



Department of Health

ANDREW M. CUOMO
Governor

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

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

June 28, 2019

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

RE: SPA #19-0043
Long Term Care Facility Services

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #19-0043 to the Title XIX (Medicaid) State Plan for long term care facility services to be effective April 1, 2019 (Appendix I). This amendment is being submitted based on Statute. 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).

Copies of the pertinent section of Statute are 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 March 27, 2019 and clarified on May 29, 2019, are 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 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. Ricardo Holligan
Mr. Tom Brady

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>1 9</u> — <u>0 0</u> <u>4 3</u>	2. STATE New York
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE April 1, 2019

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 Section 1902(a) of the Social Security Act, and 42 CFR 447	7. FEDERAL BUDGET IMPACT a. FFY <u>04/01/19-09/30/19</u> \$ <u>75,275.00</u> b. FFY <u>10/01/19-09/30/20</u> \$ <u>150,550.00</u>
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 4.19-D Pages: 47(x)(9), 47(x)(11), 47(x)(12), 47(x)(13), 47(x)(14), 51(a)(1), 51(a)(2), 110(E)(1)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 4.19-D Pages: 47(x)(9), 47(x)(11), 47(x)(12), 47(x)(13), 47(x)(14), 51(a)(1), 51(a)(2), 110(E)(1)

10. SUBJECT OF AMENDMENT
Cost Containment- LTC
(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 	16. RETURN TO New York State Department of Health Division of Finance and 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 June 28, 2019	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED	18. DATE APPROVED
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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
2019 Title XIX State Plan
Second Quarter Amendment
Amended SPA Pages

**New York
47(x)(9)**

facility days of care provided to beneficiaries of Title XVIII of the Social Security Act (Medicare), divided by the sum of such days of care plus days of care provided to residents eligible for payments pursuant to Title 11 of Article 5 of the Social Services Law minus the number of days provided to residents receiving hospice care, expressed as a percentage, for the period commencing January 1, 1999 through November 30, 1999, based on such data for such period. This value [shall] will be called the 1999 statewide target percentage.

- (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003, February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007, February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011, February 1, 2012, February 1, 2013, February 1, 2014, February 1, 2015, February 1, 2016, February 1, 2017, February 1, 2018, [and] February 1, 2019, February 1, 2020, and thereafter the Commissioner of Health will calculate the result of the statewide total of residential health care facility days of care provided to beneficiaries of Title XVIII of the Social Security Act (Medicare), divided by the sum of such days of care plus days of care provided to residents eligible for payments pursuant to Title 11 of Article 5 of the Social Services Law minus the number of days provided to residents receiving hospice care, expressed as a percentage, for the period commencing January 1, through November 30, of the prior year respectively, based on such data for such period. This value [shall] will be called the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020, and thereafter the statewide target percentage respectively.
- (2) Prior to February 1, 1996, the Commissioner of Health will calculate the results of the statewide total of health care facility

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**New York
47(x)(11)**

1996 statewide target percentage is at least two percentage points higher than the statewide base percentage, the 1996 statewide reduction percentage will be zero.

- (c) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020 and 2021, statewide target percentages are not for each year at least three percentage points higher than the statewide base percentage, the Commissioner of Health will determine the percentage by which the statewide target percentage for each year is not at least three percentage points higher than the statewide base percentage. The percentage calculated pursuant to this paragraph will be called the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020, 2021, statewide reduction percentage respectively. If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020, 2021, statewide target percentage for the respective year is at least three percentage points higher than the statewide base percentage, the statewide reduction percentage for the respective year will be zero.

- (d) If the 1999 statewide target percentage is not at least two and one-quarter percentage points higher than the statewide base percentage, the Commissioner of Health will determine the percentage by which the 1999 statewide target percentage is not at least two and one-quarter percentage points higher than the statewide base percentage. The percentage calculated pursuant to this paragraph will be called the 1999 statewide reduction percentage. If the 1999 statewide target percentage is at least two and one-quarter percentage points higher than the statewide base percentage, the 1999 statewide reduction percentage will be zero.

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**New York
47(x)(12)**

- (4) (a) The 1995 statewide reduction percentage will be multiplied by \$34 million to determine the 1995 statewide aggregate reduction amount. If the 1995 statewide reduction percentage will be zero, there will be no reduction amount.
- (b) The 1996 statewide reduction percentage will be multiplied by \$68 million to determine the 1996 statewide aggregate reduction amount. If the 1996 statewide reduction percentage will be zero, there will be no reduction amount.
- (c) The 1997 statewide reduction percentage will be multiplied by \$102 million to determine the 1997 statewide aggregate reduction amount. If the 1997 statewide reduction percentage will be zero, there will be no 1997 reduction amount.
- (d) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020, and thereafter statewide reduction percentage will be multiplied by \$102 million respectively to determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 statewide aggregate reduction amount. If the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020, and thereafter, statewide reduction percentage will be zero respectively, there will be no 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020, and thereafter statewide reduction amount.

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**New York
47(x)(13)**

- (e) The 1999 statewide reduction percentage will be multiplied by \$76.5 million to determine the 1999 statewide aggregate reduction amount. If the 1999 statewide reduction percentage will be zero, there will be no 1999 reduction amount.

- (5) (a) The 1995 statewide aggregate reduction amount will be allocated by the Commissioner of Health among residential health care facilities that are eligible to provide services to Medicare beneficiaries and residents eligible for payments pursuant to Title 11 of Article 5 of the Social Services Law on the basis of the extent of each facility's failure to achieve a one percentage point increase in the 1995 target percentage compared to the base percentage, calculated on a facility specific basis for this purpose, compared to the statewide total of the extent of each facility's failure to achieve a one percentage point increase in the 1995 target percentage compared to the base percentage. This amount will be called the 1995 facility specific reduction amount.

- (b) The 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020 and thereafter statewide aggregate reduction amounts will for each year be allocated by the Commissioner of Health among residential health care facilities that are eligible to provide services to Medicare beneficiaries and residents eligible for payments pursuant to Title 11 of Article 5 of the Social Services Law on the basis of the extent of each facility's failure to achieve a two percentage point increase in the 1996 target percentage, a three percentage point increase in the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020, and thereafter target percentage and a two and one-quarter percentage point increase in the 1999 target percentage for each year, compared to the base percentage, calculated on a facility specific basis for this purpose, compared to the statewide total of the extent of each facility's failure to achieve a two percentage point increase in the 1996, a three percentage point increase in the 1997, and a

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**New York
47(x)(14)**

three percentage point increase in the 1998 and a two and one-quarter percentage point increase in the 1999 target percentage and a three percentage point increase in the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020 and thereafter target percentage compared to the base percentage. These amounts will be called the 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, [and] 2019, 2020 and thereafter facility specific reduction amounts respectively.

(6) The facility specific reduction amounts will be due to

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**New York
51(a)(1)**

- (g) For reimbursement of services provided to patients for the period April 1, 1995 through December 31, 1995, the trend factors established in accordance with subdivisions (d), (e) and (f) of this section will reflect no trend factor projections applicable to the period January 1, 1995 other than those reflected in 1994 rates of payment and provide further, that this subdivision will not apply to use of the trend factor for the January 1, 1995 through December 31, 1995 period, any interim adjustment to the trend factor for such period, or the final trend factor for such period for purposes of projection of allowable operating costs to subsequent rate periods. The Commissioner of Health will adjust such rates of payment to reflect the exclusion of trend factor projections pursuant to this subdivision. For reimbursement of services provided to patients effective April 1, 1996 through March 31, 1997, the rates will be established by the Commissioner of Health without trend factor adjustments, but will include the full or partial value of the retroactive impact of trend factor final adjustments for prior periods.* For reimbursement of services provided to patients on and after April 1, 1996 through March 31, 1999 and for payments made on and after July 1, 1999 through March 31, 2011, and on and after April 1, 2011 through March 31, 2013, and on and after April 1, 2013 through March 31, 2015, and on and after April 1, 2015 through March 31, 2017, and April 1, 2017 through March 31, 2019, and April 1, 2019 through March 31, 2020 and thereafter, the rates will reflect no trend factor projections or adjustments for the period April 1, 1996 through March 31, 1997.
- (h) For reimbursement of nursing home services provided to patients beginning on and after April 1, 2006 through March 31, 2011, and on and after April 1, 2011 through March 31, 2013, and on and after April 1, 2013 through March 31, 2015, and on and after April 1, 2015 through March 31, 2017, [and] April 1, 2017 through March 31, 2019, and April 1, 2019 and thereafter, the Commissioner of Health will apply a trend factor projection of 2.25% attributable to the period January 1, 2006 through December 31, 2006. Upon reconciliation of this trend factor in accordance with the previously approved state methodology, the final 2006 trend factor will be the U.S. Consumer Price Index (CPI) for all Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics, minus 0.25%.
- (i) For reimbursement of nursing home services provided on and after April 1, 2007, the Commissioner of Health will apply a trend factor equal to 75% of the otherwise applicable trend factor for calendar year 2007 as calculated in accordance with paragraph (f) of this section.

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

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

- (k) For rates of payment effective for nursing home services provided on and after January 1, 2009 through March 31, 2009, the otherwise final trend factor attributable to the 2008 calendar year period [shall] will be adjusted such that any increase to the average trend factor for the period April 1, 2008 through December 31, 2008 [shall] will be reduced, on an annualized basis, by 1.3% and no retroactive adjustment to such 2008 trend factor [shall] will be made for the period April 1, 2008 through December 31, 2008. Effective on and after April 1, 2009, the otherwise applicable final trend factor attributable to the 2008 calendar year period [shall] will be zero.
- (l) For rates of payment effective for nursing home services provided on and after January 1, 2009 through March 31, 2009, a trend factor equal to the otherwise applicable trend factor attributable to the period January 1, 2009 through December 31, 2009, as calculated in accordance with paragraph (f) of this section, less 1% [shall] will be applied. Effective on and after April 1, 2009, the otherwise applicable trend factor attributable to the 2009 calendar year period [shall] will be zero.
- (m) For rates of payment effective for nursing home services provided for the period January 1, 2010 through March 31, 2010, the otherwise applicable trend factor attributable to the 2010 calendar year period [shall] will be zero.
- (n) For rates of payment effective for inpatient services provided by residential health care facilities on or after April 1, 2010, except for residential health care facilities that provide extensive nursing, medical, psychological, and counseling support services to children, the otherwise applicable trend factors attributable to:
- i. the 2010 through 2012 calendar year periods [shall] will be no greater than zero.
 - ii. the 2013 and 2014 calendar year periods [shall] will be no greater than zero.
 - iii. the 2015 calendar year period [shall] will be no greater than zero for rates effective for the period January 1, 2015 through March 31, 2015 and April 23, 2015 through December 31, 2015.
 - iv. the 2016 calendar year period [shall] will be no greater than zero.
 - v. the 2017 calendar year period [shall] will be no greater than zero for rates effective for the period January 1, 2017 through March 31, 2017 and April 1, 2017 through December 31, 2019.
 - vi. the 2019 - 2021 calendar year periods will be no greater than zero for rates effective for the period April 1, 2019 through March 31, 2021.

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

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110(E)(1)

Effective January 1, 1997, the rates of payment will be adjusted to allow costs associated with a total State assessment of 5% of facility gross revenues which will be a reimbursable cost to be included in calculating rates of payment. Effective March 1, 1997, the reimbursable assessment will be 3.1%. Effective April 1, 1997, the total reimbursable state assessment to be included in calculating rates of payment will be 4.8%. Effective April 1, 1999 through December 31, 1999, the total reimbursable state assessment of 2.4% of gross revenues as paid by facilities will be included in calculating rates of payment. Effective April 1, 2002 through March 31, 2003, April 1, 2003 through March 31, 2005, April 1, 2005 through March 31, 2013, April 1, 2013 through March 31, 2015, April 1, 2015 through March 31, 2017 [and] April 1, 2017 through March 31, 2019, and April 1, 2019 through March 31, 2020 and thereafter the total reimbursable state assessment on each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for hospital or health-related services, including adult day service, but excluding, effective October 1, 2002, gross receipts attributable to payments received pursuant to Title XVIII of the federal Social Security Act (Medicare), will be 6%, 5%, and 6% thereafter, respectively.

The reimbursable operating costs of facilities for purposes of calculating the reimbursement rates will be increased prospectively, beginning July 1, 1992, to reflect an estimate of the provider cost for the assessment for the period, provided, however, that effective October 1, 2002 the adjustment to rates of payment made pursuant to this paragraph [shall] will be calculated on a per diem basis and based on total reported patient days of care minus reported days attributable to Title XVIII of the federal social security act (Medicare) units of service. As soon as practicable after the assessment period, an adjustment will be made to RHCF rates of payments applicable within the assessment period, based on a reconciliation of actual assessment payments to estimated payments. The reimbursable portion of the provider's cost for the assessment will only be Medicaid's share of the assessment; which is determined by the appropriate assessment percentage multiplied by Medicaid revenues.



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Appendix II
2019 Title XIX State Plan
Second Quarter Amendment
Summary

SUMMARY
SPA #19-0043

This State Plan Amendment proposes to revise the State Plan to:

- Continue the elimination of the trend factor for 04/01/96-03/31/97.
- Continue LTC Medicare Maximization policies.
- Institute a zero-trend factor for residential health care facilities and adult day health care programs except for residential health care facilities or units of such facilities providing services primarily to children under 21 year of age through March 31, 2020.
- Continue current provisions to services on and after April 1, 2019, the reimbursable operating cost component for RHCfs rates will be established with the final 2006 trend factor equal to the final Consumer Price Index (CPI) for all urban consumers less 0.25%.
- Continues, effective for periods on and after April 1, 2019, the total reimbursable state assessment on each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for inpatient or health-related services, including adult day service, but excluding gross receipts attributable to payments received pursuant to Title XVIII of the federal Social Security Act (Medicare), at six percent.

Appendix III
2019 Title XIX State Plan
Second Quarter Amendment
Authorizing Provisions

S 1507-C, S 1507-B, S 1507-A, S 1507

S1507-C BUDGET Same as Uni. A 2007-C Budget
Budget Article VII (Internal # 8 - 2019)
ON FILE: 03/29/19 Budget Bills

Enacts into law major components of legislation necessary to implement the state health and mental hygiene budget for the 2019-2020 state fiscal year

32 § 9. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
33 2807-d of the public health law, as amended by section 3 of part I of
34 chapter 57 of the laws of 2017, is amended to read as follows:

35 (vi) Notwithstanding any contrary provision of this paragraph or any
36 other provision of law or regulation to the contrary, for residential
37 health care facilities the assessment shall be six percent of each resi-
38 dental health care facility's gross receipts received from all patient
39 care services and other operating income on a cash basis for the period
40 April first, two thousand two through March thirty-first, two thousand
41 three for hospital or health-related services, including adult day
42 services; provided, however, that residential health care facilities'
43 gross receipts attributable to payments received pursuant to title XVIII
44 of the federal social security act (medicare) shall be excluded from the
45 assessment; provided, however, that for all such gross receipts received
46 on or after April first, two thousand three through March thirty-first,
47 two thousand five, such assessment shall be five percent, and further
48 provided that for all such gross receipts received on or after April
49 first, two thousand five through March thirty-first, two thousand nine,
50 and on or after April first, two thousand nine through March thirty-
51 first, two thousand eleven such assessment shall be six percent, and
52 further provided that for all such gross receipts received on or after
53 April first, two thousand eleven through March thirty-first, two thou-
54 sand thirteen such assessment shall be six percent, and further provided
55 that for all such gross receipts received on or after April first, two
56 thousand thirteen through March thirty-first, two thousand fifteen such
1 assessment shall be six percent, and further provided that for all such
2 gross receipts received on or after April first, two thousand fifteen
3 through March thirty-first, two thousand seventeen such assessment shall
4 be six percent, and further provided that for all such gross receipts
5 received on or after April first, two thousand seventeen through March
6 thirty-first, two thousand nineteen such assessment shall be six
7 percent, and further provided that for all such gross receipts received
8 on or after April first, two thousand nineteen through March thirty-
9 first, two thousand twenty-one such assessment shall be six percent.

Chapter 57 of 2019
S. 1507--C

1 Department of Labor, Bureau of Labor Statistics less twenty-five
2 hundredths of a percentage point.

3 § 12. Subdivision 5-a of section 246 of chapter 81 of the laws of
4 1995, amending the public health law and other laws relating to medical
5 reimbursement and welfare reform, as amended by section 6 of part I of
6 chapter 57 of the laws of 2017, is amended to read as follows:

7 5-a. Section sixty-four-a of this act shall be deemed to have been in
8 full force and effect on and after April 1, 1995 through March 31, 1999
9 and on and after July 1, 1999 through March 31, 2000 and on and after
10 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
11 through March 31, 2007, and on and after April 1, 2007 through March 31,
12 2009, and on and after April 1, 2009 through March 31, 2011, and on and
13 after April 1, 2011 through March 31, 2013, and on and after April 1,
14 2013 through March 31, 2015, and on and after April 1, 2015 through

15 March 31, 2017 and on and after April 1, 2017 through March 31, 2019,
16 and on and after April 1, 2019 through March 31, 2021;

17 § 13. Section 64-b of chapter 81 of the laws of 1995, amending the
18 public health law and other laws relating to medical reimbursement and
19 welfare reform, as amended by section 7 of part I of chapter 57 of the
20 laws of 2017, is amended to read as follows:

21 § 64-b. Notwithstanding any inconsistent provision of law, the
22 provisions of subdivision 7 of section 3614 of the public health law, as
23 amended, shall remain and be in full force and effect on April 1, 1995
24 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
25 and after April 1, 2000 through March 31, 2003 and on and after April 1,
26 2003 through March 31, 2007, and on and after April 1, 2007 through
27 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
28 and on and after April 1, 2011 through March 31, 2013, and on and after
29 April 1, 2013 through March 31, 2015, and on and after April 1, 2015
30 through March 31, 2017 and on and after April 1, 2017 through March 31,
31 2019, and on and after April 1, 2019 through March 31, 2021.

32 § 14. Section 4-a of part A of chapter 56 of the laws of 2013, amend-
33 ing chapter 59 of the laws of 2011 amending the public health law and
34 other laws relating to general hospital reimbursement for annual rates,
35 as amended by section 5 of part T of chapter 57 of the laws of 2018, is
36 amended to read as follows:

37 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
38 2807-c of the public health law, section 21 of chapter 1 of the laws of
39 1999, or any other contrary provision of law, in determining rates of
40 payments by state governmental agencies effective for services provided
41 on and after January 1, 2017 through March 31, [~~2019~~] 2021, for inpa-
42 tient and outpatient services provided by general hospitals, for inpa-
43 tient services and adult day health care outpatient services provided by
44 residential health care facilities pursuant to article 28 of the public
45 health law, except for residential health care facilities or units of
46 such facilities providing services primarily to children under twenty-
47 one years of age, for home health care services provided pursuant to
48 article 36 of the public health law by certified home health agencies,
49 long term home health care programs and AIDS home care programs, and for
50 personal care services provided pursuant to section 365-a of the social
51 services law, the commissioner of health shall apply no greater than
52 zero trend factors attributable to the 2017, 2018, [~~and~~] 2019, 2020, and
53 2021 calendar years in accordance with paragraph (c) of subdivision 10
54 of section 2807-c of the public health law, provided, however, that such
55 no greater than zero trend factors attributable to such 2017, 2018,
56 [~~and~~] 2019, 2020, and 2021 calendar years shall also be applied to rates

1 of payment provided on and after January 1, 2017 through March 31,
2 [~~2019~~] 2021 for personal care services provided in those local social
3 services districts, including New York city, whose rates of payment for
4 such services are established by such local social services districts
5 pursuant to a rate-setting exemption issued by the commissioner of
6 health to such local social services districts in accordance with appli-
7 cable regulations; and provided further, however, that for rates of
8 payment for assisted living program services provided on and after Janu-
9 ary 1, 2017 through March 31, [~~2019~~] 2021, such trend factors attribut-
10 able to the 2017, 2018, [~~and~~] 2019, 2020, and 2021 calendar years shall
11 be established at no greater than zero percent.

14 1. Notwithstanding any inconsistent provision of law or regulation,
15 the trend factors used to project reimbursable operating costs to the
16 rate period for purposes of determining rates of payment pursuant to
17 article 28 of the public health law for residential health care facili-
18 ties for reimbursement of inpatient services provided to patients eligi-
19 ble for payments made by state governmental agencies on and after April
20 1, 1996 through March 31, 1999 and for payments made on and after July
21 1, 1999 through March 31, 2000 and on and after April 1, 2000 through

22 March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and
23 on and after April 1, 2007 through March 31, 2009 and on and after April
24 1, 2009 through March 31, 2011 and on and after April 1, 2011 through
25 March 31, 2013 and on and after April 1, 2013 through March 31, 2015,
26 and on and after April 1, 2015 through March 31, 2017, and on and after
27 April 1, 2017 through March 31, 2019, and on and after April 1, 2019
28 through March 31, 2021 shall reflect no trend factor projections or
29 adjustments for the period April 1, 1996, through March 31, 1997.

30 § 11. Subdivision 1 of section 89-a of part C of chapter 58 of the
31 laws of 2007, amending the social services law and other laws relating
32 to enacting the major components of legislation necessary to implement
33 the health and mental hygiene budget for the 2007-2008 state fiscal
34 year, as amended by section 5 of part I of chapter 57 of the laws of
35 2017, is amended to read as follows:

36 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
37 of the public health law and section 21 of chapter 1 of the laws of
38 1999, as amended, and any other inconsistent provision of law or regu-
39 lation to the contrary, in determining rates of payments by state
40 governmental agencies effective for services provided beginning April 1,
41 2006, through March 31, 2009, and on and after April 1, 2009 through
42 March 31, 2011, and on and after April 1, 2011 through March 31, 2013,
43 and on and after April 1, 2013 through March 31, 2015, and on and after
44 April 1, 2015 through March 31, 2017, and on and after April 1, 2017
45 through March 31, 2019, and on and after April 1, 2019 through March 31,
46 2021 for inpatient and outpatient services provided by general hospitals
47 and for inpatient services and outpatient adult day health care services
48 provided by residential health care facilities pursuant to article 28 of
49 the public health law, the commissioner of health shall apply a trend
50 factor projection of two and twenty-five hundredths percent attributable
51 to the period January 1, 2006 through December 31, 2006, and on and
52 after January 1, 2007, provided, however, that on reconciliation of such
53 trend factor for the period January 1, 2006 through December 31, 2006
54 pursuant to paragraph (c) of subdivision 10 of section 2807-c of the
55 public health law, such trend factor shall be the final US Consumer
56 Price Index (CPI) for all urban consumers, as published by the US
S. 1507--C 13 A. 2007--C

1 Department of Labor, Bureau of Labor Statistics less twenty-five
2 hundredths of a percentage point.

3 § 12. Subdivision 5-a of section 246 of chapter 81 of the laws of
4 1995, amending the public health law and other laws relating to medical
5 reimbursement and welfare reform, as amended by section 6 of part I of
6 chapter 57 of the laws of 2017, is amended to read as follows:

7 5-a. Section sixty-four-a of this act shall be deemed to have been in
8 full force and effect on and after April 1, 1995 through March 31, 1999
9 and on and after July 1, 1999 through March 31, 2000 and on and after
10 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
11 through March 31, 2007, and on and after April 1, 2007 through March 31,
12 2009, and on and after April 1, 2009 through March 31, 2011, and on and
13 after April 1, 2011 through March 31, 2013, and on and after April 1,
14 2013 through March 31, 2015, and on and after April 1, 2015 through
15 March 31, *2017 and on and after April 1, 2017 through March 31, 2019,
16 and on and after April 1, 2019 through March 31, 2021;

17 § 13. Section 64-b of chapter 81 of the laws of 1995, amending the
18 public health law and other laws relating to medical reimbursement and
19 welfare reform, as amended by section 7 of part I of chapter 57 of the
20 laws of 2017, is amended to read as follows:

21 § 64-b. Notwithstanding any inconsistent provision of law, the
22 provisions of subdivision 7 of section 3614 of the public health law, as
23 amended, shall remain and be in full force and effect on April 1, 1995
24 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
25 and after April 1, 2000 through March 31, 2003 and on and after April 1,
26 2003 through March 31, 2007, and on and after April 1, 2007 through

27 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
28 and on and after April 1, 2011 through March 31, 2013, and on and after
29 April 1, 2013 through March 31, 2015, and on and after April 1, 2015
30 through March 31, 2017 and on and after April 1, 2017 through March 31,
31 2019, and on and after April 1, 2019 through March 31, 2021.

32 § 14. Section 4-a of part A of chapter 56 of the laws of 2013, amend-
33 ing chapter 59 of the laws of 2011 amending the public health law and
34 other laws relating to general hospital reimbursement for annual rates,
35 as amended by section 5 of part T of chapter 57 of the laws of 2018, is
36 amended to read as follows:

37 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
38 2807-c of the public health law, section 21 of chapter 1 of the laws of
39 1999, or any other contrary provision of law, in determining rates of
40 payments by state governmental agencies effective for services provided
41 on and after January 1, 2017 through March 31, [~~2019~~] 2021, for inpa-
42 tient and outpatient services provided by general hospitals, for inpa-
43 tient services and adult day health care outpatient services provided by
44 residential health care facilities pursuant to article 28 of the public
45 health law, except for residential health care facilities or units of
46 such facilities providing services primarily to children under twenty-
47 one years of age, for home health care services provided pursuant to
48 article 36 of the public health law by certified home health agencies,
49 long term home health care programs and AIDS home care programs, and for
50 personal care services provided pursuant to section 365-a of the social
51 services law, the commissioner of health shall apply no greater than
52 zero trend factors attributable to the 2017, 2018, [~~and~~] 2019, 2020, and
53 2021 calendar years in accordance with paragraph (c) of subdivision 10
54 of section 2807-c of the public health law, provided, however, that such
55 no greater than zero trend factors attributable to such 2017, 2018,
56 [~~and~~] 2019, 2020, and 2021 calendar years shall also be applied to rates

1 of payment provided on and after January 1, 2017 through March 31,
2 [~~2019~~] 2021 for personal care services provided in those local social
3 services districts, including New York city, whose rates of payment for
4 such services are established by such local social services districts
5 pursuant to a rate-setting exemption issued by the commissioner of
6 health to such local social services districts in accordance with appli-
7 cable regulations; and provided further, however, that for rates of
8 payment for assisted living program services provided on and after Janu-
9 ary 1, 2017 through March 31, [~~2019~~] 2021, such trend factors attribut-
10 able to the 2017, 2018, [~~and~~] 2019, 2020, and 2021 calendar years shall
11 be established at no greater than zero percent.

**Appendix IV
2019 Title XIX State Plan
Second Quarter Amendment
Public Notice**

Bernard Fineson DDRO
PO Box 280507
Queens Village, NY 11428-0507

Metro NY DDRO/Bronx
2400 Halsey St.
Bronx, NY 10461

Brooklyn DDRO
888 Fountain Ave.
Bldg. 1, 2nd Floor
Brooklyn, NY 11239

Metro NY DDRO/Manhattan
25 Beaver St., 4th Floor
New York, NY 10004

Staten Island DDRO
1150 Forest Hill Rd.
Bldg. 12, Suite A
Staten Island, NY 10314-6316

Long Island DDRO
415-A Oser Ave.
Hauppauge, NY 11788

For further information and to review and comment, please contact:
Office for People With Developmental Disabilities, Division of
Person-Centered Services, Waiver Unit, 44 Holland Ave., Albany, NY
12229, Peoplefirstwaiver@opwdd.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 non-institutional, institutional and long-term care services to comply with proposed statutory provisions. The following changes are proposed:

All Services

Effective on or after April 1, 2019 through March 31, 2021 all non-exempt Medicaid payments, as referenced below, will be uniformly reduced. Such reductions will be applied only if an alternative method that achieves at least \$190.2 million in Medicaid state share savings annually is not implemented.

Exemptions from the uniform reduction are as follows:

- Any reductions that would violate federal law including, but not limited to, payments required pursuant to the federal Medicare program;
- Payments pursuant to the mental hygiene law;
- Payments the state is obligated to make pursuant to court orders or judgments;
- Payments for which the non-federal share does not reflect any state funding; and
- Payments where applying the reduction would result in a lower Federal Medical Assistance Percentage as determined by the Commissioner of Health and the Director of the Budget.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2019/2020 is (\$380.4 million).

Effective on and after April 1, 2019, no greater than zero trend factors attributable to services through March 31, 2024 pursuant to the provisions of Public Health Law § 2807-c(10)(c) to rates of payment for hospital inpatient and outpatient services, inpatient and adult day health care outpatient services provided by residential health care fa-

cilities pursuant to Article 28 of the Public Health Law, except for residential health care facilities or units of such facilities providing services primarily to children under 21 year of age, for certified home health agencies, long term home health care programs, AIDS home care programs, and for personal care services pursuant to section 365-a of the Social Services Law, including personal care services provided in those local social services districts, including New York City, whose rates of payment for services is established by such social services districts pursuant to a rate-setting exemption granted by the Department, and assisted living program services.

The estimated annual net aggregate decrease in gross Medicaid expenditures for state fiscal year 2019/2020 is (\$208.8 million).

Non-Institutional Services

Effective on or after April 1, 2019, the reimbursement rate for Early Intervention services furnished by licensed physical therapists (PTs), occupational therapists (OTs), and speech-language pathologists (SLPs) will increase by 5%. This increase would also apply to supplemental evaluations performed by licensed PTs, OTs and SLPs. These rates are being revised to address capacity issues that municipalities are facing statewide for these qualified professionals.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2019/20 is estimated to be \$7.2 million.

Effective on or after April 1, 2019, continues the supplemental upper payment limit payments made to general hospitals, other than major public general hospitals under non-institutional services of \$339 million annually.

For state fiscal year beginning April 1, 2019 through March 31, 2020, continues hospital outpatient payment adjustments that increase the operating cost components of rates of payment for hospital outpatient and emergency departments on and after April 1, 2011, for public general hospitals other than those operated by the State of New York or the State University of New York, which are located in a city with a population of over one million. The amount to be paid will be up to \$287 million annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Such adjustments shall be paid by means of one or more estimated payments. Payments may be added to rates of payment or made as aggregate payments.

For state fiscal year beginning April 1, 2019 through March 31, 2020, continues upon the election of the social services district in which an eligible diagnostic and treatment center (DTC) is physically located, up to \$12.6 million in additional annual Medicaid payments may be paid to public DTCs operated by the New York City Health and Hospitals Corporation. Such payments will be based on each DTC's proportionate share of the sum of all clinic visits for all facilities eligible for an adjustment for the base year two years prior to the rate year. The proportionate share payments may be added to rates of payment or made as aggregate payments to eligible DTCs.

For state fiscal year beginning April 1, 2019 through March 31, 2020, continues up to \$5.4 million in additional annual Medicaid payments may be paid to county operated free-standing clinics, not including facilities operated by the New York City Health and Hospitals Corporation, for services provided by such DTC and those provided by a county operated freestanding mental health or substance abuse DTC. Distributions shall be based on each eligible facility's proportionate share of the sum of all DTC and clinic visits for all eligible facilities receiving payments for the base year two years prior to the rate year. The proportionate share payments may be added to rates of payment or made as aggregate payments to eligible facilities.

Capital related costs of a general hospital excluding 44% of the major movable costs and excluding staff housing costs will continue effective April 1, 2019 through March 31, 2024 and thereafter.

The estimated annual net aggregate decrease in gross Medicaid expenditures for state fiscal year 2019/2020 is (\$35.1 million).

Extends current provisions for services on April 1, 2019 through March 31, 2024 and thereafter, the reimbursable operating cost component for general hospital inpatient rates will be established with

the 2006 final trend factor equal to the final Consumer Price Index (CPI) for all urban consumers less 0.25%.

Institutional Services

Effective on or after April 1, 2019, annual indigent care pool distributions for certain providers will be reduced.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2019/2020 is (\$275.6 million).

Effective on or after April 1, 2019, continues the supplemental upper payment limit payments made to general hospitals, other than major public general hospitals under institutional services of \$339 million annually.

For state fiscal year beginning April 1, 2019 through March 31, 2020, continues specialty hospital adjustments for hospital inpatient services provided on and after April 1, 2012, to public general hospitals, other than those operated by the State of New York or the State University of New York, located in a city with a population of over one million and receiving reimbursement of up to \$1.08 billion annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Such adjustments shall be paid by means of one or more estimated payments. Payments to eligible public general hospitals may be added to rates of payment or made as aggregate payments.

Additional medical assistance, known as, Intergovernmental Transfer (IGT) payments, for inpatient hospital services may be made to public general hospitals operated by the State of New York or the State University of New York, or by a county which shall not include a city with a population over one million, and those public general hospitals located in the counties of Westchester, Erie, or Nassau, up to one hundred percent (100%) of each such public hospital's medical assistance, and uninsured patient losses after all other medical assistance, including disproportionate share hospital (DSH) payments to such public general hospitals. Payments will be made by means of one or more estimated distributions initially based on the latest DSH audit results, which shall later be reconciled to such payment year's actual DSH audit uncompensated care costs. Payments may be added to rates of payment or made as aggregate payments. Such payments will continue April 1, 2019 through March 31, 2021.

There is no change in gross Medicaid expenditures for this update.

Extends current provisions for services on April 1, 2019 through March 31, 2024 and thereafter, the reimbursable operating cost component for general hospital inpatient rates will be established with the 2006 final trend factor equal to the final Consumer Price Index (CPI) for all urban consumers less 0.25%.

The estimated annual net aggregate decrease in gross Medicaid expenditures for state fiscal year 2019/2020 is (\$114.5 million).

Capital related costs of a general hospital excluding 44% of the major movable costs and excluding staff housing costs will continue effective April 1, 2019 through March 31, 2024 and thereafter.

The estimated annual net aggregate decrease in gross Medicaid expenditures for state fiscal year 2019/2020 is (\$48.4 million).

Budgeted capital inpatient costs of a general hospital applicable to the rate year will be decreased to reflect the percentage amount by which the budget for the base year two years prior to the rate year for capital related inpatient expenses of the hospital exceeded actual expenses will continue effective April 1, 2019 through March 31, 2024 and thereafter.

The estimated annual net aggregate decrease in gross Medicaid expenditures for state fiscal year 2019/2020 is (\$15.9 million).

Effective for dates of service on or after April 1, 2019, update the historical year Medicaid claims used in the general hospital acute rate statewide price development from 2014 to 2017.

There is no change in gross Medicaid expenditures for this update.

Long Term Care Services

Effective on or after April 1, 2019, continues additional payments to non-state government operated public residential health care facili-

ties, including public residential health care facilities located in Nassau, Westchester, and Erie counties, but excluding public residential health care facilities operated by a town or city within a county, in aggregate amounts of up to \$500 million. The amount allocated to each eligible public RHCF will be in accordance with the previously approved methodology, provided, however that patient days shall be utilized for such computation reflecting actual reported data for 2016 and each representative succeeding year as applicable. Payments to eligible RHCF's may be added to rates of payment or made as aggregate payments.

Effective on or after April 1, 2019 and thereafter, the appeals cap in PHL 2808(1)(a)(17)(b) is extended. The current appeals cap provision establishes an eighty-million-dollar annual budget for the processing of rate appeals or reimbursement for construction that has been approved by the commissioner.

There is no additional estimated annual change to gross Medicaid expenditures as a result of the extension.

Effective on or after April 1, 2019 and thereafter the provision that rates of payment for RHCFs shall not reflect trend factor projection or adjustments for the period April 1, 1996 through March 31, 1997 is extended.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative is (\$12.7 million).

Effective on or after April 1, 2019 and thereafter this provision continues a 0.25 reduction in the statutory trend factors of 2006.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative is (\$13.4 million).

Effective on or after April 1, 2019 nursing home reimbursement case mix collections which impact the direct price component of nursing home Medicaid reimbursement. The direct statewide price shall be adjusted by a Medicaid-only case mix and shall be updated for a Medicaid-only case mix in January and July of each year, using the case mix data applicable to the previous period.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2019-2020 is (\$191 million).

Effective for dates of service on or after April 1, 2019 and thereafter, Certified Home Health Agencies (CHHAs) payments will continue to be based on episodic payments, except for such services provided to children under 18 years of age.

There is no additional estimated annual change to gross Medicaid expenditures as a result of this extension.

Effective on or after April 1, 2019, The Consumer Directed Personal Assistance Program (CDPAP), a personal care service model, permits chronically ill and/or physically disabled individuals receiving home care under the medical assistance program greater flexibility and freedom of choice in obtaining such services. Reimbursement for CDPAP services has been based on a per hour billing methodology. This change will move the administrative reimbursement methodology for CDPAP to a per member per month basis and maintains an hourly/daily reimbursement for service delivery.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2019-2020 is (\$28.7 million).

Effective on or after April 1, 2019 and thereafter, current provisions for certified home health agency administrative and general costs reimbursement limits are extended.

There is no additional estimated annual change to gross Medicaid expenditures as a result of this extension.

Effective on or after April 1, 2019 and thereafter, the total reimbursable state assessment on each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for inpatient or health-related services, including adult day service, but excluding gross receipts attributable to payments received pursuant to Title XVII of the federal Social Security Act (Medicare), at six percent.

The extent to which a facility is reimbursed for the additional cost of the assessment is dependent upon Medicaid volume of services.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2019-2020 is \$536 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
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, spa_inquiries@health.ny.gov

PUBLIC NOTICE

Department of State
F-2018-1204

Date of Issuance – March 27, 2019

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.

In F-2018-1204, 3881 River Road LLC, is proposing an approximately 17-acre residential development which will require 1.09 acres of federal wetland disturbance and involve the creation of 1.14 acres of wetland habitat. The proposal also includes a boat docking facility that would support up to 12 recreational boats on the Niagara River. The proposed activity would be located at 3881 River Road in the Town of Porter, Niagara County.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-1204ForPN.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., 15 days from the date of publication of this notice, or, April 11, 2019.

Comments should be addressed to: 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-2018-1279

Date of Issuance – March 27, 2019

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.

In F-2018-1279 or the "Dock Installation at 59 Mashomuch Drive", the applicant Bay Partners, LLC, is proposing the Construction of a 4' x 160' fixed dock with two 2-pile mooring dolphins. Installation of one swim ladder at seaward end. The project is located at 59 Mashomuch Drive in the Sag Harbor (North Haven Village), Suffolk County on the Shelter Island Sound.

The applicant's consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-1279_59_Mashomuch_Dr_Application.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, April 26, 2019.

Comments should be addressed to: 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-2018-1313

Date of Issuance – March 27, 2019

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.

In F-2018-1313 or the "Erickson Project", the applicant Sandra Erickson, is proposing the reconstruction of the existing bulkhead to maintain shoreline protection. Restorative dredging will occur along the seaward side of the bulkhead to maintain navigable conditions. The existing dock will be reconstructed and reconfigured to maintain safe and efficient access to the contiguous waterway. This project is located at 1045 Budd's Pond Road in the Southold, Suffolk County on the dredged canal off Budds Pond.

The applicant's consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2018-1313_Erickson_App.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.

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

Division of Criminal Justice Services
Commission on Forensic Science

Pursuant to Public Officers Law section 104, the Division of Criminal Justice Services gives notice of a meeting of the New York State Commission on Forensic Science to be held on:

Date: June 7, 2019
Time: 9:00 a.m.-1:00 p.m.
Place: Empire State Development Corporation
(ESDC)
633 3rd Ave.
37th Fl./Conference Rm.
New York, NY
* Identification and sign-in required

Video Conference Site:
Division of Criminal Justice Services
Alfred E. Smith Office Bldg.
CrimeStat Rm. 118
80 S. Swan St.
Albany, NY

* Identification and sign-in is required at this location. *For further information, or if you need a reasonable accommodation to attend this meeting, contact:* Catherine White, Division of Criminal Justice Services, Office of Forensic Services, 80 Swan St., Albany, NY 12210, (518) 485-5052

PUBLIC NOTICE Deferred Compensation Plan for Employees of Cortland County

The Deferred Compensation Plan for Employees of Cortland County is soliciting proposals from administrative service agencies relating to trust service, and administration and/or funding of a Deferred Compensation Plan for the employees of Cortland County. They must meet the requirements of section 457 of the Internal Revenue Code and Section 5 of the State Finance Law, including all rules and regulations issued pursuant thereto.

A copy of the proposal questionnaire may be obtained from: Cortland County Personnel/Civil Service, Pamela Abbott, Personnel Technician, 60 Central Ave., Cortland, NY 13045, (607) 753-5207, e-mail: pabbott@cortland-co.org

All proposals must be received no later than 30 days from the date of publication in the *New York State Register*.

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, institutional, and long-term care services to comply with enacted statutory provisions. The following changes are proposed:

All Services

The following is a clarification to the March 27, 2019 noticed provision which extended the zero trend factors attributable to services on or after April 1, 2019 to March 31, 2024. This notice clarifies that the provision was extended through March 31, 2021.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2019/2020 is (\$208.8 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
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 State
F-2019-0116

Date of Issuance – May 29, 2019

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.

In F-2019-0116 or the “Palagonia Dock”, the applicant Tiffany Palagonia, is proposing the construction of a new 4' x 15' open grate catwalk, a 3' x 12' ramp, and a 6' x 20' float-with two 8" piles, and two 8" mooring piles. This project is located at 182 Dune Road, Westhampton Beach on Moneybogue Bay.

The applicant's consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0116_Palagonia_App.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, June 28, 2019.

Comments should be addressed to: 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 e-mail 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-2019-0175

Date of Issuance – May 29, 2019

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 and are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0175_Application.pdf

In F 2019 0175, PSEG Long Island is proposing the Circuit 9Z-807 Utility Pole Replacement Project. The proposed activity would replace

27 timber utility poles in tidal wetlands along the existing utility corridor on the eastern side of Napeague Meadow Road between Cranberry Hole Road and Montauk Highway, Town of East Hampton, Suffolk County. Total disturbance to tidal wetlands is estimated to be 675 square feet. All disturbed areas shall be backfilled with native soils and planted with native vegetation. The stated purpose of the activity is to upgrade the existing utility poles for increased protection of the electric distribution grid from high winds and storm events.

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Town of East Hampton Local Waterfront Revitalization Program: https://www.dos.ny.gov/opd/programs/WFRvitalization/LWRP_status.html

- Napeague Harbor Significant Coastal Fish and Wildlife Habitat: <https://www.dos.ny.gov/opd/programs/consistency/scfwhabitats.html>

- Napeague Meadows Scenic Area of Statewide Significance: <https://www.dos.ny.gov/opd/programs/consistency/scenicass.html>

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 13, 2019.

Comments should be addressed to: Department of State, Office of Coastal, Local Government and Community Sustainability, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474 6000, Fax (518) 473 2464

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

PUBLIC NOTICE

Department of State

The New York State Real Estate Board will hold an open board meeting on May 31, 2019, 10:30 a.m. at Department of State, 99 Washington Ave., Rm. 505, Albany; 123 William St., Rm. 231, New York City; and 276 Waring Rd., Rochester. The Board will hold a public hearing on general real estate issues immediately following the board meeting at the same locations.

Should you require further information, please contact: Adaiha Murdock at Adaiha.Murdock@dos.ny.gov or (518) 408-4750

PUBLIC NOTICE

Department of State

Uniform Code Variance / Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2019-0262 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required ceiling height and height under a girder/soffit. Involved is an existing one family dwelling located at 22 Howell Street; Town of Brookhaven, NY 11772 County of Suffolk, State of New York.

2019-0267 Matter of Building Permits Plus, Jason Allen, 19 Stillwood Road, Brookhaven, NY 11719, for a variance concerning safety requirements, including the required height under a girder/soffit. Involved is an existing one family dwelling located at 98 Granny Road; Town of Brookhaven, NY 11738 County of Suffolk, State of New York.

2019-0268 Matter of Nassau Expeditors Inc., Scott Tirone, 75 Albertson Avenue, Albertson, NY 11507, for a variance concerning safety requirements, including the required height under a girder/soffit. Involved is an existing one family dwelling located at 13 North Drive;

Appendix V
2019 Title XIX State Plan
Second Quarter Amendment
Responses to Standard Funding Questions

APPENDIX V
LONG TERM CARE SERVICES
State Plan Amendment #19-0043

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 through a budget appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health.

The source of the appropriation is the Medicaid General Fund Local Assistance Account, which is part of the Global Cap. The Global Cap is funded by General Fund and HCRA resources.

There have been no new provider taxes and no existing taxes have been modified.

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: No additional payments are included as part of the Amendment.

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 working toward completing and approval of 2019 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 equalization factor (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, 2014.

- 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 this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.