

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



Center for Medicaid, CHIP, and Survey & Certification

Jason A. Helgeson  
State Medicaid Director  
Deputy Commissioner  
Office of Health Insurance Programs  
New York State Department of Health  
Empire State Plaza  
Corning Tower, Room 1466  
Albany, New York 12237

JUN 2 2 2011

RE: TN 11-03

Dear Mr. Helgeson:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 11-03. Effective January 1, 2011, this amendment proposes to continue to use the July 2010 case mix data through December 2011 to set nursing facility rates.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the regulations at 42 CFR 447 Subpart C. This is to inform you that New York 11-03 is approved effective January 1, 2011 and I have enclosed the HCFA-179 and the approved plan pages.

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

Sincerely,

  
Cindy Mann  
Director, CMCS

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER:  <b>11-03</b>	2. STATE  <b>New York</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>January 1, 2011</b>	
5. TYPE OF PLAN MATERIAL ( <i>Check One</i> ):  <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT ( <i>Separate Transmittal for each amendment</i> )			
6. FEDERAL STATUTE/REGULATION CITATION: <b>Section 1902(a)(30) of the Social Security Act and 42 CFR Section 447.205</b>		7. FEDERAL BUDGET IMPACT: a. FFY 10/1/10-9/30/11 \$0 b. FFY 10/1/11-9/30/12 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-D, page 50(b)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  <b>Attachment 4.19-D, page 50(b)</b>	
10. SUBJECT OF AMENDMENT: <b>Nursing Home Medicaid-Only Case Mix (FMAP = 58.77% as of effective date)</b>			
11. GOVERNOR'S REVIEW ( <i>Check One</i> ): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO: <b>New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237</b>	
13. TYPED NAME: <b>Jason A. Helgeson</b>			
14. TITLE: <b>Medicaid Director &amp; Deputy Commissioner Department of Health</b>			
15. DATE SUBMITTED:			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED: <b>06-22-11</b>	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>JAN - 1 2011</b>		20. SIGNATURE OF REGIONAL OFFICIAL: <i>Bill French p cm</i>	
21. TYPED NAME: <b>William Lasowski</b>		22. TITLE: <b>Deputy Director, CMCS</b>	
23. REMARKS:			

**New York  
50(b)**

**Attachment 4.19-D  
(01/11)**

(5) Cost reports submitted by facilities for the 2002 calendar year or any subsequent year used to determine the operating component of the 2009 rate shall be subject to audit through December 31, 2014. Facilities will therefore retain all fiscal and statistical records relevant to such costs reports. Any audit of the 2002 cost report, which is commenced on or before December 31, 2014, may be completed subsequent to that date and used for adjusting the Medicaid rates that are based on such costs.

(e) Additionally, the operating component of the rates effective April 1, 2009 shall

(1) be subject to a case mix adjustment through application of the relative Resource Utilization Groups System (RUGS-III) used by the federal government for Medicare, revised to reflect NYS wage and fringe benefits, and based on Medicaid only patient data. New York State wages are used to determine the weight of each RUG. The cost for each RUG is calculated using the relative resources for registered nurses, licensed practical nurses, aides, therapists, and therapy aides using the 1995 – 97 federal time study. The minutes from the study are multiplied by the NY average dollar per hour to determine the fiscal resources needed to care for that patient type for one day. This amount is multiplied by the number of patients in that RUG. RUG weights are assigned based on the distance from the statewide average. The RUGS-III weights shall be increased for the following resident categories:

- (i) 30 minutes for impaired cognition A;
- (ii) 40 minutes for impaired cognition B; and
- (iii) 25 minutes for reduced physical functions B.

Medicaid only case mix adjustments shall be made in January and July of each calendar year, except that no case mix adjustment shall be made in January 2011 and July 2011. The adjustments and related patient classifications for each facility shall be subject to audit review in accordance with regulations promulgated by the Commissioner of Health, and effective January 1, 2009 shall

- (2) incorporate the continuation, through 2009 and subsequent years, of the adjustment for extended care of persons with traumatic brain injury in accordance with the provisions of this Attachment;
- (3) incorporate the continuation, through 2009 and subsequent years, of the adjustment for the cost of providing Hepatitis B vaccinations in accordance with the provisions of this Attachment;
- (4) reflect a per diem add-on of \$8, trended from 2006 to 2009 and thereafter, for each patient who:

**TN #11-03** \_\_\_\_\_

**Approval Date**         **JUN 22 2011**        

**Supersedes TN #09-02** \_\_\_\_\_

**Effective Date**         **JAN - 1 2011**

**OS Notification**

**State/Title/Plan Number:** NY-11-003

**Type of Action:** SPA Approval

**Required Date for State Notification:** June 29, 2011

**Fiscal Impact:** FY 2011 \$ -0- FFP  
FY 2012 \$ -0- FFP

**Number of Services Provided by Enhanced Coverage, Benefits or Retained Enrollment:** 0

**Number of Potential Newly Eligible People:** 0

**Eligibility Simplification:** No

**Provider Payment Increase:** No

**Delivery System Innovation:** No

**Number of People Losing Medicaid Eligibility:** 0

**Reduces Benefits:** No

**Detail:**

This SPA, which is effective 1/1/2011, proposes to continue the use of July 2010 case-mix data through December 2011 to set NF rates. Absent this amendment, the State would have recomputed facility rates using Jan 1, 2011, and July 1, 2011 case mix data. There is no estimated change in FFP because these changes are cost-neutral overall. The continuance of the older case mix data is intended to relieve an administrative burden on the State at a time when they are attempting to design a new price-based reimbursement system with input from the industry that is expected to start in October of this year.

Standard funding question responses were adequate - funding is from appropriations.

No UPL issues for this SPA. Although the 2011 NH UPL is not finalized yet, the only class that historically has had issues is the NSGO group. Even if the NSGO nursing homes experience some increase in reimbursement from this SPA, CMS believes it can approve this amendment - since the prior year NSGO margin was \$189M and NY has agreed to suspend processing of the pending 2011 NSGO supplemental 'UPL' payment SPA until the impact of higher-priority SPAs are processed and the final UPL margin is known.

**Other Considerations:**

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

The Regional office has reviewed this state plan amendment in conjunction with the Recovery Act and, based on the available information provided by the State regarding 1) maintenance of effort; 2) local match; 3) prompt pay; 4) rainy day funds, and 5) eligible expenditures, the Regional Office believes that the State is not in violation of the Recovery Act requirements noted above.

No tribal consultation was required under Section 5006(e) of the Recovery Act. None of the providers impacted by this change are I/T/Us.

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