005, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 8.000 mgd; Approval Date: April 11, 2012.

6. Chesapeake Appalachia, LLC, Pad ID: Maurice, ABR-201204006, Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: April 18, 2012.

7. SWEPI, LP, Pad ID: Owlett 843R, ABR-201204007, Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: April 23, 2012.

8. SWEPI, LP, Pad ID: Hepler 235, ABR-201204008, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: April 23, 2012.

9. Chesapeake Appalachia, LLC, Pad ID: Manning, ABR-201204009, Cherry Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: April 23, 2012.

10. EQT Production Co., Pad ID: Phoenix N (ANT6), ABR-201204010, Duncan Township, Tioga County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: April 27, 2012.

11. Chesapeake Appalachia, LLC, Pad ID: Simplex, ABR-201204011, Standing Stone Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: April 27, 2012.

12. Southwestern Energy Production Company, Pad ID: Claytor Pad, ABR-201204012, New Milford and Great Bend Townships, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: April 27, 2012.

13. Southwestern Energy Production Company, Pad ID: Charles Pad, ABR-201204013, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: April 27, 2012.

14. Chesapeake Appalachia, LLC, Pad ID: Freed, ABR-201204014, Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: April 30, 2012.

15. Chesapeake Appalachia, LLC, Pad ID: Reilly, ABR-201204015, Colley Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: April 30, 2012.

16. Southwestern Energy Production Company, Pad ID: Conigliaro Pad, ABR-201204016, New Milford Township, Susquehanna County,

Appendix V
2013 Title XIX State Plan
First Quarter Amendment
Hospital Inpatient Services
Responses to Standard Funding Questions

HOSPITAL SERVICES
State Plan Amendment #12-27

CMS Standard Funding Questions (NIRT Standard Funding Questions)

The following questions are being asked and should be answered in relation to all payments made to all providers under Attachment 4.19-A of your 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: The total annual Medicaid reimbursement for all nine private psychiatric hospitals (PPHs) is approximately $86 million. The entire balance of Medicaid payments that is paid directly to the PPHs is retained by them to support their costs of operations.

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 entire non-Federal share of Medicaid payments for inpatient hospital services under the State plan provided by PPHs is paid by State funds provided by appropriations enacted by the State legislature.

Regarding CMS' inquiry as to the use of certified public expenditures (CPEs) and intergovernmental transfers (IGTs) by the State please note that New York does not utilize CPEs or IGTs to assist in financing any portion of the non-Federal share of Medicaid payments to PPHs.

Regarding CMS' inquiry as to the use of provider taxes by the State please note that New York does not impose any provider taxes to fund the non-Federal share of Medicaid payments to PPHs.

Regarding the State's practices for verifying that expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR §433.51(b), the State Department of Health (DOH) contracts with a fiscal agent, Computer Sciences Corporation (CSC), to process Medicaid claims and make payments to providers. The fiscal agent processes claims and pays providers for services rendered to eligible Medicaid recipients through the EMEDNY System, a computerized payment and information reporting system. All claims are subjected to numerous system edits to help ensure only legitimate services are reimbursed to properly enrolled providers. In addition, both the DOH and the New York State Comptroller's office subject Medicaid claims to both prepayment and post-payment audits to ensure that providers comply with all applicable State and Federal laws and regulations.

In New York State Medicaid payments are issued to providers every Wednesday. CSC provides a weekly summary to the DOH that includes the total Federal, State, and local funding required to support all checks to be released for payment to providers. The DOH arranges for the required funds to be placed in an escrow account until they are needed to pay for the checks presented by providers. All Federal Medicaid matching funds are drawn down by the State in accordance with an agreement between the United States Department of the Treasury and the State as required by the Cash Management Improvement Act of 1990, as amended.

On a quarterly basis CSC provides a report of paid claims to the DOH. The DOH combines that expenditure information with data concerning other Medicaid expenditures made directly by the DOH or other State agencies. The DOH then submits the CMS-64 report to the Department of Health and Human Services, which enables the State to earn the appropriate Federal reimbursement for its certified claims submitted either by providers of service or by State agency representatives. These procedures are followed by the State in order to ensure that Federal Medicaid funds are only used to pay for legitimate Medicaid services.

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: No supplemental or enhanced payments are made for PPH services.

4. **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 hospital inpatient upper payment limit is calculated in accordance with 42 CFR §447.272. The upper payment limit refers to a reasonable estimate of the amount that would be paid for services furnished by the applicable class of providers using Medicare payment principles. Aggregate Medicaid payments to the specific class of providers may not exceed the upper payment limit.

   Based on guidance from CMS, the State and CMS staff will engage in discussions to develop a strategic plan to complete the UPL demonstration for 2012.

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: All providers included in this proposed SPA are either for profit or not-for-profit corporations. This SPA language is not applicable for government providers.

Tribal Assurance:

The State needs to verify it is in compliance with the provisions of Section 5006 of the Recovery Act concerning tribal consultations for the SPA, or an explanation why the provisions did not apply in this instance.

Response: Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 11-06, and documentation of such will be forwarded to CMS. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA

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: This SPA does comply with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

Appendix VI
2013 Title XIX State Plan
First Quarter Amendment
Hospital Inpatient Services
Responses to Standard Access Questions

APPENDIX VI
INPATIENT SERVICES
State Plan Amendment 12-27

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-A 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 slow the growth in the Program's cost while maintaining patient access and quality of care.

   The State Plan for the private psychiatric hospitals established the framework for setting Medicaid rates for hospitals licensed by the Office of Mental Health. In doing so, eligible children, youths and the aged have been and are currently receiving inpatient treatment that they may not have otherwise been afforded.

   The one year rate freeze proposed in this amendment will not have an adverse effect on providers, because the current rate paid to these providers continues to be adequate to ensure access and quality of care. The proposal does not reduce payments from the current level; rather it ensures that program costs will not escalate over the coming year.

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: This amendment does not establish new rates for the services covered. It leaves existing rates in place for a period of one year. The rates in question have heretofore been adequate to ensure access to PPH services.

   The State has various ways to ensure that access levels in the Medicaid program are retained and is currently not aware of any specific access issues. Additionally, hospitals reimbursed pursuant to this amendment must notify and receive approval from the Office of Mental Health (OMH) in order to discontinue services. OMH monitors and considers such requests in the

context of access as they approve/deny changes in services. Finally, providers cannot discriminate based on source of payment.

Further 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, OMH 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 2012-13 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.

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: Over the course of the past three years, the State has undertaken a massive reform initiative to better align reimbursement with care. When fully implemented, the initiative will invest over $600 million in the State's ambulatory care system (outpatient, ambulatory surgery, emergency department, clinic and physicians) to incentivize care in the most appropriate setting. The State has also increased its physician

reimbursement schedule to resemble Medicare payments for similar services, thus ensuring continued access for Medicaid beneficiaries. Further, the State is implementing initiatives that will award $600 million annually, over five years, to providers who promote efficiency and quality care through the Federal-State Health Reform Partnership(F-SHRP)/ NYS Healthcare Efficiency and Affordability Law (HEAL). While some of these initiatives are outside the scope of the State Plan, they represent some of the measures the State is taking to ensure quality care for the State's most vulnerable population.