



Department of Health

ANDREW M. CUOMO
Governor

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

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

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

JUN 22 2018

RE: SPA #18-0049
Long Term Care Facility Services

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #18-0049 the Title XIX (Medicaid) State Plan for long term care facility services to be effective May 17, 2018 (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).

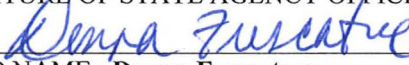
A copy of the pertinent section of enacted legislation is enclosed for your information (Appendix III). Copies of the public notice of this proposed amendment, which were given in the New York State Register on May 16, 2018, and clarification on June 13, 2018, are also enclosed for your information (Appendix IV). In addition responses to the five standard funding questions and standard access questions are also enclosed (Appendix V and VI, respectively).

If you have any questions regarding this State Plan Amendment submission, please do not hesitate to contact Regina Deyette, Medicaid State Plan Coordinator, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 473-3658.

Sincerely,

Donna Frescatore
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		1. TRANSMITTAL NUMBER: 18-0049	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE May 17, 2018	
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: §1902(r)(5) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: (<i>in thousands</i>) a. FFY 05/17/18-09/30/18 \$ (7,670.00) b. FFY 10/01/18-09/30/19 \$ (7,670.00)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D Page: 110(d)(26.1)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>):	
10. SUBJECT OF AMENDMENT: 2% Penalty on Poor Performing Nursing Homes (FMAP = 50%)			
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: New York State Department of Health Division of Finance & Rate Setting 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Donna Frescatore			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: JUN 22 2018			
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
2018 Title XIX State Plan
Second Quarter Amendment
Amended SPA Pages

New York
110(d)(26.1)

Effective May 17, 2018, and every January 1 thereafter, a penalty will be imposed on certain residential care facilities based on the most recent two years of Nursing Home Quality Initiative (NHQI) data. A facility that was ranked in either of the lowest quintiles for each of the two most recent years and ranked in the lowest quintile for the most recent year will be subject to a penalty of 2% of the annual Medicaid revenue of the facility. Financially distressed providers will be excluded from this penalty.

TN #18-0049

Supersedes TN NEW

Approval Date _____

Effective Date _____

Appendix II
2018 Title XIX State Plan
Second Quarter Amendment
Summary

SUMMARY
SPA #18-0049

This amendment proposes to revise the State Plan to impose a 2% penalty on certain nursing homes based on the two most recent years of nursing home quality initiative (NHQI) data. If a facility was ranked in either of the two lowest quintiles for each of the two most recent years, and the lowest quintile for the most recent year of NHQI data, then the facility would be subject to the 2% penalty. Financially distressed providers would be excluded from the penalty.

Appendix III
2018 Title XIX State Plan
Second Quarter Amendment
Authorizing Provisions

SPA 18-0049

Nursing Home Quality

PHL Section 2808(2-c)(g)

(g) The commissioner shall reduce Medicaid revenue to a residential health care facility in a payment year by two percent if in each of the two most recent payment years for which New York state nursing home quality initiative data is available, the facility was ranked in the lowest two quintiles of facilities based on its nursing home quality initiative performance, and was ranked in the lowest quintile in the most recent payment year. The commissioner shall waive the application of this paragraph to a facility if the commissioner determines that the facility is in financial distress.

Appendix IV
2018 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

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 Health

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

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

Long Term Care Services

Effective on or after May 17, 2018, the 2018-2019 enacted budget authorizes the commissioner to impose a 2% penalty on poor performing nursing homes based on the two most recent years of nursing home quality initiative data. If the facility was ranked in the two lowest quintiles for the two most recent years, and the lowest quintile for the most recent year of NHQI data then the nursing home is subject to the 2% penalty. Additionally, financially distressed providers are excluded from this penalty.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal years 2018/2019 and 2019/2020 is (\$20,000,000).

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

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

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

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

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

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

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

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

PUBLIC NOTICE Department of Health

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

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

Institutional Services

Effective on or after May 17, 2018, in response to a New York State Supreme Court decision in the Matter of The Bronx-Lebanon High-bridge Woodcrest Center, the Department of Health is required to make a payment to this facility in relation to the recalculation of reserve bed days.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this decision for state fiscal year 2018/2019 is \$5.7 million.

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

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

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250 Church Street
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1916 Monterey Avenue
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Richmond County, Richmond Center
95 Central Avenue, St. George
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For further information and to review and comment, please contact:
Department of Health, Division of Finance and Rate Setting, 99
Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY
12210, e-mail: spa_inquiries@health.ny.gov

PUBLIC NOTICE

Department of Health

The Department of Health is pleased to announce the date for Upstate Public Comment Day for New York's 1115 Waiver programs.

The Upstate Public Comment Day will be held on June 19th at the Empire State Plaza, Meeting Room 6, Albany, NY from 1:00 p.m. - 4:00 p.m. Any updates related to the forum will be sent via the MRT Listserv. Any written public comment may be submitted through June 29th to 1115waivers@health.ny.gov. Please include "1115 Public Forum Comment" in the subject line.

The 1115 waiver is designed to permit New York to use a managed care delivery system to deliver benefits to Medicaid recipients, create efficiencies in the Medicaid program, and enable the extension of coverage to certain individuals who would otherwise be without health insurance. In addition, New York's goals in implementing its 1115 waiver include improving access to health services and better health outcomes for New Yorkers through multiple programs. The Delivery System Reform Incentive Payment (DSRIP) program is a significant waiver initiative, and members of the DSRIP Project Approval and Oversight Panel will join DOH staff in listening to the feedback provided by members of the public and stakeholders at this meeting.

These meetings will be webcast live and will be open to the public. No pre-registration is required. Individuals who wish to provide comment will be asked to register on site no later than 2pm, and will speak in their order of registration.

We kindly request that all comments be limited to 5 minutes per presenter to ensure that all public comments may be heard. Please direct all questions to 1115waivers@health.ny.gov

PUBLIC NOTICE

New York State and Local Retirement Systems
Unclaimed Amounts Payable to Beneficiaries

Pursuant to the Retirement and Social Security Law, the New York State and Local Retirement Systems hereby gives public notice of the amounts payable to beneficiaries.

The State Comptroller, pursuant to Sections 109 (a) and 409 (a) of the Retirement and Social Security Law has received, from the New York State and Local Retirement Systems, a listing of beneficiaries or estates having unclaimed amounts in the Retirement System. A list of the names contained in this notice is on file and open to public inspection at the office of the New York State and Local Retirement Systems located at 110 State St., in the City of Albany, New York.

Set forth below are the names and addresses (last known) of beneficiaries and estates appearing from the records of the New York State and Local Retirement Systems, entitled to the unclaimed benefits.

At the expiration of six months from the date of publication of this list of beneficiaries and estates, unless previously paid to the claimant, the amounts shall be deemed abandoned and placed in the pension accumulation fund to be used for the purpose of said fund.

Any amounts so deemed abandoned and transferred to the pension accumulation fund, may be claimed by the executor or administrator of the estates or beneficiaries so designated to receive such amounts, by filing a claim with the State Comptroller. In the event such claim is

properly made, the State Comptroller shall pay over to the estates or to the person or persons making such claim, the amount without interest.

BENEFICIARY NAME	PUBLICATION CITY	PUB STATE
GUIDO,WILL A ESTATE OF	DUNCAN	OK
COOK,LIDDIA MAE	ELLINGTON	CT
ROSA BURGOS,MARIA	GREENSBORO	NC
REED,SUSAN J	ELMIRA	NY
RODRIGUEZ,RAMON M ESTATE OF	NEW YORK	NY
MONROE,ESSIE	BROOKLYN	NY
SWARTZ,ADELINE ESTATE OF	SOUTH PASADENA	FL
FEENEY,ROSE ESTATE OF	ALBANY	NY
BUTLER,PATRICIA	ALBANY	NY
BOGAN,LILA ESTATE OF	UNKNOWN	NY
CANTOR,SHIRLEY	ROCHESTER	NY
MALKIEWICZ,ELEANOR D ESTATE OF	BUFFALO	NY
ANDERSON,WILLIAM ESTATE OF	JACKSONVILLE	FL
SCATTS,LUCY	WHITE PLAINS	NY
HEINNEY,ELEXAS	OCEANSIDE	NY
DEBIN,JEAN	DAYTONA BEACH	FL
RAMOS,ROSEMARIE	ALBANY	NY
MCDONALD,JAMES PERCY	HUDSON	NY
PORTER,SHEILIE M	SAUGERTIES	NY
DUNKEL,LINDA	BAYVILLE	NY
DUFF JR,LESTER	BAYSHORE	NY
SHENTON,KATHLEEN E	WILDWOOD	CT
PRATT,EDWARD ESTATE OF	TROY	NY
NUPP,MARK T	JAMESTOWN	NY
AUSTIN,CHARLES E ESTATE OF	BUFFALO	NY
KRALJIC,DANIELLE	ROCKVILLE CENTER	NY
LANGFORD,JOHN J	WATERVLEIT	AZ
SCHMICK,PETER J,JR	EAST SPANAWAY	WA
ABDUL ALI,SADIQ AMIN	BROOKLYN	NY
CARTER,AARON	EAST ELMHURST	NY
SNIPES,BRYAN	BRONX	NY
O'CONNOR,KEVIN J ESTATE OF	CHESAPEAKE	KS
WAITUS,MARTHA ANN	BURNDIGFE	AL
JOSEPH,JULIE A LECTORA	NEW YORK	NY
LECTORA,RENAE A	CORONA	FL
RODRIGUEZ LECTORA,MARY	NEW YORK	NY
SAMUELS,CALVIN	NEW YORK	NY
SMITH,ANJEANETTE LECTORA	NEW YORK	NY
MC LEOD,DARRELL	HOLLYWOOD	SC
BORDONARO,ROBIN C	LEROY	NY
ORTIZ,IRIS	ALBANY	TN
JACKSON,NASSIR	RALEIGH	NC

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

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1-800-221-9311
or visit our web site at:
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 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 non-institutional services to comply with enacted statutory provisions. The following changes are proposed:

Long Term Care Services

The following is a clarification to the May 16, 2018 noticed provision which imposes a 2% penalty on poor performing nursing homes based on the two most recent years of nursing home quality initiative data. The decrease in gross Medicaid expenditures changed.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal years 2018/2019 and 2019/2020 is now \$15.3 million.

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

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

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

Queens County, Queens Center
3220 Northern Boulevard
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Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

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

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

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

PUBLIC NOTICE

New York City Deferred Compensation Plan & NYCE IRA

The New York City Deferred Compensation Plan & NYCE IRA (the "Plan") is seeking proposals from qualified vendors to provide unbundled recordkeeping services for the City of New York Deferred Compensation Plan. The Request for Proposals ("RFP") will be available beginning on Thursday, June 7, 2018. Responses are due no later than 4:30 p.m. Eastern Time on Tuesday, July 17, 2018. To obtain a copy of the RFP, please visit www1.nyc.gov/site/olr/about/about-rfp.page and download the RFP along with the applicable documents.

If you have any questions, please submit them by fax to Georgette Gestely, Director, at (212) 306-7376.

Consistent with the policies expressed by the City, proposals from New York City certified minority-owned and/or women-owned businesses or proposals that include partnering arrangements with New York City certified minority-owned and/or women-owned firms are encouraged. Additionally, proposals from small and New York City-based businesses are also encouraged.

PUBLIC NOTICE

Department of State
F-2018-0114

Date of Issuance – June 13, 2018

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York. Electronic copies of the submission can also be downloaded at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-0114ForPN.pdf>

Lisa & Joseph Passero are proposing to replace an existing rail road tie and concrete breakwall with a steel breakwall. The proposed new breakwall will be 65 linear feet along the shoreline of Sodus Bay. The activity is proposed to occur at the applicant's property at 6889 Sunset View Road in Wolcott, Town of Huron Wayne County.

The stated purpose of the project is; "removal of unsafe breakwall and new safe wall for shore retention."

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, June 28, 2018.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning and Development, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000; Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2018-0159

Date of Issuance – June 13, 2018

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York. Electronic copies of the submission can also be downloaded at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-0159ForPN.pdf>

Karen & Carey Flaherty are proposing to construct a 4' wide by 68' long fixed dock supported with 10" diameter CCA piles; install a seasonal 30"x16' aluminum ramp; install a 6'x20' seasonal floating dock with un-treated timber decking supported by two (2) 10' diameter CCA piles. The work will occur at the applicant's property on Southold Bay at 1077 Bay Home Road, Town of Southold, Suffolk County.

The stated purpose of the project is; "Gain access to waters for boating and fishing activities."

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or June 28, 2018.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning and Development, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000; Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2018-0407

Date of Issuance – June 13, 2018

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent to the maximum extent practicable with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany,

New York and for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-0407_Application.pdf

In F-2018-0407, New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) is proposing the West River Greenway Connector Project in the Town of Grand Island, Erie County. The proposed activity involves constructing an 8-mile shared-use trail to improve pedestrian and bicyclist access to the west branch of the Niagara River and to close a critical gap in the Niagara River Greenway Trail and connect Buffalo to Niagara Falls. The proposed activity involves constructing a 10-foot wide paved and ADA-compliant trail that would extend approximately 2,900 linear feet from Beaver Island State Park to West Oakfield Road, near Buckhorn Island State Park. From this point, the trail would transition onto the existing West River Parkway pavement (approximately 24 feet wide) and continue to Long Road, where it would transition to the existing trail.

Construction is estimated to require filling approximately 0.191 acres of forested wetlands. Compensatory mitigation is proposed for the permanent and unavoidable loss of wetlands. OPRHP anticipates purchasing in-lieu fee mitigation credits from Ducks Unlimited of New York.

The proposed activity would cross the State-designated Significant Coastal Fish and Wildlife Habitat (SCFWH) unit of Grand Island Tributaries. Additional information on this habitat is available at: https://www.dos.ny.gov/opd/programs/consistency/Habitats/GreatLakes/Grand_Island_Tributaries.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or July 12, 2018.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000; Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2018-0417

Date of Issuance – June 13, 2018

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and supporting information are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York and at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-0417_Application.pdf

In F-2018-0417, Mr. Stephen Fishman is proposing to construct a docking assembly at 80 Redwood Road in the Village of Sag Harbor, Suffolk County. The docking assembly would consist of a fixed elevated catwalk (4'x107'), a hinged ramp (3'x16'), and a floating dock (6'x20') to provide access to Sag Harbor Cove. The catwalk would span vegetated coastal wetlands. The stated purpose of the activity is to provide for practical and safe access to a moored/docked vessel.

The proposed activity would be undertaken within the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP) boundary. As this program is a component of the State Coastal

Appendix V
2018 Title XIX State Plan
Second Quarter Amendment
Responses to Standard Funding Questions

**APPENDIX V
LONG TERM CARE SERVICES
State Plan Amendment #18-0049**

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 the state plan.

- 1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)**

Response: Providers do retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular 2 CFR 200 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

2. **Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local government entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:**
- (i) a complete list of the names of entities transferring or certifying funds;**
 - (ii) the operational nature of the entity (state, county, city, other);**
 - (iii) the total amounts transferred or certified by each entity;**
 - (iv) clarify whether the certifying or transferring entity has general taxing authority; and,**
 - (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).**

Response: Payments made to service providers under the provisions of this SPA are funded with federal and local funding through an Intergovernmental Transfer (IGT). For these payments, the non-Federal share totals of up to \$250 million and is transferred from the sponsoring local county governments, who do have general taxing authority. There are no State appropriations for these governments for this purpose.

Regarding your question on the matching arrangement when the state receives the transferred amounts from the local government entity, please refer to the October 23, 2006 letter from Nicholas Meister, previously provided to CMS, whereby instructions are provided to local government entities when transferring funds for this purpose.

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: For the period April 1, 2018 through March 31, 2019 supplemental payments authorized in this attachment will be paid to providers of services in an amount up to \$500 million. These payments will be made to the non-state government owned or operated provider category.

- 4. Please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated, non-state government owned or operated, and privately owned or operated). Please provide a current (i.e. applicable to the current rate year) UPL demonstration. Under regulations at 42 CFR 447.272, States are prohibited from setting payment rates for Medicaid inpatient services that exceed a reasonable estimate of the amount that would be paid under Medicare payment principals.**

Response: The State and CMS are having ongoing discussions to complete the 2018 NH UPL.

- 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 wage equalization factor. 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: The State does comply with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

Tribal Assurance:

Section 1902(a)(73) of the Social Security Act the Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular ongoing basis from designees of Indian health programs whether operated by the Indian Health Service HIS Tribes

or Tribal organizations under the Indian Self Determination and Education Assistance Act ISDEAA or Urban Indian Organizations under the Indian Health Care Improvement Act.

IHCIA Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program CHIP. Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.

- a) Please describe the process the State uses to seek advice on a regular ongoing basis from federally recognized tribes Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments waiver proposals waiver extensions waiver amendments waiver renewals and proposals for demonstration projects prior to submission to CMS.
- b) Please include information about the frequency inclusiveness and process for seeking such advice.
- c) Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment when it occurred and who was involved.

Response: Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 17-0065, and documentation of such is included with the original submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.

Appendix VI
2018 Title XIX State Plan
Second Quarter Amendment
Responses to Standard Access Questions

**APPENDIX VI
LONG TERM CARE SERVICES
State Plan Amendment 18-0049**

CMS Standard Access Questions

The following questions have been asked by CMS and are answered by the State in relation to all payments made to all providers under Attachment 4.19-D of the state plan.

- 1. Specifically, how did the State determine that the Medicaid provider payments that will result from the change in this amendment are sufficient to comply with the requirements of 1902(a)(30)?**

Response:

- This Amendment seeks to impose a 2% penalty on poor performing facilities.
- The intent of this 2% penalty is to incentivize poor performing facilities to improve their quality of care.
- This change will not impact access to care.

- 2. How does the State intend to monitor the impact of the new rates and implement a remedy should rates be insufficient to guarantee required access levels?**

Response: The State has various ways to ensure that access levels in the Medicaid program are retained and is currently not aware of any access issues, particularly since there is excess bed capacity for both hospitals and nursing homes. Additionally, hospital and nursing home providers must notify and receive approval from the Department's Office of Patient Care and Health Safety Management (OPSHM) in order to discontinue services. This Office monitors and considers such requests in the context of access as they approve/deny changes in services. Finally, providers cannot discriminate based on source of payment.

For providers that are not subject to an approval process, the State will continue to monitor provider complaint hotlines to identify geographic areas of concern and/or service type needs. If Medicaid beneficiaries begin to encounter access issues, the Department would expect to see a marked increase in complaints. These complaints will be identified and analyzed in light of the changes proposed in this State Plan Amendment.

Finally, the State ensures that there is sufficient provider capacity for Medicaid Managed Care plans as part of its process to approve managed care rates and plans. Should sufficient access to services be compromised,

the State would be alerted and would take appropriate action to ensure retention of access to such services.

3. How were providers, advocates and beneficiaries engaged in the discussion around rate modifications? What were their concerns and how did the State address these concerns?

Response: This change was enacted by the State Legislature as part of the negotiation of the 2018-19 Budget. The impact of this change was weighed in the context of the overall Budget in the State. The legislative process provides opportunities for all stakeholders to lobby their concerns, objections, or support for various legislative initiatives. In addition, NY published notice in the state register of the proposed policy and did not receive any comments

4. What action(s) does the State plan to implement after the rate change takes place to counter any decrease to access if the rate decrease is found to prevent sufficient access to care?

Response: Should any essential community provider experience Medicaid or other revenue issues that would prevent access to needed community services, per usual practice, the State would meet with them to explore the situation and discuss possible solutions, if necessary.

5. Is the State modifying anything else in the State Plan which will counterbalance any impact on access that may be caused by the decrease in rates (e.g. increasing scope of services that other provider types may provide or providing care in other settings)?

Response: The State has undertaken initiatives to provide continued access and quality of care to Nursing Homes. Such initiatives are the Vital Access Program (VAP), Minimum Wage increase, 1% Across the Board, Advanced Training Initiative and Refinanced Shared Savings. While some of these initiatives are outside the scope of the State Plan, they represent some of the measures the State is taking to ensure quality care for the State's most vulnerable population.