

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 and Certification**

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

**AUG 18 2011**

RE: TN 11-65

Dear Mr. Helgeson:

We have reviewed the proposed amendment to Attachment 4.19 D of your Medicaid State plan submitted under transmittal number (TN) 11-65. Effective April 1, 2011, this amendment proposes to limit the trend factor to an amount no greater than zero for nursing home inpatient services provided on and after April 1, 2011 through March 31, 2013.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30) of the Social Security Act and the regulations at 42 CFR 447 Subpart C. This is to inform you that New York State plan amendment 11-65 is approved effective April 1, 2011. We have enclosed the HCFA-179 and the approved plan page.

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

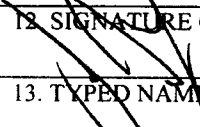

Sincerely,

A handwritten signature in cursive script that reads "Cindy Mann".

Cindy Mann  
Director

Center for Medicaid, CHIP, and Survey & Certification

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: #11-65	2. STATE  New York
		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>April 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) of the Social Security Act, and 42 CFR 447</b>		7. FEDERAL BUDGET IMPACT: a. FFY 4/1/11-9/30/11: (\$32.33 million) b. FFY 10/1/11-9/30/12: (\$95.25 million)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-D: Page 51(a)(2)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  <b>Attachment 4.19-D: Page 51(a)(2)</b>	
10. SUBJECT OF AMENDMENT: <b>Eliminate 2011 Trend Factor - LTC (FMAP = 56.88% 4/1/11-6/30/11; 50% 7/1/11 forward)</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. Helgerson</b>			
14. TITLE: <b>Medicaid Director &amp; Deputy Commissioner Department of Health</b>			
15. DATE SUBMITTED: <b>June 17, 2011</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED: <b>AUG 18 2011</b>	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>APR - 1 2011</b>		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: <b>Penny Thompson</b>		22. TITLE: <b>Deputy Director, CMCS</b>	
23. REMARKS:			

**New York  
51(a)(2)**

**Attachment 4.19-D  
(04/11)**

- (k) For rates of payment effective for nursing home services provided on and after January 1, 2009 through March 31, 2009, the otherwise final trend factor attributable to the 2008 calendar year period shall be adjusted such that any increase to the average trend factor for the period April 1, 2008 through December 31, 2008 shall be reduced, on an annualized basis, by 1.3% and no retroactive adjustment to such 2008 trend factor shall be made for the period April 1, 2008 through December 31, 2008. Effective on and after April 1, 2009, the otherwise applicable final trend factor attributable to the 2008 calendar year period shall be zero.
- (l) For rates of payment effective for nursing home services provided on and after January 1, 2009 through March 31, 2009, a trend factor equal to the otherwise applicable trend factor attributable to the period January 1, 2009 through December 31, 2009, as calculated in accordance with paragraph (f) of this section, less 1% shall be applied. Effective on and after April 1, 2009, the otherwise applicable trend factor attributable to the 2009 calendar year period shall be zero.
- (m) For rates of payment effective for nursing home services provided for the period January 1, 2010 through March 31, 2010, the otherwise applicable trend factor attributable to the 2010 calendar year period shall be zero.
- (n) For rates of payment effective for inpatient services provided by residential health care facilities on or after April 1, 2010, except for residential health care facilities that provide extensive nursing, medical, psychological, and counseling support services to children, the otherwise applicable trend factor attributable to:
  - i. the 2010 through 2012 calendar year periods shall be no greater than zero.
  - ii. the 2013 calendar year period shall be no greater than zero through March 31, 2013.

Effective July 1, 1994, payment rates for the 1994 rate setting cycle will be calculated using the proxy data described in this section that is available through the third quarter of 1993. Proxy data, which becomes available subsequent to the third quarter of 1993, will not be considered in setting or adjusting 1994 payment rates.

[  
\*This means that since the rates for the April 1, 1996 through March 31, 1997 period are based on 1983 base year costs trended to this period, the rate impacts of any differences between, say, the final value of the 1995 trend factor and the preliminary 1995 trend factor value that may have been used when initially calculating the rate, would be incorporated into the rates for the April 1, 1996 through March 31, 1997 rate period.]

**TN #11-65** \_\_\_\_\_

**Approval Date** AUG 18 2011

**Supersedes TN #10-12** \_\_\_\_\_

**Effective Date** APR - 1 2011

**OS Notification**

**State/Title/Plan Number:** NY-11-65  
**Type of Action:** SPA Approval

**Required Date for State Notification:** September 26, 2011

**Fiscal Impact:**  
FY 2011 (\$ 32,330,000) FFP  
FY 2012 (\$ 92,250,000) 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 (see below)

**Delivery System Innovation:** No

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

**Reduces Benefits:** No

**Detail:**

Effective April 1, 2011, this amendment will modify the trend factor for nursing home services paid for under the State's prospective payments system. For services furnished in the period April 1, 2011 to March 31, 2013 the trend factor will be the lesser of the Consumer Price Index or zero.

This amendment is part of the State's Medicaid Redesign Team (MRT) process. The MRT was formed by Governor Cuomo to find ways to reduce costs and increase quality and efficiency in the Medicaid program for the State Fiscal Years that run from 4/1/2011-3/31/2013. It is composed of various State Legislators, State Agency staff, Industry and Consumer leaders and it was tasked with developing proposals to reform the State Medicaid program. Through a series of public meetings and other processes, the MRT solicited ideas from the public at large, as well as experts in health care delivery and insurance, the health care workforce, economics, business, consumer rights and other relevant areas. The MRT developed a package of reform proposals that achieved the Governor's Medicaid budget target, introduced significant structural reforms which will bend the Medicaid cost curve, and achieved those savings without any cuts to eligibility.

**Other Considerations:**

New York is not aware of any access concerns related to the implementation of this SPA. The State said there have not been any complaints and so far no groups or hospitals and nursing homes have contacted CMS. The State has a fairly elaborate process for monitoring access. Hospitals and nursing homes have to get approval to decrease services, and the State has not received any such requests. NY also has hotlines for both providers and recipients to call if there are problems and the State tract utilization trends at the provider and recipient level and weekly monthly trends look normal.

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

Current policy permits a SPA with negative fiscal impact to proceed without a UPL demonstration.

The State has provided satisfactory responses to the standard funding questions.

Currently, there are no institutional Indian Health Service programs, tribal health programs or urban Indian organizations (I/T/Us) providers in NY; therefore, no tribal consultation is required.

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.

**CMS Contacts:** Rob Weaver, NIRT 410-786-5914  
Tom Brady, NIRT 518-396-3810 x109