



# Department of Health

ANDREW M. CUOMO  
Governor

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

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

**JUN 26 2015**

National Institutional Reimbursement Team  
Attention: Mark Cooley  
CMS, CMCS  
7500 Security Boulevard, M/S S3-14-28  
Baltimore, MD 21244-1850

RE: SPA #15-0030  
Long Term Care Facility Services

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #15-0030 to the Title XIX (Medicaid) State Plan for long term care facility services to be effective April 1, 2015 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the proposed amendment is provided 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, Part 447, Subpart C, (42 CFR §447).

In accordance with 42 CFR §447.272, New York assures that the aggregate Medicaid payments for inpatient services provided by nursing facilities for each prescribed category of providers does not exceed the upper payment limit for the particular category of providers.

A copy of the pertinent section of proposed State statute is enclosed for your information (Appendix III). Copies of the public notice of this proposed amendment, which was given in the New York State Register on February 25, 2015, is also enclosed for your information (Appendix IV). In addition responses to the five standard funding questions are also enclosed (Appendix V).

If you have any questions regarding this matter, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting at (518) 474-6350.

Sincerely,

Jason A. Helgerson  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

cc: Mr. Michael Melendez  
Mr. Tom Brady

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. TRANSMITTAL NUMBER:  
**15-0030**

2. STATE  
**New York**

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

4. PROPOSED EFFECTIVE DATE  
**April 1, 2015**

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:  
**§1902(a) of the Social Security Act, and 42 CFR 447**

7. FEDERAL BUDGET IMPACT: (**in thousands**)  
**a. FFY 04/01/15-09/30/15 \$13.750**  
**b. FFY 10/01/15 -09/30/16 \$13.750**

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  
**Attachment 4.19-D: Pages 47(aa)(4), 47(aa)(5), 47(aa)(6), 47(aa)(7),  
47(aa)(8)**

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

**Attachment 4.19-D: Pages 47(aa)(4), 47(aa)(5), 47(aa)(6),  
47(aa)(7), 47(aa)(8)**

10. SUBJECT OF AMENDMENT:  
**Safety Net/VAP – CINERGY (15/16)**  
**(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: **Jason A. Helgerson**

14. TITLE: **Medicaid Director**  
**Department of Health**

15. DATE SUBMITTED: **JUN 26 2015**

16. RETURN TO:  
**New York State Department of Health**  
**Division of Finance and Rate Setting**  
**99 Washington Ave – One Commerce Plaza**  
**Suite 1460**  
**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**  
**2015 Title XIX State Plan**  
**Second Quarter Amendment**  
**Amended SPA Pages**

**New York  
47(aa)(4)**

**Temporary Rate Adjustments for Mergers, Acquisitions, Consolidations, Restructurings, and Closures – Nursing Homes**

A temporary rate adjustment will be provided to eligible residential health care providers that are subject to or impacted by the closure, merger, and acquisition, consolidation or restructuring of a health care provider. The rate adjustment is intended to:

- Protect or enhance access to care;
- Protect or enhance quality of care; or
- Improve the cost effectiveness.

Eligible residential health care providers, the amount of the temporary rate adjustment, and the duration of each rate adjustment period shall be listed in the table which follows. The total adjustment amount for each period shown below will be paid quarterly during each period in equal installments. The temporary payment made under this section will be an add-on to services payments made under this Attachment to such facilities during the quarter.

To remain eligible, providers must submit benchmarks and goals acceptable to the Commissioner and must submit periodic reports, as requested by the Commissioner, concerning the achievement of such benchmarks and goals. Failure to achieve satisfactory progress in accomplishing such benchmarks and goals will result in termination of the provider's temporary rate adjustment prior to the end of the specified timeframe. Once a provider's temporary rate adjustment ends, the provider will be reimbursed in accordance with the otherwise applicable rate-setting methodology as set forth in this Attachment.

Temporary rate adjustments have been approved for the following providers in the amounts and for the effective periods listed.

**Nursing Homes:**

<b>Provider Name</b>	<b>Gross Medicaid Rate Adjustment</b>	<b>Rate Period Effective</b>
Adirondack Tri-County Nursing & Rehabilitation Center, Inc.	\$225,680	01/01/2014 – 03/31/2014
	\$1,369,690	04/01/2014 – 03/31/2015
Amsterdam Nursing Home Corp (Amsterdam House)*	\$1,430,938	01/01/2015 – 03/31/2015
	\$1,450,213	04/01/2015 – 03/31/2016
Beth Abraham Health Services*	\$2,460,249	01/01/2015 – 03/31/2015
	\$2,493,389	04/01/2015 – 03/31/2016
Bronx-Lebanon Special Care Center*	\$788,294	01/01/2015 – 03/31/2015
	\$798,912	04/01/2015 – 03/31/2016

\*Denotes provider is part of CINERGY Collaborative.

**TN**     #15-0030                          **Approval Date** \_\_\_\_\_

**Supersedes TN**     #14-0039                          **Effective Date** \_\_\_\_\_

**New York  
47(aa)(5)**

**Nursing Homes (Continued):**

<b>Provider Name</b>	<b>Gross Medicaid Rate Adjustment</b>	<b>Rate Period Effective</b>
Brooklyn United Methodist Church Home*	\$702,169	01/01/2015 – 03/31/2015
	\$707,212	04/01/2015 – 03/31/2016
Buena Vida Continuing Care & Rehab Ctr*	\$970,765	01/01/2015 – 03/31/2015
	\$983,841	04/01/2015 – 03/31/2016
Cabrini Center for Nursing*	\$1,130,860	01/01/2015 – 03/31/2015
	\$1,146,093	04/01/2015 – 03/31/2016
Carmel Richmond Healthcare and Rehabilitation Center*	\$1,084,185	01/01/2015 – 03/31/2015
	\$1,098,790	04/01/2015 – 03/31/2016
Center For Nursing & Rehabilitation Inc*	\$1,179,939	01/01/2015 – 03/31/2015
	\$1,195,833	04/01/2015 – 03/31/2016
Chapin Home for the Aging*	\$771,403	01/01/2015 – 03/31/2015
	\$781,794	04/01/2015 – 03/31/2016
Charles T. Sitrin Health Care Center	2,000,000	01/01/2015 – 03/31/2015
Crouse Community Center	\$645,000	01/01/2014 – 03/31/2014
	\$710,000	04/01/2014 – 03/31/2015
	\$65,000	04/01/2015 – 03/31/2016
Eger Health Care and Rehabilitation Center*	\$1,463,808	01/01/2015 – 03/31/2015
	\$1,483,526	04/01/2015 – 03/31/2016
Elizabeth Seton Pediatric Center*	\$927,714	01/01/2015 – 03/31/2015
	\$940,211	04/01/2015 – 03/31/2016
Ferncliff Nursing Home	\$2,000,000	1/01/2015 – 03/31/2015
Ferncliff Nursing Home Co Inc*	\$1,029,944	01/01/2015 – 03/31/2015
	\$1,043,818	04/01/2015 – 03/31/2016
Field Home – Holy Comforter	\$534,500	04/01/2012 – 03/31/2013
	\$534,500	04/01/2013 – 03/31/2014

\*Denotes provider is part of CINERGY Collaborative.

**TN #15-0030** \_\_\_\_\_

**Approval Date** \_\_\_\_\_

**Supersedes TN #14-0039** \_\_\_\_\_

**Effective Date** \_\_\_\_\_

New York  
47(aa)(6)**Nursing Homes (Continued):**

<b>Provider Name</b>	<b>Gross Medicaid Rate Adjustment</b>	<b>Rate Period Effective</b>
Gurwin Jewish Nursing and Rehabilitation Center*	\$1,778,009	01/01/2015 – 03/31/2015
	<u>\$1,801,960</u>	04/01/2015 – 03/01/2016
Heritage Commons Residential Health Care	\$976,816	01/01/2014 – 03/31/2014
	\$834,744	04/01/2014 – 03/31/2015
Isabella Geriatric Center Inc*	\$2,902,269	01/01/2015 – 03/31/2015
	<u>\$2,941,364</u>	04/01/2015 – 03/31/2016
Island Nursing and Rehab Center*	\$903,195	01/01/2015 – 03/31/2015
	<u>\$909,966</u>	04/01/2015 – 03/31/2016
Jamaica Hospital Nursing Home Co Inc*	\$764,892	01/01/2015 – 03/31/2015
	<u>\$775,195</u>	04/01/2015 – 03/31/2016
Jewish Home Lifecare Henry and Jeanette Weinberg Campus Bronx*	\$2,939,255	01/01/2015 – 03/31/2015
	<u>\$2,978,848</u>	04/01/2015 – 03/31/2016
Jewish Home LifeCare, Manhattan*	\$1,947,662	01/01/2015 – 03/31/2015
	<u>\$1,973,898</u>	04/01/2015 – 03/31/2016
Jewish Home LifeCare, Sarah Neuman Center*	\$1,169,410	01/01/2015 – 03/31/2015
	<u>\$1,185,162</u>	04/01/2015 – 03/31/2016
Lutheran Augustana Center for Extended Care & Rehab*	\$1,016,961	01/01/2015 – 03/31/2015
	<u>\$1,030,660</u>	04/01/2015 – 03/31/2016
Margaret Tietz Center For Nursing Care Inc*	\$700,877	01/01/2015 – 03/31/2015
	<u>\$710,318</u>	04/01/2015 – 03/31/2016
Mary Manning Walsh Nursing Home Co Inc*	\$1,453,160	01/01/2015 – 03/31/2015
	<u>\$1,472,735</u>	04/01/2015 – 03-31-2016
Menorah Home And Hospital For Rehabilitation and Nursing*	\$1,210,053	01/01/2015 – 03/31/2015
	<u>\$1,226,353</u>	04/01/2015 – 03/31/2016
Mercy Living Center	\$6,694	01/01/2014 – 03/31/2014
	<u>\$723,872</u>	04/01/2014 – 03/31/2015
Methodist Home for Nursing and Rehabilitation*	\$441,177	01/01/2015 – 03/31/2015
	<u>\$447,120</u>	04/01/2015 – 03/31/2016

\*Denotes provider is part of CINERGY Collaborative.

TN     #15-0030      
Supersedes TN     #14-0039    Approval Date \_\_\_\_\_  
Effective Date \_\_\_\_\_

**New York  
47(aa)(7)**

**Nursing Homes (Continued):**

<b>Provider Name</b>	<b>Gross Medicaid Rate Adjustment</b>	<b>Rate Period Effective</b>
New York Congregational Nursing Center Inc*	\$717,376	01/01/2015 – 03/31/2015
	<u>\$727,040</u>	04/01/2015 – 03/31/2016
Northeast Center for Special Care	\$5,597,952	04/01/2012 – 03/31/2013
	\$3,885,888	04/01/2013 – 12/31/2013
	\$5,312,562	01/01/2014 – 03/31/2014
	\$5,027,984	04/01/2014 – 03/31/2015
	<u>\$815,934</u>	04/01/2015 – 03/31/2016
Palisade Nursing Home Company Inc*	\$977,614	01/01/2015 – 03/31/2015
	<u>\$990,783</u>	04/01/2015 – 03/31/2016
Parker Jewish Institute for Health Care and Rehabilitation*	\$1,929,819	01/01/2015 – 03/31/2015
	<u>\$1,955,814</u>	04/01/2015 – 03/31/2016
Providence Rest*	\$693,647	01/01/2015 – 03/31/2015
	<u>\$702,990</u>	04/01/2015 – 03/31/2016
Rebekah Rehabilitation & Extended Care Center Inc*	\$387,029	01/01/2015 – 03/31/2015
	<u>\$392,242</u>	04/01/2015 – 03/31/2016
Riverdale Nursing Home*	\$1,858,017	01/01/2015 – 03/31/2015
	<u>\$1,883,045</u>	04/01/2015 – 03/31/2016
Rutland Nursing Home Co Inc.*	\$2,234,772	01/01/2015 – 03/31/2015
	<u>\$2,264,875</u>	04/01/2015 – 03/31/2016
Saints Joachim & Anne Nursing and Rehabilitation Center*	\$644,472	01/01/2015 – 03/31/2015
	<u>\$653,154</u>	04/01/2015 – 03/31/2016
Samaritan Keep Nursing Home Inc.	\$4,500,000	02/01/2014 – 03/31/2014
	\$4,500,000	04/01/2014 – 03/31/2015
Schaffer Extended Care System*	\$441,290	01/01/2015 – 03/31/2015
	<u>\$447,234</u>	04/01/2015 – 03/31/2016
Schervier Nursing Care Center*	\$1,421,550	01/01/2015 – 03/31/2015
	<u>\$1,440,698</u>	04/01/2015 – 03/31/2016

\*Denotes provider is part of CINERGY Collaborative.

**TN #15-0030**

**Approval Date**

**Supersedes TN #14-0039**

**Effective Date**



**New York  
47(aa)(8)**

**Nursing Homes (Continued):**

<b>Provider Name</b>	<b>Gross Medicaid Rate Adjustment</b>	<b>Rate Period Effective</b>
Schnurmacher Center for Rehabilitation and Nursing*	\$539,168	01/01/2015 – 03/31/2015
	\$546,431	04/01/2015 – 03/31/2016
Schulman and Schachne Institute for Nursing and Rehabilitation*	\$1,852,978	01/01/2015 – 03/31/2015
	1,877,938	04/01/2015 – 03/31/2016
Silvercrest*	\$1,293,304	01/01/2015 – 03/31/2015
	\$1,310,725	04/01/2015 – 03/31/2016
St. Mary's Hospital for Children Inc.*	\$1,777,136	01/01/2015 – 03/31/2015
	\$1,795,679	04/01/2015 – 03/31/2016
St Vincent Depaul Residence*	\$417,641	01/01/2015 – 03/31/2015
	\$423,266	04/01/2015 – 03/31/2016
Terence Cardinal Cooke Health Care Ctr	\$500,000	01/01/2015 – 03/31/2015
Terence Cardinal Cooke Health Care Ctr*	\$2,630,256	01/01/2015 – 03/31/2015
	\$2,665,687	04/01/2015 – 03/31/2016
The Wartburg Home*	\$1,020,644	01/01/2015 – 03/31/2015
	\$1,034,392	04/01/2015 – 03/31/2016
Uihlein Living Center	\$2,273,884	01/01/2014 – 03/31/2014
	\$2,359,369	04/01/2014 – 03/31/2015
	\$821,793	04/01/2015 - 03/31/2016
United Hebrew Geriatric Center*	\$1,152,635	01/01/2015 – 03/31/2015
	\$1,168,162	04/01/2015 – 03/31/2016
Victoria Home	\$500,000	01/01/2015 – 03/31/2015
VillageCare Rehabilitation and Nursing Center*	\$1,132,647	01/01/2015 – 03/31/2015
	\$1,142,631	04/01/2015 – 03/31/2016

\*Denotes provider is part of CINERGY Collaborative.

**TN #15-0030**

**Approval Date** \_\_\_\_\_

**Supersedes TN #14-0039**

**Effective Date** \_\_\_\_\_

**Appendix II  
2015 Title XIX State Plan  
Second Quarter Amendment  
Summary**

**SUMMARY**  
**SPA #15-0030**

This State Plan Amendment proposes to modify the listing of residential health care facilities (RHCFs) previously approved to receive temporary rate adjustments under the closure, merger, consolidation, acquisition, or restructuring of a health care provider. CINERGY Collaborative includes:

Amsterdam Nursing Home Corp (Amsterdam House), Beth Abraham Health Services, Bronx-Lebanon Special Care Center, Brooklyn United Methodist Church Home, Beuna Vida Continuing Care & Rehab Ctr, Cabri Center for Nursing, Carmel Richmond Healthcare and Rehabilitation Center, Center For Nursing & Rehabilitation Inc, Chapin Home For The Aging, Eger Health Care and Rehabilitation Center, Elizabeth Seton Pediatric Center, Ferncliff Nursing Home Co Inc, Gurwin Jewish Nursing and Rehabilitation Center, Isabella Geriatric Center Inc, Island Nursing and Rehab Center, Jamaica Hospital Nursing Home Co Inc, Jewish Home Lifecare Henry and Jeanette Weinberg Campus Bronx, Jewish Home Lifecare Manhattan, Jewish Home Lifecare Sarah Neuman Center, Lutheran Augustana Center for Extended Care & Rehab, Margaret Tietz Center For Nursing Care Inc, Mary Manning Walsh Nursing Home Co Inc, Menorah Home And Hospital For Rehabilitation and Nursing, Methodist Home For Nursing and Rehabilitation, New York Congregational Nursing Center Inc, Palisade Nursing Home Company Inc, Parker Jewish Institute for Health Care and Rehabilitation, Providence Rest, Rebekah Rehabilitation & Extended Care Center Inc, Riverdale Nursing Home, Rutland Nursing Home Co Inc, Saints Joachim & Anne Nursing and Rehabilitation Center, Schaffer Extended Care System, Schervier Nursing Care Center, Schnurmacher Center for Rehabilitation and Nursing, Schulman and Schachne Institute for Nursing Rehabilitation, Silvercrest, St Marys Hospital For Children Inc, St Vincent Depaul Residence, Terence Cardinal Cooke Health Ctr, The Wartburg Home, United Hebrew Geriatric Center, Villagecare Rehabilitation and Nursing Center.

**Appendix III  
2015 Title XIX State Plan  
Second Quarter Amendment  
Authorizing Provisions**

This rule will have no direct effect on local governments

**Compliance Requirements:**

Providers that are granted a temporary rate adjustment must submit periodic reports, as determined by the Commissioner, concerning the achievement of benchmarks and goals that are established by the Commissioner and are in conformity with the provider's approved written proposal.

The rule will have no direct effect on local governments

**Professional Services:**

No new or additional professional services are required in order to comply with the proposed amendments.

**Compliance Costs**

No initial capital costs will be imposed as a result of this rule, nor is there an annual cost of compliance.

**Economic and Technological Feasibility**

Small businesses will be able to comply with the economic and technological aspects of this rule because there are no technological requirements other than the use of existing technology, and the overall economic aspect of complying with the requirements is expected to be minimal.

**Minimizing Adverse Impact:**

This regulation seeks to provide needed relief to eligible providers, thus a positive impact for small businesses that are eligible and no impact for the remainder. In addition, local districts' share of Medicaid costs is statutorily capped; therefore, there will be no adverse impact to local governments as a result of this proposal.

**Small Business and Local Government Participation:**

The State filed a Federal Public Notice, published in the State Register, prior to the effective date of the change. The Notice provided a summary of the action to be taken and instructions as to where the public, including small businesses and local governments, could locate copies of the corresponding proposed State Plan Amendment. The Notice further invited the public to review and comment on the related proposed State Plan Amendment. In addition, contact information for the Department of Health was provided for anyone interested in further information.

**Rural Area Flexibility Analysis**

**Effect on Rural Areas**

Rural areas are defined as counties with populations less than 200,000 and, for counties with populations greater than 200,000, include towns with population densities of 150 persons or less per square mile. The following 43 counties have populations of less than 200,000.

Allegany	Hamilton	Schenectady
Cattaraugus	Herkimer	Schoharie
Cayuga	Jefferson	Schuyler
Chautauqua	Lewis	Seneca
Chemung	Livingston	Steuben
Chenango	Madison	Sullivan
Clinton	Montgomery	Tioga
Columbia	Ontario	Tompkins
Cortland	Orleans	Ulster
Delaware	Oswego	Warren
Essex	Otsego	Washington
Franklin	Putnam	Wayne
Fulton	Rensselaer	Wyoming
Genesee	St. Lawrence	Yates
Greene		

The following nine counties have certain townships with population densities of 150 persons or less per square mile:

Albany	Eric	Oneida
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Broome	Monroe	Onondaga
Dutchess	Niagara	Orange

**Compliance Requirements**

For hospitals that receive the temporary rate adjustment, periodic reports must be submitted concerning the achievement of benchmarks and goals as approved by the Commissioner

**Professional Services**

No new additional professional services are required in order for providers in rural areas to comply with the proposed amendments.

**Compliance Costs**

No initial capital costs will be imposed as a result of this rule, nor is there an annual cost of compliance.

**Minimizing Adverse Impact:**

This regulation provides needed relief to eligible providers, thus a positive impact for small businesses that are eligible and no impact for the remainder. In addition, local districts' share of Medicaid costs is statutorily capped; therefore, there will be no adverse impact to local governments as a result of this proposal.

**Rural Area Participation:**

A concept paper was shared with the hospital industry associations, which include members from rural areas. Comments were received and taken into consideration while drafting the regulations. In addition, a Federal Public Notice, published in the New York State Register invited comments and questions from the general public.

**Job Impact Statement**

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature and purpose of the proposed rule, that it will not have a substantial adverse impact on jobs or employment opportunities. The proposed regulation expands the temporary rate adjustment to eligible hospitals that are subject to or impacted by the closure, merger, acquisition, consolidation, or restructuring of a health care provider in its service delivery area. In addition, the proposed regulation sets forth the conditions under which a provider will be considered eligible, the requirements for requesting a temporary rate adjustment, and the conditions that must be met in order to receive a temporary rate adjustment. The proposed regulation has no implications for job opportunities.

**EMERGENCY  
RULE MAKING**

**Temporary Rate Adjustment (TRA) - Residential Health Care Facilities (RHCF) (Nursing Homes)**

I.D. No. HI 1-14-12-00007-E

Filing No. 448

Filing Date: 2012-05-11

Effective Date: 2012-05-11

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of Section 86-2.39 to Title 10 NYCRR

**Statutory authority:** Public Health Law, section 2808(2-c)(d)

**Finding of necessity for emergency rule:** Preservation of public health.

**Specific reasons underlying the finding of necessity:** Public Health Law Section 2808(2-c)(d), as enacted by Section 95 of Part II of Chapter 59 of the Laws of 2011, specifically provides the Commissioner of Health with authority to issue emergency regulations in order to compute rates of payment for residential health care facilities. It is necessary to issue this regulation on an emergency basis in order to maintain Medicaid beneficiaries' access to services by providing financial relief to eligible providers.

**Subject:** Temporary Rate Adjustment (TRA) - Residential Health Care Facilities (RHCF) (Nursing Homes)

**Purpose:** To provide a TRA to eligible RHCFs subject to or impacted by closure, merger, acquisition, consolidation, or restructuring.

**Text of emergency rule:** Subpart 86-2 of title 10 of NYCRR is amended by adding a new section 86-2.39, to read as follows:

86-2.39 *Closures, mergers, acquisitions, consolidations and*

achievement of benchmarks and goals that are established by the Commissioner and are in conformity with the provider's approved written proposal.

The rule will have no direct effect on local governments.

**Professional Services**  
No new or additional professional services are required in order to comply with the proposed amendments.

**Compliance Costs**  
No initial capital costs will be imposed as a result of this rule, nor is there an annual cost of compliance.

**Economic and Technological Feasibility**  
Small businesses will be able to comply with the economic and technological aspects of this rule because there are no technological requirements other than the use of existing technology, and the overall economic aspect of complying with the requirements is expected to be minimal.

**Minimizing Adverse Impact**  
This regulation seeks to provide needed relief to eligible providers, thus a positive impact for small businesses that are eligible and no impact for the remainder. In addition, local districts' share of Medicaid costs is statutorily capped, therefore, there will be no adverse impact to local governments as a result of this proposal.

**Small Business and Local Government Participation**  
The State filed a Federal Public Notice, published in the State Register, prior to the effective date of the change. The Notice provided a summary of the action to be taken and instructions as to where the public, including small businesses and local governments, could locate copies of the corresponding proposed State Plan Amendment. The Notice further invited the public to review and comment on the related proposed State Plan Amendment. In addition, contact information for the Department of Health was provided for anyone interested in further information.

**Rural Area Flexibility Analysis**

**Effect on Rural Areas**  
Rural areas are defined as counties with populations less than 200,000 and, for counties with populations greater than 200,000, include towns with population densities of 150 persons or less per square mile. The following 43 counties have populations of less than 200,000:

Allegany	Hamilton	Schenectady
Cattaraugus	Herkimer	Schoharie
Cayuga	Jefferson	Schuyler
Chautauqua	Lewis	Seneca
Chemung	Livingston	Steuben
Chemango	Madison	Sullivan
Columbia	Montgomery	Tioga
Cortland	Ontario	Tompkins
Delaware	Orleans	Ulster
Essex	Oswego	Warren
Franklin	Oneida	Washington
Fulton	Putnam	Wayne
Genesee	Rensselaer	Wyoming
Greene	St. Lawrence	Yates

The following nine counties have certain townships with population densities of 150 persons or less per square mile:

Albany	Eric	Oneida
Broome	Monroe	Onondaga
Dutchess	Niagara	Orange

**Compliance Requirements**

For residential health care facilities that receive the temporary rate adjustment, periodic reports must be submitted concerning the achievement of benchmarks and goals as approved by the Commissioner.

**Professional Services**  
No new additional professional services are required in order for providers in rural areas to comply with the proposed amendments.

**Compliance Costs**  
No initial capital costs will be imposed as a result of this rule, nor is there an annual cost of compliance.

**Minimizing Adverse Impact**  
This regulation provides needed relief to eligible providers, thus a positive

impact for small businesses that are eligible and no impact for the remainder. In addition, local districts' share of Medicaid costs is statutorily capped, therefore, there will be no adverse impact to local governments as a result of this proposal.

**Rural Area Participation**  
A concept paper was shared with the hospital and long-term care industry associations, both of which include members from rural areas. Comments were received and taken into consideration while drafting the regulations. In addition, a Federal Public Notice, published in the New York State Register invited comments and questions from the general public.

**Job Impact Statement**

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature and purpose of the proposed rule, that it will not have a substantial adverse impact on jobs or employment opportunities. The proposed regulation provides a temporary rate adjustment to eligible residential health care facilities that are subject to or impacted by the closure, merger, acquisition, consolidation, or restructuring of a health care provider in its service delivery area. In addition, the proposed regulation sets forth the conditions under which a provider will be considered eligible, the requirements for requesting a temporary rate adjustment, and the conditions that must be met in order to receive a temporary rate adjustment. The proposed regulation has no implications for job opportunities.

**EMERGENCY  
RULE MAKING**

**Temporary Rate Adjustment (TRA) - Licensed Ambulatory Care Facilities (LACF)**

I.D. No. HL7-14-12-00008-E

Filing No. 449

Filing Date: 2012-05-11

Effective Date: 2012-05-11

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 86-8.15 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2807(2-a)(e).

**Finding of necessity for emergency rule:** Preservation of public health.

**Specific reasons underlying the finding of necessity:** Paragraph (e) of subdivision 2-a of Section 2807 of the Public Health Law (as added by Section 2 of Part C of Chapter 58 of the Laws of 2009) specifically provides the Commissioner of Health with authority to issue emergency regulations in order to compute rates of payment for Article 28 licensed ambulatory care providers as authorized in accordance with the provisions of such subdivision 2-a.

**Subject:** Temporary Rate Adjustment (TRA) - Licensed Ambulatory Care Facilities (LACF).

**Purpose:** Expand TRA to include Article 28 LACFs subject to or affected by closure, merger, acquisition, consolidation, or restructuring.

**Text of emergency rule:** Subpart 86-8 of title 10 of NYCRR is amended by adding a new section 86-8.15, to read as follows:

*86-8.15 Closures, mergers, acquisitions, consolidations, restructurings and inpatient bed de-certifications. (a) The commissioner may grant approval of a temporary adjustment to the non-capital components of rates calculated pursuant to this subpart for eligible ambulatory care facilities licensed under article 28 of the Public Health Law ("PHL").*

*(b) Eligible facilities shall include:*

- (1) facilities undergoing closure;*
- (2) facilities impacted by the closure of other health care facilities;*
- (3) facilities subject to mergers, acquisitions, consolidations or restructuring;*
- (4) facilities impacted by the merger, acquisition, consolidation or restructuring of other health care facilities; or*
- (5) outpatient facilities of general hospitals which have entered into an agreement with the Department to permanently decertify a specified number of staffed hospital inpatient beds, as reported to the Department.*

*(c) Facilities seeking rate adjustments under this section shall demonstrate through submission of a written proposal to the commissioner that the additional resources provided by a temporary rate adjustment will achieve one or more of the following:*

- (1) protect or enhance access to care;*
- (2) protect or enhance quality of care;*

**Appendix IV  
2015 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

Department of Civil Service

PURSUANT to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for March 2015 will be conducted on March 10 and March 11 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY.

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598

## 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 and long term care related to temporary rate adjustments to providers that are undergoing a closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are authorized by current State statutory and regulatory provisions.

Effective on or after April 1, 2015, the temporary rate adjustment has been reviewed and approved for five providers with aggregate payment amounts totaling up to \$207,400,000, for the period April 1, 2015 through March 31, 2017. The approved providers along with their individual estimated aggregate amounts include:

Provider	Type	2015-16	2016-17
Critical Access Hospitals	Hospital	\$ 5,000,000	\$ 5,000,000
Severely Financially Distressed Providers	All	\$ 20,000,000	\$ 0

Mount Sinai Hospital Groups	Hospitals	\$ 33,200,000	\$ 33,200,000
South Nassau Hospital	Hospital	\$ 1,000,000	\$ 0
CINERGY Collaborative	Nursing Home	\$ 55,000,000	\$ 55,000,000
Total		\$ 114,200,000	\$ 93,200,000

The 17 Critical Access Hospitals,(CAH's) are the following: Carthage Area Hospital, Catskill Regional Medical Center-Hermann, Clifton-Fine Hospital, Community Memorial Hospital, Cuba Memorial Hospital, Delaware Valley Hospital, Elizabethtown Community Hospital, Ellenville Regional Hospital, Gouverneur Hospital, Lewis County General Hospital, Little Falls Hospital, Margaretville Hospital, Moses Ludington Hospital, O'Connor Hospital, River Hospital, Schuyler Hospital, Soldiers and Sailors Memorial Hospital of Yates, Co.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Years 2015/2016 by provider category, is as follows: institutional, \$39,200,000 and long term care, \$55,000,000 and \$20,000,000 for the remainder of Financially Distressed Providers.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Years and 2016/2017 by provider category, is as follows: institutional, \$38,200,000 and long term care, \$55,000,000.

The public is invited to review and comment on this proposed State Plan Amendment. Copies 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).

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, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave. – One Commerce Plaza, Suite 1460, Albany, NY 12210, or e-mail: spa\_inquiries@health.state.ny.us

## PUBLIC NOTICE

### Susquehanna River Basin Commission Projects Approved for Consumptive Uses of Water

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATES: October 1, 2014 – December 31, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Regulatory Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR § 806.22(e) and § 806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR § 806.22(e):

1. The Lion Brewery, Inc., The Lion Brewery-Wilkes-Barre PA, ABR-201412007, Wilkes-Barre, Luzerne County, PA.; Approval Date: December 15, 2014.

Approvals By Rule Issued Under 18 CFR § 806.22(f):

1. Seneca Resources Corporation, Pad ID: DCNR 595 Pad D, ABR-20090827.R1, Bloss Township, Tioga County, Pa.; Consumptive Use of Up to 4,000 mgd; Approval Date: October 7, 2014.

2. Chesapeake Appalachia, LLC, Pad ID: James Smith, ABR-20091020.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 7, 2014.

3. Chesapeake Appalachia, LLC, Pad ID: Grippo, ABR-20091212.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 7, 2014.

4. Chesapeake Appalachia, LLC, Pad ID: Duffield, ABR-20091213.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 7, 2014.

5. Chesapeake Appalachia, LLC, Pad ID: Shirley, ABR-20100133.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 7, 2014.

6. Chesapeake Appalachia, LLC, Pad ID: Meas, ABR-20100134.R1, Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 7, 2014.

7. Chesapeake Appalachia, LLC, Pad ID: Mowry2, ABR-20100141.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 7, 2014.

8. Chesapeake Appalachia, LLC, Pad ID: Harper, ABR-20100142.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 7, 2014.

9. Chesapeake Appalachia, LLC, Pad ID: Popivchak, ABR-20100147.R1, Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 7, 2014.

10. Chesapeake Appalachia, LLC, Pad ID: Roundwood, ABR-201410001, Braintrim Township, Wyoming County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 10, 2014.

11. Southwestern Energy Production Company, Pad ID: RU-42-KROPPF-PAD, ABR-201410002, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4,999 mgd; Approval Date: October 10, 2014.

12. Southwestern Energy Production Company, Pad ID: RU-71-BLUE BECK-PAD, ABR-201410003, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4,999 mgd; Approval Date: October 10, 2014.

13. Chesapeake Appalachia, LLC, Pad ID: Saxe, ABR-201410004,

Colley Township, Sullivan County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 10, 2014.

14. Chief Oil & Gas, LLC, Pad ID: SGL-12 B Drilling Pad, ABR-201410005, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 2,500 mgd; Approval Date: October 10, 2014.

15. Southwestern Energy Production Company, Pad ID: RU-47-KARMAZIN-PAD, ABR-201410006, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4,999 mgd; Approval Date: October 17, 2014.

16. Southwestern Energy Production Company, Pad ID: NR-27-COLEMAN EAST-PAD, ABR-201410007, Oakland Township, Susquehanna County, Pa.; Consumptive Use of Up to 4,999 mgd; Approval Date: October 17, 2014.

17. Inflection Energy LLC, Pad ID: Reitz Well Pad, ABR-201410008, Eldred Township, Lycoming County, Pa.; Consumptive Use of Up to 4,000 mgd; Approval Date: October 17, 2014.

18. Inflection Energy LLC, Pad ID: Winter Well Pad, ABR-201410009, Eldred Township, Lycoming County, Pa.; Consumptive Use of Up to 4,000 mgd; Approval Date: October 17, 2014.

19. Anadarko E&P Onshore LLC, Pad ID: Salt Run HC Pad B, ABR-201410010, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4,000 mgd; Approval Date: October 23, 2014.

20. Anadarko E&P Onshore LLC, Pad ID: COP Tract 284 Pad A, ABR-201410011, Grugan and Gallagher Townships, Clinton County, Pa.; Consumptive Use of Up to 4,000 mgd; Approval Date: October 23, 2014.

21. Southwestern Energy Production Company, Pad ID: RU-06-FLOHS-PAD, ABR-201410012, Great Bend Township, Susquehanna County, Pa.; Consumptive Use of Up to 4,999 mgd; Approval Date: October 23, 2014.

22. Stone Energy Corporation, Pad ID: Stang Well No. 1, ABR-20090941.R1, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 1,000 mgd; Approval Date: October 29, 2014.

23. Stone Energy Corporation, Pad ID: Loomis Well No. 1, ABR-20090942.R1, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 1,000 mgd; Approval Date: October 29, 2014.

24. Chesapeake Appalachia, LLC, Pad ID: Harry, ABR-20091017.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 29, 2014.

25. Chesapeake Appalachia, LLC, Pad ID: Stoorza, ABR-20091208.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 29, 2014.

26. Chesapeake Appalachia, LLC, Pad ID: Readinger, ABR-20091210.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 29, 2014.

27. Chesapeake Appalachia, LLC, Pad ID: Miller, ABR-20091211.R1, Towanda Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 29, 2014.

28. EOG Resources, Inc., Pad ID: GUINAN IV, ABR-20091116.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 0.999 mgd; Approval Date: October 29, 2014.

29. Chesapeake Appalachia, LLC, Pad ID: Solowiej, ABR-20100148.R1, Wyalusing Township, Bradford County, Pa.; Consumptive Use of Up to 7,500 mgd; Approval Date: October 31, 2014.

30. Talisman Energy USA Inc., Pad ID: Ferguson 01 023, ABR-20100453.R1, Granville Township, Bradford County, Pa.; Consumptive Use of Up to 6,000 mgd; Approval Date: October 31, 2014.

31. Cabot Oil & Gas Corporation, Pad ID: KelleyP P1, ABR-20100310.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3,575 mgd; Approval Date: November 7, 2014.

32. Cabot Oil & Gas Corporation, Pad ID: HinkleyR P1, ABR-20100322.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3,575 mgd; Approval Date: November 7, 2014.

33. Cabot Oil & Gas Corporation, Pad ID: BlaisureJo P1, ABR-

**Appendix V**  
**2015 Title XIX State Plan**  
**Second Quarter Amendment**  
**Responses to Standard Funding Questions**

**APPENDIX V  
LONG TERM CARE SERVICES  
State Plan Amendment #15-0030**

**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-D of your 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 A-87 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 4447.272, 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 is currently working with CMS to finalize the 2014 nursing home UPL demonstration which the 2015 demonstration is contingent upon.

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:** Effective January 1, 2012, the rate methodology included in the approved State Plan for non-specialty nursing facility services for the operating component of the rate is a blended statewide/peer group price adjusted for case mix and wage differentials (WEF). Specialty nursing facility and units are paid the operating rate in effect on January 1, 2009. The capital component of the rate for all specialty and non-specialty facilities is based upon a cost based 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, 2015.

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:** This 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 11-06, and documentation of such is included with the original submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.