



# Department of Health

KATHY HOCHUL  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

KRISTIN M. PROUD  
Acting Executive Deputy Commissioner

September 30, 2021

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 #21-0018  
Inpatient Hospital Services

Dear Mr. McMillion:

The State requests approval of the enclosed amendment #21-0018 to the Title XIX (Medicaid) State Plan for inpatient hospital services to be effective August 1, 2021 (Appendix I). This amendment is being submitted based upon enacted legislation. A summary of the proposed amendment is contained in Appendix II.

This amendment is submitted pursuant to §1902(a) of the Social Security Act (42 USC 1396a(a)) and Title 42 of the Code of Federal Regulations (CFR), Part 447, Subpart C.

Notice of the changes in the methods and standards for setting payment rates for general hospital inpatient services were given in the New York State Register on July 14, 2021.

A copy of pertinent sections of enacted legislation is enclosed for your information (Appendix III). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

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

Sincerely,

Brett Friedman  
Acting Medicaid Director  
Office of Health Insurance Programs

Enclosures  
cc: Todd McMillion

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

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

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

7. FEDERAL BUDGET IMPACT

a. FFY \_\_\_\_\_ \$ \_\_\_\_\_

b. FFY \_\_\_\_\_ \$ \_\_\_\_\_

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

10. SUBJECT OF AMENDMENT

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL

16. RETURN TO

13. TYPED NAME

14. TITLE

15. DATE SUBMITTED

September 30, 2021

**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**  
**2021 Title XIX State Plan**  
**Second Quarter Amendment**  
**Amended SPA Pages**

**New York  
117(d)**

8. *Inpatient psychiatric services provided in general hospitals, or distinct units of general hospitals, specializing in such inpatient psychiatric services, for patients admitted on and after October 20, 2010, will be reimbursed on a per diem basis as follows:*
- a. Reimbursement will use the All Patient Refined Diagnostic Related Group (APR-DRG) patient classification system.
  - b. The operating component of the rate will be a statewide price, calculated utilizing 2005 Medicaid fee-for-service (FFS) inpatient costs developed using the ratio of cost to charges approach to determine costs and a regression model to price out various components of the costs to determine cost significance in such components. The components include patient age, rural designation, comorbidities, length of stay, and presence of mental retardation. The costs of these components as developed in the regression model were excluded in developing the statewide price.
    - i. The facility-specific old operating per diem rates were trended to 2010, and for each case, these rates were multiplied by the length of stay (LOS) to calculate the "old payment."
    - ii. Facility-specific 2005 Direct Graduate Medical Education (DGME) costs were divided by 2005 patient days to calculate DGME per diem rates. These rates were then trended to 2010.
    - iii. The 2010 payment rate for Electroconvulsive Therapy (ECT) was established as \$281 (based on the ECT rate in effect for Medicare psychiatric patients during the first half of 2010). This rate was then adjusted by each facility's wage equalization factor (WEF).
    - iv. For each case, the proper DGME payment (DGME rate multiplied by the LOS) and ECT payment (WEF-adjusted ECT rate times the number of ECT treatments) was subtracted from the "old payments" to derive the "old payments subject to risk adjustment."
    - v. For each case, a payment adjustment factor was derived based on the regression model, including the LOS adjustment factor as defined by the new payment methodology.
    - vi. The sum of the old payments subject to risk adjustment from step iv (\$502,341,057), was divided by the sum of payment adjustment factors from step v (\$831,319), which resulted in the statewide per diem rate of \$604.27 as of October 20, 2010.

The current statewide per diem rate of \$642.66 reflects the effect of restoring transition funds back into the statewide price pursuant to the Transition Fund Pool section of this Attachment. Effective October 1, 2018, the statewide price will be increased to \$676.21. Effective August 1, 2021, the statewide fee-for-service price will be increased to \$742.86.

**Appendix II**  
**2021 Title XIX State Plan**  
**Second Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #21-0018**

This State Plan Amendment proposes to increase the fee-for-service reimbursement for Article 28 hospital inpatient psychiatric services to better meet community mental health needs.

**Appendix III**  
**2021 Title XIX State Plan**  
**Second Quarter Amendment**  
**Authorizing Provisions**

Section 2807 – c(4)(e-1) of Public Health Law.

SFY 2021-22 Appropriation: S-2503-C (A3003C): State Operations Appropriation, Medical Assistance Program, pp. 520~528, 537~541.

520

DEPARTMENT OF HEALTH-----

AID TO LOCALITIES 2021-22-----

1	reappropriation for this item covering	
2	fiscal year 2021-22, and (ii) appropri-	
3	ation for this item covering fiscal year	
4	2021-22 set forth in chapter 53 of the	
5	laws of 2020 (26994) .....	180,000,000

6	Program account subtotal.....	1,441,300,000
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10	MEDICAL ASSISTANCE PROGRAM.....	170,725,264,000
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13 General Fund  
 14 Local Assistance Account - 10000

15 For the medical assistance program, includ- ing  
 16 administrative expenses, for local social  
 17 services districts, and for medical  
 18 care rates for authorized child care agen- cies.  
 19 Notwithstanding section 40 of the state finance  
 20 law or any other law to the  
 21 contrary, all medical assistance appropri-  
 22 ations made from this account shall remain  
 23 in full force and effect in accordance, in the  
 24 aggregate, with the following sched-  
 25 ule: not more than 48 percent for the period  
 26 April 1, 2021 to March 31, 2022;  
 27 and the remaining amount for the period 30  
 28 April 1, 2022 to March 31, 2023.

31 Notwithstanding section 40 of the state  
 32 finance law or any provision of law to the  
 33 contrary, subject to federal approval,  
 34 department of health state funds medicaid  
 35 spending, excluding payments for medical  
 36 services provided at state facilities  
 37 operated by the office of mental health, the  
 38 office for people with developmental  
 39 disabilities and the office of addiction  
 40 services and supports and further exclud- ing  
 41 any payments which are not appropri- ated  
 42 within the department of health, in  
 43 the aggregate, for the period April 1,  
 44 2021 through March 31, 2022, shall not  
 45 exceed \$23,531,327,000 except as provided  
 46 below and state share medicaid spending,  
 47 in the aggregate, for the period April 1, 2022  
 48 through March 31, 2023, shall not exceed  
 49 \$25,587,116,000, but in no event shall  
 50 department of health state funds medicaid  
 51 spending for the period April 1,  
 52 2021 through March 31, 2023 exceed  
 53 \$49,118,443,000. Provided, however, such  
 54 aggregate limits may be adjusted by the  
 55 director of the budget to account for any changes



in the New York state federal medical assistance percentage amount established pursuant to the federal social security act, increases in provider revenues, reductions in local social services district payments for medical assistance administration, minimum wage increases,

**Appendix IV**  
**2021 Title XIX State Plan**  
**Second 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](http://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

### New York State Deferred Compensation Board

Pursuant to the provisions of 9 NYCRR, Section 9003.2, authorized by Section 5 of the State Finance Law, the New York State Deferred Compensation Board, beginning Wednesday, July 14 2021, is soliciting proposals from Financial Organizations to provide active international equity investment management and passive international equity investment management services in daily valued, daily liquid collective vehicles such as mutual funds or collective investment trusts. Separate accounts will not be considered. The benchmark for active and passive mandates is expected to be the MSCI ACWI ex-US. Both active and passive portfolios will be offered as investment options under the Deferred Compensation Plan for the Employees of the State of New York and Other Participating Public Jurisdictions, a plan meeting the requirements of Section 457 of the Internal Revenue Code and Section 5 of the State Finance Law, including all rules and regulations issued pursuant thereto. A copy of the request for proposals may be obtained from Callan's website: <https://www.callan.com/rfps>. All proposals must be received no later than the close of business on Wednesday, August 25, 2021. This notice was prepared by Sharon Lukacs, Deputy Director, NYS Deferred Compensation Plan, 1450 Western Avenue, Suite 103, Albany, NY 12203.

## PUBLIC NOTICE

### Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional services to comply with enacted statutory provisions. The following changes are proposed:

#### Institutional Services

Effective for days of service on or after July 15, 2021, The Department of Health will adjust inpatient psychiatric fee-for-service per diem rates of reimbursement for Article 28 exempt psychiatric

hospitals and Article 28 exempt hospital distinct units by increasing the case mix neutral psychiatric statewide per diem base price by 9.86 percent. This State Plan Amendment is necessary to adequately reimburse hospitals for providing these services and better meet the community's mental health needs.

The estimated full annual net aggregate increase in gross Medicaid expenditures attributable to this initiative is \$25,000,000. Funds for this increase are contained in the State budget beginning in state fiscal year 2021/22.

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](http://www.health.ny.gov/regulations/state_plans/status). In addition, approved SPA's beginning in 2011 are also available for viewing on this website.

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

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](mailto:spa_inquiries@health.ny.gov)

## PUBLIC NOTICE

### Department of State

The New York State Real Estate Board will hold an open board meeting on July 22, 2021, at 1:00 p.m. The meeting locations are as follows: Department of State, 99 Washington Avenue, Room 505, Albany; Department of State, 123 William Street, Room 231, New York City; and Department of Labor, 276 Waring Road, Regional Room A, Rochester. The Board will hold a public hearing on general real estate issues immediately following the board meeting at the same locations.

*Should you require further information, please contact:* Denise Tidings at Denise.Tidings@dps.ny.gov or (518) 402-4921

## PUBLIC NOTICE

Department of State  
F-2021-0162

Date of Issuance – July 14, 2021

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 on the New York State Department of State's website at: <https://dos.ny.gov/system/files/documents/2021/06/f-2021-0162.pdf>

In F-2021-0162, or the "Indian Island Wetland Restoration Project", the applicant – Suffolk County Department of Public Works proposes to dredge an old channel between Terry's Creek and the interior of the park. To allow the tidal waters to move beneath the existing gravel roadway, it is proposed to install a 6' x 6' precast concrete box culvert. To establish a natural bottom, the invert of the culvert will be installed 1' below finished grade and filled with 1' of clean fill. The proposed channel will be excavated down to Elevation -1.50 (NGVD29) which is approximately 2 below Mean Low Water. Approximately 5,082 Cubic Yards of soil will be excavated in order to create the proposed channel. Soil sampling was performed at 16 locations throughout the proposed project area. Various contaminants were found within the soil profile that either exceeded unrestricted use or protection of groundwater. It is proposed to deposit the excavated material adjacent to the new channel and create a berm. The top of berm elevation will be 12.80, NGVD29. All of the excavated material will be used to create the berm and no material will leave the site. An additional 2,170 Cubic Yards of select fill will be brought into the site and used to cap the berm and 1,765 Cubic Yards of select fill will be brought into the site to cap the bottom of the proposed channel. The proposed channel will be planted with native wetland species. Approximately 15,000 *Spartina Alterniflora* (Low Marsh Cord Grass) will be planted at 24" on center within the intertidal marsh area (between elevations 0.5 and 2.0). Approximately 50,000 *Spartina Patens* (Meadow Grass) will be planted at 24" on center within the Floodplain/High Marsh Area where shown on the plans. The top of the berm will be stabilized with topsoil and hydroseed. To construct the new wetland and adjacent berm, approximately 130 trees will be removed.

The purpose of the proposed work is to restore/recreate the historically documented high-functioning tidal wetland/salt marsh ecosystem with mixed open water, high marsh habitat, intertidal marsh habitat and open water will increase filtering capacity, enhance the cycling of organic and inorganic nutrients and pollutants, provide tidal flushing among other biological and physiochemical services, and improve water quality conditions in the western Peconic Estuary. The proposed project is located at Indian Island Park in the Town of Riverhead, Suffolk County on Terry's Creek.

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, July 29, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, 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@dps.ny.gov

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

## PUBLIC NOTICE

Department of State  
F-2021-0325

Date of Issuance – July 14, 2021

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 on the New York State Department of State's website at: <https://dos.ny.gov/system/files/documents/2021/06/f-2021-0325a.pdf> and <https://dos.ny.gov/system/files/documents/2021/06/f-2021-0325b.pdf>

In F-2021-0325, or the "Pultneyville Harbor Dredging Project", the applicant – New York State Office of General Services proposes to dredge an area of approximately 1.1 acres total to an elevation of +237.3 feet, IGLD85 (-6.0 feet LWD) plus a 0.5 foot overredge allowance. Dredged material will be placed in an open lake placement area approximately 11 miles east of the dredge area that has been utilized by the USACE during previous maintenance dredging activities and at elevations not to exceed +208.3 feet, IGLD85 (-35 feet, LWD).

The purpose of the proposed work is to dredge the federal navigation channel at Pultneyville to maintain navigation and place dredged material within the USACE Grand Sodus Bay Open Lake Placement Site. The proposed project is located in Pultneyville Harbor in the Town of Williamson, Wayne County on Lake Ontario.

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, July 29, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, 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@dps.ny.gov

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

## PUBLIC NOTICE

Department of State  
F-2021-0451

Date of Issuance – July 14, 2021

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 (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). 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-2021-0451 the applicant, Niagara Mohawk Power Corporation, is proposing to install 1.5" diameter 2.4kV electric submarine cable to extend from the eastern shore of Lake of the Isle from the property of Thomas & Wendy Rider along the natural bottom to the point of land of Michael & Shawna Hayes, approx. 800 feet. This project is located at 19515 Rock Baie Road, Town of Orleans, Jefferson County, St. Lawrence River

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2021/07/f-2021-0451.pdf>

**Appendix V**  
**2021 Title XIX State Plan**  
**Second Quarter Amendment**  
**Responses to Standard Funding Questions**

**HOSPITAL SERVICES**  
**State Plan Amendment #21-0018**

**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 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 do retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular 2 CFR 200 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

- 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:** Payments made to service providers under the provisions of this SPA are funded through a general appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Local Assistance Account under the General Fund/Aid to Localities.

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 payments authorized for this provision are not supplemental or enhanced payments.

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 state and CMS are working toward completing and approval of current year UPL.

- 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:** The rate methodology included in the approved State Plan for institutional services is prospective payment methodology. We are unaware of any requirement under current federal law or regulation that limits individual provider payments to their actual costs.

**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 does comply 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.