

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



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**Financial Management Group**

JUN 15 2017

Jason A. Helgerson  
State Medicaid Director  
Deputy Commissioner  
Office of Health Insurance Programs  
NYS Department of Health  
Corning Tower (OCP – 1211)  
Albany, NY 12237

RE: State Plan Amendment (SPA) TN 17-0036

Dear Mr. Helgerson:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State Plan submitted under transmittal number (TN) 17-0036. Effective April 1, 2017 this amendment proposes to continue a pay for performance quality incentive payment program for non-specialty nursing facilities and a related proportional rate reduction.

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 implementing Federal regulations at 42 CFR Part 447. This letter is to inform you that New York 17-0036 is approved effective April 1, 2017. The CMS-179 and approved plan pages are enclosed.

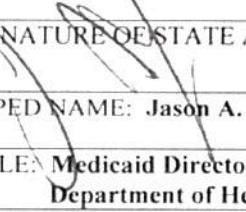

If you have any questions, please contact Betsy Pinho at 518-396-3810.

Sincerely,

A handwritten signature in blue ink, which appears to read "Kristin Fan". The signature is fluid and cursive.

Kristin Fan  
Director

Enclosures

|   |  |  |                             |
|---|--|--|-----------------------------|
| <b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b><br><br><b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>  |  | 1. TRANSMITTAL NUMBER:<br><b>17-0036</b>   | 2. STATE<br><b>New York</b> |
|   |  | 3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>  |                             |
| TO: REGIONAL ADMINISTRATOR<br>HEALTH CARE FINANCING ADMINISTRATION<br>DEPARTMENT OF HEALTH AND HUMAN SERVICES   |  | 4. PROPOSED EFFECTIVE DATE<br><b>April 1, 2017</b>   |                             |
| 5. TYPE OF PLAN MATERIAL ( <i>Check One</i> ):<br><br><input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT<br>COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT ( <i>Separate Transmittal for each amendment</i> ) |  |  |                             |
| 6. FEDERAL STATUTE/REGULATION CITATION:<br><b>§1902(r)(5) of the Social Security Act, and 42 CFR 447</b>  |  | 7. FEDERAL BUDGET IMPACT: ( <i>in thousands</i> )<br>a. FFY 04/01/17-09/30/17 <b>S 0</b><br>b. FFY 10/01/17-09/30/18 <b>S 0</b>  |                             |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:<br><br><b>Attachment 4.19-D Part I: 110(d)(21), 110(d)(22), 110(d)(22.1), 110(d)(22.2), 110(d)(23), 110(d)(24), 110(d)(25), 110(d)(25.1), 110(d)(26)</b>  |  | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):<br><br><b>Attachment 4.19-D Part I: 110(d)(21), 110(d)(22), 110(d)(22.1), 110(d)(22.2), 110(d)(23), 110(d)(24), 110(d)(25), 110(d)(25.1), 110(d)(26)</b> |                             |
| 10. SUBJECT OF AMENDMENT:<br><b>Nursing Home Quality Care Incentive Changes (FMAP = 50%)</b>  |  |  |                             |
| 11. GOVERNOR'S REVIEW ( <i>Check One</i> ):<br><input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED:<br><input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED<br><input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL |  |  |                             |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:<br>  |  | 16. RETURN TO:<br><b>New York State Department of Health<br/>Division of Finance &amp; Rate Setting<br/>99 Washington Ave – One Commerce Plaza<br/>Suite 1432<br/>Albany, NY 12210</b>   |                             |
| 13. TYPED NAME: <b>Jason A. Helgerson</b>   |  |  |                             |
| 14. TITLE: <b>Medicaid Director<br/>Department of Health</b>  |  |  |                             |
| 15. DATE SUBMITTED:<br><b>JUN 12 2017</b>   |  |  |                             |
| <b>FOR REGIONAL OFFICE USE ONLY</b>   |  |  |                             |
| 17. DATE RECEIVED:  |  | 18. DATE APPROVED: <b>JUN 15 2017</b>  |                             |
| <b>PLAN APPROVED – ONE COPY ATTACHED</b>  |  |  |                             |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL:<br><b>APR 01 2017</b>  |  | 20. SIGNATURE OF REGIONAL OFFICIAL:<br>  |                             |
| 21. TYPED NAME: <b>Kristin Fan</b>  |  | 22. TITLE: <b>Director, FMG</b>  |                             |
| 23. REMARKS:  |  |  |                             |

**New York  
110(d)(21)**

The New York State Nursing Home Quality Pool (NHQP) is an annual budget-neutral pool of \$50 million dollars[, or an amount as determined by the Commissioner]. The intent of the NHQP is to incentivize Medicaid-certified nursing facilities across New York State to improve the quality of care for their residents, and to reward facilities for quality based on their performance. The set of measures used to evaluate nursing homes are part of the Nursing Home Quality Initiative (NHQI). The performances of facilities in the NHQI [guide] determine the distribution of the funds in the NHQP.

For the calendar year [2016] 2017, the Commissioner will calculate a score and quintile ranking based on data from the [2015] 2016 calendar year (January 1, [2015] 2016 through December 31, [2015] 2016), for each non-specialty facility. The score will be calculated based on measurement components comprised of Quality, Compliance, and Efficiency Measures. These measurement components and their resulting score and quintile ranking will be referred to as the Nursing Home Quality Initiative. From the NHQI, the Commissioner will exclude specialty facilities consisting of non-Medicaid facilities, Special Focus Facilities as designated by the Centers for Medicare and Medicaid Services (CMS), Continuing Care Retirement Communities, Transitional Care Units, specialty facilities, and specialty units within facilities. Specialty facilities and specialty units shall include AIDS facilities or discrete AIDS units within facilities, facilities or discrete units within facilities for residents receiving care in a long-term inpatient rehabilitation program for traumatic brain injured persons, facilities or discrete units within facilities that provide specialized programs for residents requiring behavioral interventions, facilities or discrete units within facilities for long-term ventilator dependent residents, [and] facilities or discrete units within facilities that provide services solely to children, and neurodegenerative facilities or discrete neurodegenerative units within facilities. The score for each such non-specialty facility will be calculated using the following Quality, Compliance, and Efficiency Measures.

| <b>Quality Measures</b> |  | <b>Measure Steward</b> |
|-------------------------|--|------------------------|
| 1                       | Percent of Long Stay High Risk Residents With Pressure Ulcers (As Risk Adjusted by the Commissioner) | CMS                    |
| 2                       | Percent of Long Stay Residents Who Received the Pneumococcal Vaccine                                 | CMS                    |
| 3                       | Percent of Long Stay Residents Who Received the Seasonal Influenza Vaccine                           | CMS                    |
| 4                       | Percent of Long Stay Residents Experiencing One or More Falls with Major Injury                      | CMS                    |
| 5                       | Percent of Long Stay Residents Who have Depressive Symptoms  | CMS                    |
| 6                       | Percent of Low Risk Long Stay Residents Who Lose Control of Their Bowels or Bladder                  | CMS                    |
| 7                       | Percent of Long Stay Residents Who Lose Too Much Weight (As Risk Adjusted by the Commissioner)       | CMS                    |

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**New York  
110(d)(22)**

|                            |   |                                 |
|----------------------------|---|---------------------------------|
| 8                          | Percent of Long Stay Antipsychotic Use in Persons with Dementia   | Pharmacy Quality Alliance (PQA) |
| 9                          | Percent of Long Stay Residents Who Self-Report Moderate to Severe Pain (As Risk Adjusted by the Commissioner)   | CMS                             |
| 10                         | Percent of Long Stay Residents Whose Need for Help with Daily Activities Has Increased  | CMS                             |
| 11                         | Percent of Long Stay Residents with a Urinary Tract Infection   | CMS                             |
| 12                         | Percent of Employees Vaccinated for Influenza   | NYS DOH                         |
| 13                         | Percent of Contract/Agency Staff Used   | NYS DOH                         |
| 14                         | Rate of Staffing Hours per Day  | NYS DOH                         |
| <b>Compliance Measures</b> |   |                                 |
| 15                         | CMS Five-Star Quality Rating for Health Inspections as of April 1, [2016] 2017 (By Region)  | CMS                             |
| 16                         | Timely Submission and Certification of Complete [2015] 2016 New York State Nursing Home Cost Report to the Commissioner   | NYS DOH                         |
| 17                         | Timely Submission of Employee Influenza Immunization Data for the September 1, [2015] 2016 - March 31, [2016] 2017 Influenza Season by the deadline of May 1, [2016] 2017 | NYS DOH                         |
| <b>Efficiency Measure</b>  |   |                                 |
| 18                         | Rate of Potentially Avoidable Hospitalizations for Long Stay Residents January 1, [2015] 2016 – December 31, [2015] 2016 (As Risk Adjusted by the Commissioner)           | NYS DOH                         |

The maximum points a facility may receive for the Quality Component is 70. The applicable percentages or ratings for each of the 14 measures will be determined for each facility. Two measures will be awarded points based on threshold values. The remaining 12 measures will be ranked and grouped by quintile with points awarded as follows:

| <b>Scoring for 12 Quality Measures</b> |               |
|--|---------------|
| <b>Quintile</b>                        | <b>Points</b> |
| 1 <sup>st</sup> Quintile               | 5             |
| 2 <sup>nd</sup> Quintile               | 3             |
| 3 <sup>rd</sup> Quintile               | 1             |
| 4 <sup>th</sup> Quintile               | 0             |
| 5 <sup>th</sup> Quintile               | 0             |

**Note:** The following quality measures will not be ranked into quintiles and points will be awarded based on threshold values:

- Percent of employees vaccinated for influenza: facilities will be awarded five points if the rate is 85% or higher, and zero points if the rate is less than 85%.
- Percent of contract/agency staff used: facilities will be awarded five points if the rate is less than 10%, and zero points if the rate is 10% or higher.

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**New York  
110(d)(22.1)**

**[Addition of New Measure to Quality Component]**

[Rate of Staffing Hours per Day

This measure will replace the CMS Five-Star Quality Rating for Staffing. NYS DOH will calculate an annualized adjusted rate of staffing hours per resident per day. For this measure, staff are defined as RNs, LPNs, and Aides. The observed staffing hours will be taken from the 2015 nursing home cost reports. The expected staffing hours will be determined using Resource Utilization Group data on the 2015 MDS 3.0 and the CMS 1995-1997 Staff Time Measurement Study. The observed-to-expected staffing hours will be adjusted using the statewide distribution and the formula adapted from the CMS Five-Star Quality Rating for Staffing at <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/usersguide.pdf> . The formula below will be used:

(Hours worked reported from cost reports /# of residents from MDS 3.0) / 365 days

**Divided by**

((RUG distribution from MDS 3.0\*hours from CMS time study)/# of residents from MDS 3.0) / 365 days]

**Awarding for Improvement**

Nursing homes will be awarded improvement points from previous years' performance in selected measures in the Quality Component only. One improvement point will be awarded for a nursing home that improves in its quintile for a specific quality measure, compared to its quintile in the previous year for that quality measure. Nursing homes that obtain the top quintile in a quality measure will not receive an improvement point because maximum points per measure cannot exceed five. The [three] two quality measures below will not be eligible to receive improvement points:

- Percent of Employees Vaccinated for Influenza (based on threshold)

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110(d)(22.2)**

- Percent of Contract/Agency Staff Used (based on threshold)
- [Rate of Staffing Hours per Day (new measure)]

The remaining [11] 12 quality measures that are eligible for improvement points are listed below:

- Percent of Long Stay High Risk Residents With Pressure Ulcers
- Percent of Long Stay Residents Experiencing One or More Falls with Major Injury
- Percent of Long Stay Residents Who have Depressive Symptoms
- Percent of Low Risk Long Stay Residents Who Lose Control of Their Bowels or Bladder
- Percent of Long Stay Residents Who Lose Too Much Weight
- Percent of Long Stay Residents Who Self-Report Moderate to Severe Pain
- Percent of Long Stay Residents Whose Need for Help with Daily Activities Has Increased
- Percent of Long Stay Residents with a Urinary Tract Infection
- Percent of Long Stay Residents Who Received the Seasonal Influenza Vaccine
- Percent of Long Stay Antipsychotic Use in Persons with Dementia
- Percent of Long Stay Residents Who Received the Pneumococcal Vaccine
- Rate of Staffing Hours per Day

The grid below illustrates the method of awarding improvement points.

| <b>[2015] <u>2016</u> Performance</b>     |           |          |   |   |   |   |
|---|-----------|----------|---|---|---|---|
|   | Quintiles | 1 (best) | 2 | 3 | 4 | 5 |
| <b>[2016] <u>2017</u><br/>Performance</b> | 1 (best)  | 5        | 5 | 5 | 5 | 5 |
|   | 2         | 3        | 3 | 4 | 4 | 4 |
|   | 3         | 1        | 1 | 1 | 2 | 2 |
|   | 4         | 0        | 0 | 0 | 0 | 1 |
|   | 5         | 0        | 0 | 0 | 0 | 0 |

For example, if [2015] 2016 NHQI performance is in the third quintile, and [2016] 2017 NHQI performance is in the second quintile, the facility will receive four points for the measure. This is three points for attaining the second quintile and one point for improvement from the previous year's third quintile.

**Risk Adjustment of Quality Measures**

The following quality measures will be risk adjusted using the following covariates as reported in the MDS 3.0 data to account for the impact of individual risk factors:

- Percent of Long Stay Residents Who Self-Report Moderate to Severe Pain: the covariate includes cognitive skills for daily decision making on the prior assessment.
- Percent of Long Stay High Risk Residents with Pressure Ulcers: The covariates include gender, age, healed pressure ulcer since the prior assessment, BMI, prognosis of less than six months of life expected, diabetes, heart failure, deep vein thrombosis, anemia, renal failure, hip fracture, bowel incontinence, cancer, paraplegia, and quadriplegia.

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**New York  
110(d)(23)**

The maximum points a facility may receive for the Compliance Component is 20 points. Points shall be awarded as follows:

| <b>Scoring for Compliance Measures</b>   |   |
|--|---|
| <b>CMS Five-Star Quality Rating for Health Inspections (By Region)</b>   | <b>Points</b>   |
| 5 Stars  | 10  |
| 4 Stars  | 7   |
| 3 Stars  | 4   |
| 2 Stars  | 2   |
| 1 Star   | 0   |
| <b>Timely Submission and Certification of Complete [2015] 2016 New York State Nursing Home Cost Report to the Commissioner</b> | 5 (Facilities that fail to submit a timely, certified, and complete cost report will receive zero points)                             |
| <b>Timely Submission of Employee Influenza Immunization Data</b>   | 5 for the May 1, [2016] 2017 deadline (Facilities that fail to submit timely influenza data by the deadline will receive zero points) |

**CMS Five-Star Quality Rating for Health Inspections**

The CMS Five-Star Quality Rating for Health Inspections as of April 1, [2016] 2017 will be adjusted by region. This is not a risk adjustment. For eligible New York State nursing homes, the health inspection scores from CMS will be stratified by region. Cut points for health inspection scores within each region will be calculated using the CMS 10-70-20% distribution method. Per CMS' methodology, the top 10% of nursing homes receive five stars. The middle 70% receive four, three, or two stars, with an equal percentage (~23.33%) receiving four, three, or two stars. The bottom 20% receive one star. Each nursing home will be awarded a star rating based on the health inspection score cut points specific to its region. Regions include the Metropolitan Area (MARO), Western New York (WRO), Capital District (CDRO), and Central New York (CNYRO). Regions are defined by the New York State Health Facilities Information System (NYS HFIS). The counties within each region are shown below.

**Metropolitan Area Regional Offices (MARO):** Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester.

**Central New York Regional Offices (CNYRO):** Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Saint Lawrence, Tioga, and Tompkins.

**Capital District Regional Offices (CDRO):** Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, and Washington.

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**New York  
110(d)(24)**

A potentially avoidable hospitalization is found by matching a discharge assessment in the MDS 3.0 data to its hospital record in SPARCS. The following primary [ICD-9 and] ICD-10[\*] diagnoses on the SPARCS hospital record are potentially avoidable:

| <b>Potentially Avoidable Hospitalization Condition</b> | <b>[ICD-9 codes]</b>   | <b>ICD-10 codes</b>   |
|--|--|---|
| Respiratory infection                                  | [466, 480.0-487.8, 507]  | A221, A3791, A481, B250, B440, J101, J1100, J111, J112, J1181, J1189, J120, J121, J122, J1281, J1289, J129, J13, J14, J150, J151, J1520, J15211, J15212, J1529, J153, J154, J155, J156, J157, J158, J159, J160, J168, J17, J180, J181, J189, J209, J690   |
| Sepsis   | [038.0-038.9]  | A403, A409, A4101, A4102, A411, A412, A413, A414, A4150, A4151, A4152, A4153, A4159, A4189, A419, R6520, R6521  |
| Urinary tract infection                                | [590.00-590.9, 595.0-595.4, 595.9, 595.89, 597, 598, 598.01, 599, 601.0-604] | N10, N110, N118, N12, N151, N159, N16, N2884, N2885, N2886, N3000, N3001, N3010, N3011, N3020, N3021, N3030, N3031, N3080, N3081, N3090, N3091, N340, N35111, N37, N390, N410, N411, N412, N413, N414, N418, N419, N420, N421, N423, N4289, N429, N430, N431, N432, N433, N451, N452, N453, N454, N51 |

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**New York  
110(d)(25)**

|                          |   |   |
|--------------------------|---|---|
| Electrolyte imbalance    | [276.0-276.9]                           | E860, E861, E869, E870, E871, E872, E873, E874, E875, E876, E878  |
| Congestive heart failure | [428.0-428.9, 398.91]                   | I0981, I501, I5020, I5021, I5022, I5023, I5030, I5031, I5032, I5033, I5040, I5041, I5042, I5043, I509           |
| Anemia                   | [280-280.9, 281.0-281.9, 285.1, 285.29] | D500, D501, D508, D509, D510, D511, D513, D518, D520, D521, D528, D529, D530, D531, D532, D538, D539, D62, D638 |

[\*The healthcare industry began using ICD-10 in the last quarter of 2015, therefore both ICD-9 and ICD-10 codes must be used.]

Reduction of Points Base: When the number of long stay residents that contribute to the denominator of the potentially avoidable hospitalization measure is less than 30, the number of points the measure is worth will be reduced from the base of 100 maximum NHQI points. The nursing home's total score will be the sum of its points divided by the base.

The following rate adjustments, which will be applicable to the [2016] 2017 calendar year, will be made to fund the NHQP and to make payments based upon the scores calculated from the NHQI as described above.

- Each non-specialty facility will be subject to a Medicaid rate reduction to fund the NHQI, which will be calculated as follows:
- For each such facility, Medicaid revenues, calculated by multiplying each facility's promulgated rate in effect for such period by reported Medicaid days, as reported in a facility's [2015] 2016 cost report, will be divided by total Medicaid revenues of all non-specialty facilities. The result will be multiplied by the \$50 million dollars, and divided by each facility's most recently reported Medicaid days. If a facility fails to submit a timely filed [2015] 2016 cost report, the most recent cost report will be used.
- The total [quality] scores as calculated above for each such facility will be ranked and grouped by quintile. Each of the top three quintiles will be allocated a share of the \$50 million NHQI and each such facility within such top three quintiles will receive a payment. Such payments will be paid as a per diem adjustment for the [2016] 2017 calendar year. Such shares and payments will be calculated as follows:

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**New York  
110(d)(25.1)**

| <b>Distribution of NHQP Payments</b>  |  |  |   |
|---------------------------------------|--|--|---|
| <b>Facilities Grouped by Quintile</b> | <b>A<br/>Facility's Medicaid Revenue Multiplied by Award Factor</b>  | <b>B<br/>Share of \$50 Million NHQI Allocated to Facility</b>  | <b>C<br/>Facility Per Diem Quality Payment</b>                                      |
| <b>1<sup>st</sup> Quintile</b>        | Each facility's [2015] <u>2016</u> Medicaid days multiplied by [2016] <u>2017</u> Medicaid Rate as of January 1, [2016] <u>2017</u> = Total Medicaid Revenue multiplied by an award factor of 3    | Each facility's column A Divided by Sum of Total Medicaid Revenue for all facilities, Multiplied by \$50 million | Each facility's column B divided by the facility's [2015] <u>2016</u> Medicaid days |
| <b>2<sup>nd</sup> Quintile</b>        | Each facility's [2015] <u>2016</u> Medicaid days multiplied by [2016] <u>2017</u> Medicaid Rate as of January 1, [2016] <u>2017</u> = Total Medicaid Revenue multiplied by an award factor of 2.25 | Each facility's column A Divided by Sum of Total Medicaid Revenue for all facilities, Multiplied by \$50 million | Each facility's column B divided by the facility's [2015] <u>2016</u> Medicaid days |
| <b>3<sup>rd</sup> Quintile</b>        | Each facility's [2015] <u>2016</u> Medicaid days multiplied by [2016] <u>2017</u> Medicaid Rate as of January 1, [2016] <u>2017</u> = Total Medicaid Revenue multiplied by an award factor of 1.5  | Each facility's column A Divided by Sum of Total Medicaid Revenue for all facilities, Multiplied by \$50 million | Each facility's column B divided by the facility's [2015] <u>2016</u> Medicaid days |
| <b>Total</b>                          | Sum of Total Medicaid Revenue for all facilities   | Sum of quality pool funds: \$50 million  | --  |

Payments made pursuant to this program will be subject to this rate adjustment and will be reconciled using actual Medicaid claims data.

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New York  
110(d)(26)

The following facilities will not be eligible for [2016] 2017 payments and the scores of such facilities will not be included in determining the share of the NHQP payments:

- A facility with health inspection survey deficiency data showing a level J/K/L deficiency during the time period of July 1, [2015] 2016 through June 30, [2016] 2017. Deficiencies will be reassessed on October 1, [2016] 2017 to allow a three-month window (after the June 30, [2016] 2017 cutoff date) for potential Informal Dispute Resolutions (IDR) to process. The deficiency data will be updated to reflect IDRs occurring between July 1, [2016] 2017 and September 30, [2016] 2017. Any *new* J/K/L deficiencies between July 1, [2016] 2017 and September 30, [2016] 2017 will *not* be included in the [2016] 2017 NHQI.

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