



Department
of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Acting Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

December 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 #21-0069
Inpatient Hospital Services

Dear Mr. McMillion:

The State requests approval of the enclosed amendment #21-0069 to the Title XIX (Medicaid) State Plan for inpatient hospital services to be effective December 31, 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 December 29, 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 R. Friedman
Acting 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 <u>2</u> <u>1</u> — <u>0</u> <u>0</u> <u>6</u> <u>9</u>	2. STATE New York
3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) 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
December 31, 2021

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
§ 1905(r)(5) of the Social Security Act and 42 CFR 447

7. FEDERAL BUDGET IMPACT
a. FFY 12/31/21-09/30/22 \$ 6.85
b. FFY 10/01/22-09/30/23 \$ 8.20

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT


Attachment 4.19-A Part III Page: 4(b)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Attachment 4.19-A Part III Page: 4(b)

10. SUBJECT OF AMENDMENT
Minimum Wage- RTF
(FMAP=50%)

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


13. TYPED NAME
Brett R. Friedman

14. TITLE
Acting Medicaid Director, Department of Health

15. DATE SUBMITTED December 30, 2021

16. 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 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
Fourth Quarter Amendment
Amended SPA Pages

**New York
4(b)**

Adjustment for Minimum Wage Increases - Effective January 1, 2017, and every January 1, thereafter until the minimum wage reaches the state statutorily described per hour wage as shown below, a minimum wage add-on will be developed and applied to all residential treatment facility rates.

Minimum Wage (MW) Region	12/31/20 16	12/31/20 17	12/31/20 18	12/31/20 19	12/31/20 20	12/31/20 21
New York City	\$11.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00
Nassau, Suffolk, & Westchester counties	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00
Remainder of the State	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	[\$12.50] \$13.20

The minimum wage adjustment will be developed and implemented as follows:

1. Minimum wage costs will mean the additional costs incurred beginning January 1, 2017 and thereafter, as a result of New York State statutory increases to minimum wages.
2. The 2017 facility specific minimum wage add-on will be developed based on collected survey data received and attested to by nursing facility providers. If a facility does not submit a survey, the minimum wage add-on will be calculated based on the facility's Consolidated Fiscal Report (CFR) wage data from two years prior to the period being calculated. If a facility fails to submit both the attested survey and the CFR cost report, the facility's minimum wage add-on will not be calculated.
 - i. Minimum wage cost development based on survey data collected.
 - a. Survey data will be collected for facility specific wage data.
 - b. Facilities will report by wage bands, the total count of FTEs and total hours paid to all employees (contracted and non-contracted staff) earning less than the statutory minimum wage applicable for each region.
 - c. Facilities will report an average fringe benefit percentage for the employees directly affected by the minimum wage increase.
 - d. The minimum wage costs are calculated by multiplying the total hours paid by the difference between the statutory minimum wage and the midpoint of each wage band where the facility has reported total hours paid. To this result, the facility's average fringe benefit percentage is applied and added to the costs.
 - ii. Minimum wage cost development based on the CFR cost report data.
 - a. The average hourly wages of employees where the reported average hourly wage is below the regional statutory minimum wage are identified.
 - b. The total payroll hours of the employees identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the cost report is then subtracted from the projected payroll resulting in the expected wage costs increase.
 - c. The facility's fringe benefit costs directly affected by the wage increase are identified, and the average fringe benefit percentage is calculated.
 - d. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.

TN #21-0069

Approval Date

Supersedes TN #17-0010

Effective Date December 31, 2021

Appendix II
2021 Title XIX State Plan
Fourth Quarter Amendment
Summary

SUMMARY
SPA #21-0069

This State Plan Amendment proposes to include minimum wage adjustments to Residential Treatment Facility (RTF) providers in the Remainder of State region as a result of enacted legislation for minimum wage.

Appendix III
2021 Title XIX State Plan
Fourth Quarter Amendment
Authorizing Provisions

> [The Laws of New York \(/legislation/laws/all\)](/legislation/laws/all) > [Consolidated Laws of New York \(/legislation/laws/CONSOLIDATED\)](/legislation/laws/CONSOLIDATED)
> [CHAPTER 31 Labor \(/legislation/laws/LAB/-CH31\)](/legislation/laws/LAB/-CH31) > [ARTICLE 19 Minimum Wage Act \(/legislation/laws/LAB/A19\)](/legislation/laws/LAB/A19)

PREVIOUS
[SECTION 651](#)
[Definitions](#)
[\(/legislation/laws/LAB/651\)](/legislation/laws/LAB/651)

UP
[ARTICLE 19](#)
[Minimum Wage Act](#)
[\(/legislation/laws/LAB/A19\)](/legislation/laws/LAB/A19)

NEXT
[SECTION 653](#)
[Investigation of adequacy of wages](#)
[\(/legislation/laws/LAB/653\)](/legislation/laws/LAB/653)

THIS ENTRY WAS PUBLISHED ON 2020-04-17 

SHARE

SEE MOST RECENT VERSION BEFORE OR ON:

2021-11-05



SECTION 652

Minimum wage

Labor (LAB) CHAPTER 31, ARTICLE 19

§ 652. Minimum wage. 1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than:

\$4.25 on and after April 1, 1991,

\$5.15 on and after March 31, 2000,

\$6.00 on and after January 1, 2005,

\$6.75 on n r J nu ry 1, 2006,

\$7.15 on n r J nu ry 1, 2007,

\$8.00 on n r D e mb r 31, 2013,

\$8.75 on n r D e mb r 31, 2014,

\$9.00 on n r D e mb r 31, 2015, n un il D e mb r 31, 2016, or,
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or such o h r wa s may b s blish in ccor nc wi h h
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\$11.80-on n r D æ mb r 31, 2019,

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one hundred ninety-one effective on the New York code of rules and regulations effective on January 1, 1975, two thousand seven hundred and thirty-one shall be deemed to be a wage order established and adopted under this article and shall remain in force and effect except as modified in accordance with the provisions of this article or article nineteen-A of this chapter.

Such minimum wage orders shall be modified by the commissioner to increase a monetary amount specified herein in the same proportion as the increase in the hourly minimum wage as provided in subdivision one of this section, including the amount specified in such minimum wage orders as allowances or gratuities, and when furnished by the employer to employees, or meals, lodging, apparel and other such items, services and accessories. An amount so modified shall be rounded off to the nearest five cents. The modified orders shall be promulgated by the commissioner without a public hearing, and without reference to a wage board, and shall become effective on the effective date of such increases in the minimum wage except as otherwise provided in this subdivision, notwithstanding any other provision of this article.

3. Non-productive uses. (a) Application of article. This article shall apply to non-productive uses.

(b) Operation of non-productive uses. The provisions of an wage order issued under this article shall not apply, however, to a non-productive use in which persons and continues to pay to each of employees never occupied on a wage, exclusive of allowances, not less than the minimum wage provided in subdivision one of this section provided that such persons had certified under oath to the commissioner, on or before September 1, 1975, or on or before October 1, 1975, that they would pay and hereafter intended to pay such wage to each of employees never occupied on and provided further that the provisions of this article have not become applicable to such persons by operation of paragraph S

(c) of the provision. If a union was not organized or not had any employee as defined in provision five of section x then the fifty-one of the chapter before September first, nineteen hundred and thirty, which provision shall not apply so long as, commencing six months after it was organized, or first employed each employee that payment continue to pay each wage to each of the employee in every occupation, provide that a union certificate in an oath within six months after it was organized or first employed each employee that it will pay and thereafter intend to pay each wage to each of the employee in every occupation and provide further that all the provisions of the article have not become applicable to a union by operation of paragraph (c) of the provision.

(c) termination of option. All the provisions of the article, including all of the provisions of any wage or order there in which, but for the operation of paragraph () of the provision, would apply to any non-profit making union, shall become fully applicable to a union thirty days after a union file a notice with the commissioner requesting that the provisions of each wage or order apply to it, or immediately upon the issuance of an order by the commissioner finding that a union has failed to pay the wage provided in paragraph () of the provision, but in no event shall any such order charge the obligation of a union to pay the wage provided by paragraph () of the provision for any period prior to the issuance of such order.

4. Notwithstanding the provision one and two of the section, the wage for an employee who is a food service worker receiving tip shall be a cash wage of at least two-thirds of the minimum wage rate set forth in provision one of the section, rounded to the nearest five cent or even dollar and fifty cent, whichever is higher, provide that the tip of each an employee, when added to each cash wage, are equal to or exceed the minimum wage in effect pursuant to provision one of the section and provide further that no other cash wage shall be

**Appendix IV
2021 Title XIX State Plan
Fourth Quarter Amendment
Public Notice**

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

Non-Institutional Services

Effective on or after January 1, 2022, the Department of Health will adjust the reimbursement rate for Ambulatory Services in Facilities Certified Under Article 16 of the Mental Health Law Clinic Day Treatment program to remove the providers that no longer offer the service and update the reimbursements for the remaining providers based on more current cost data.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2022 is \$300,000.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

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

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

PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for long term care services to comply with sections 2803, 2895-b, and 2828 of the Public Health Law. The following changes are proposed:

Long Term Care Services

Effective on or after January 1, 2022, the Department of Health will adjust rates for residential health care facilities meeting the requirements set forth in section 2828 of the Public Health Law and implementing regulations. This rate adjustment will support increases in resident-facing staffing services provided by registered nurses, licensed practical nurses, certified nurse aides, and nurse aides in accordance with standards set forth in section 2895-b of the Public Health Law and implementing regulations, which shall be sufficient to attain the highest practicable physical, mental, and psychological well-being of the residents of such residential health care facilities.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to the residential health care facility rate

adjustment is \$128 million as appropriated in the budget for state fiscal year 2021/2022.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

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

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

PUBLIC NOTICE

Department of Health

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

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

Institutional Services

Effective on or after December 31, 2021, the Department of Health will adjust Residential Treatment Facility (RTF) rates for providers to consider increased labor costs resulting from increases in the New York State minimum wage in the Remainder of State region.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2021/2022 is \$16,000.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

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

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

PUBLIC NOTICE

Department of Health

The Department of Health proposes to amend the Traumatic Brain Injury (TBI) (waiver number NY.0269.R04.04) and Nursing Home Transition and Diversion (NHTD) (waiver number NY.0444.R02.01) 1915c Waiver Programs in order to implement planned minimum wage-related rate increases pursuant to New York State Minimum Wage regulations effective January 1, 2017. This minimum wage bill stipulates that wages will be increased gradually through 2021. This increase specifically impacts all counties except for all New York City boroughs, Nassau, Suffolk, and Westchester.

Drafts of the proposed amendments to the TBI and NHTD waivers are available for review at: https://health.ny.gov/health_care/medicaid/redesign/mrt90/policy_docs.htm

As of December 31, 2016, the first in a series of wage increases went into effect in New York State. Rates differ based on region and industry to allow for a phase-in of new salaries. Changes take effect on the last day of the year. Annual increases for Upstate New York will continue until the rate reaches a \$15 minimum wage. The annual increases are published by the Commissioner of Labor by October 1. They are based on percentage increases determined by the Director of the Division of Budget, based on economic indices, including the Consumer Price Index. The rate for the “remainder of state” will be \$13.20 per hour effective December 31, 2021. This wage adjustment will require a rate increase of \$.90 per hour for waiver service: Home and Community Support Services (HCSS) for both the Nursing Home Transition and Diversion (NHTD) and Traumatic Brain Injury (TBI) 1915 (c) Medicaid Waivers. The anticipated change to projected gross Medicaid expenditures as a result of this proposed amendment is an increase of \$11.8 million for the remainder of the 5 year waiver cycles.

The public is invited to review and comment on this initiative. Comments may be filed electronically at: waivertransition@health.ny.gov, or mailed to: Department of Health, Office of Health Insurance Programs, Division of Long Term Care, Bureau of Community Integration and Alzheimer’s Disease, One Commerce Plaza, Suite 1605, Albany, NY 12210. All comments must be postmarked or emailed by 30 days of the date of this notice. Include “TBI and NHTD Waiver Amendments” in the subject line and indicate your name and affiliation. Individuals without internet access may contact the Waiver Unit at: (518) 474-5271 to receive additional information.

PUBLIC NOTICE

Department of State

F-2021-0654

Date of Issuance – December 29, 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 in-

formation 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-2021-0654 the applicant, Village Marine of Westhampton LTD, is proposing to install 552 linear feet of new low sill bulkhead; replace existing 4 feet wide x 464 linear feet fixed docks with floating docks; and dredge 949 cubic yards of sediment to -4’ MLW within existing West and East boat basins. This project is located at 33 Library Avenue, Village of Southampton, Suffolk County, Moneybogue Bay.

The applicant’s consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2021/12/f-2021-0654app.pdf> or at <https://dos.ny.gov/public-notices>

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

- Moriches Bay Significant Coastal Fish and Wildlife Habitats:

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

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice or January 13, 2022.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. 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-2021-0695

Date of Issuance – December 29, 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.

In F-2021-0695, Vincent Rovitelli, is proposing to excavate/remove two land peninsulas from an existing marina basin. The peninsula measures 17’-4” wide by 185’-2” long and 10’-1” long by 214’-5” long. The peninsulas would be excavated down to an elevation of 243.5’ IGLD. The project would result in the excavation of up to 1,207 cubic yards of materials (765 from below the plane of Ordinary High Water). A boulder located within the marina basin would also be removed. Dewatering of material would be completed at an upland on-site location with off-site disposal at an approved upland location. Sheet pile would be placed at the landward extent of the each of the excavated peninsulas. In addition, 65 linear feet of sheet pile where the seawall is missing A turbidity curtain would be paced within the channel that separates the marina from Sandy Creek during excavation. The applicant was previously approved to replace existing fixed docks with floating docks throughout the marina basin. Various upland improvements to the site are also proposed.

The proposal is for the Sandy Creek Marina located off of Sandy Creek at Eight Lake Road East Fork in the Town of Hamlin, Monroe County.

The stated purpose of the proposed action is to “Improve the usage and safety of our existing marina.”

The applicant’s consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2021/12/f-2021-0695publicnotice.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the ap-

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

HOSPITAL SERVICES
State Plan Amendment #21-0069

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 budget appropriation in the Office of Mental Health, that is received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health.

The source of the appropriation is the Office of Mental Health General Fund Local Assistance Account.

There have been no new provider taxes and no existing taxes have been modified.

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: Based on guidance from CMS, the State and CMS will engage in discussions to develop a strategic plan to complete a UPL demonstration for Residential Treatment Facilities (RTF) as soon as practicable.

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: There are various state agencies that perform audits each year to determine the appropriateness of Medicaid payments. In the event that inappropriate payments are determined, recoupments would be initiated and the Federal share would be returned to CMS within the associated 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 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.