



Department of Health

ANDREW M. CUOMO
Governor

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

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

December 31, 2020

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

RE: SPA #20-0055
Long Term Care Facility Services

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #20-0055 to the Title XIX (Medicaid) State Plan for long term care facility services to be effective October 1, 2020 (Appendix I). This amendment is being submitted based on Social Services Law, Public Health Law and Mental Hygiene Law. 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 laws is enclosed for your information (Appendix III). A copy of the public notice of this proposed amendment, which was given in the New York State Register on May 27, 2020, is 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: Todd McMillion

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: 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

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

7. FEDERAL BUDGET IMPACT

a. FFY _____ \$ _____

b. FFY _____ \$ _____

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

10. SUBJECT OF AMENDMENT

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

13. TYPED NAME

14. TITLE

15. DATE SUBMITTED
December 31, 2020

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
2020 Title XIX State Plan
Fourth Quarter Amendment
Amended SPA Pages

**New York
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[2% penalty; and the State will not claim FFP for any ICF/IID service provided by the provider with a date of service after the 240 day period.]

(4) Day Program Services Component. There is a day program services component for individuals who participate in either in-house day programming or day services, or active treatment.

- i. **In-house day programming** are equal to the sum of the provider in-house day programming amount in accordance with the State Plan in effect on June 30, 2014, plus the product of the units of service for the day services providers as was used in the calculation of the rate in effect on June 30, 2014 and the day service provider's rate in effect on July 1, 2014. A fee schedule follows:

IN-HOUSE DAY PROGRAMMING	
OPWDD DDRO Region	Daily Fee
1	\$111.02
2	\$124.89
3	\$103.39

- ii. **Day Services** - Effective January 1, 2015 the new day services calculation will be equal to the reimbursement of the applicable day habilitation and/or prevocational service, less capital, as delineated in the supplemental language of the 1915c Wavier.
- iii. **Active Treatment (AT) Add-on** is equal to the AT fees, as shown below, multiplied by school days attended, less time spent by children in actual standard educational curricula.

ACTIVE TREATMENT Effective 7/1/14	
OPWDD DDRO Region	Daily Fee
Downstate	\$192.98
Upstate	\$179.00

DOH will require a signed attestation annually from Children's Residential Program (CRP) providers documenting the percentage of time spent by an individual in AT versus standard educational curricula.

TN #20-0055

Approval Date _____

Supersedes TN #14-0033

Effective Date October 1, 2020

**New York
1(a)**

**Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) -
General**

Absences from all ICF/IIDs, other than for hospitalization, must be provided for in an individual's plan of care.

State Government Owned and Operated ICF/IID Facilities

All recipients eligible after 30 days in the facility. There is no limitation on the number of days a resident may be absent.

- (i) payments for reserved bed days for ICF/IIDs are paid at the same rate as occupied days.

All Other ICF/IIDs

All recipients eligible after 30 days in the facility. Effective October 1, 2020, [T]there is [no] a limitation [on the number] of 96 days a patient/resident may be absent, for days defined as Therapy Days, and for which a provider may receive a retainer day reimbursement.

- (i) payments for reserved bed days for ICF/IIDs are paid at the same rate as occupied days.
- (ii) effective October 1, 2020, payments for reserved bed days for ICF/IIDs will be reimbursed at a rate of 50 percent of the provider's established rate.

Psychiatric or Rehabilitation Facility Patients (Other than RTFs)

As provided for recipients receiving similar treatment in general hospitals, as described in the General Hospital Patients section of this Attachment.

New York
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Residential Treatment Facilities for Children and Youth (RTFs)

All recipients eligible who have been institutionalized for 15 days during a current spell of illness, in the facility. There is no limitation on the number of therapy days a recipient may be absent. A therapy day is a day when the individual is away from the RTF and is not receiving services from the RTF and the absence is for the purpose of visiting with family or friends, or a vacation. Absences from all RTFs, other than for hospitalization, including therapy days, must be provided for in an individual’s plan of care to be eligible for payment and the person may not receive another Medicaid-funded residential or inpatient service on that day.

(i) payments for reserved bed days for RTFs are paid at the same rate as occupied days.

The 15 day requirement may be waived with prior approval by a designee of the Commissioner of the Office of Mental Health.

B. RESERVED BEDS DURING PERIODS OF HOSPITALIZATION

All recipients eligible after 30 days in:

- 1) an NF;
- 2) an ICF/[MR]IID;
- 3) a specialty hospital;
- 4) a rehabilitation facility or rehabilitation units of general hospitals;
- 5) a hospice

All recipients eligible who have been institutionalized for at least 15 consecutive days in:

- 1) a psychiatric facility or psychiatric units of general hospitals;
- 2) an RTF

The 15 day requirement may be waived with prior approval by a designee of the Commissioner of the Office of Mental Health.

For other than Residential Treatment Facilities:

Without prior approval, not to exceed 15 days during period of hospitalization for acute conditions, for any single hospital stay, when patient returns immediately following a period during which their bed was reserved to his/her originating facility in 15 days or less. Effective October 1, 2020, a Non-state Government Owned & Operated ICF/IID provider is limited to billing 14 Medical Leave days per rate year, per individual, without prior authorization. Effective on or after October 1, 2020, Medical Leave days will be reimbursed at a rate of 50 percent of the provider’s established rate.

TN #20-0055 _____

Approval Date _____

Supersedes TN #18-0024 _____

Effective Date October 1, 2020

Appendix II
2020 Title XIX State Plan
Fourth Quarter Amendment
Summary

SUMMARY
SPA #20-0055

This State Plan Amendment proposes to revise the rate setting methodology for calculating the occupancy adjustment for ICFs/IID by limiting or eliminating the adjustment based on a system-wide assessment of vacancy utilization, impose a limit on the amount of administration that is recognized in the rate methodology, as well as consider other actions to limit reimbursement where individuals are not in residence.

Appendix III
2020 Title XIX State Plan
Fourth Quarter Amendment
Authorizing Provisions

SPA 20-0055

a. The Department of Health (DOH) is the single state agency to supervise the administration of the medical assistance plan, known as Medicaid, under title XIX of the federal Social Security Act, known as Medicaid in this state, and is authorized to take actions to implement the Medicaid program, as stated in Social Services Law (SSL) Sections 363-a and 365-n(7); and Public Health Law (PHL) Sections 201(1)(v) and 206.

b. The Office for People With Developmental Disabilities (OPWDD) has the statutory responsibility to provide and encourage the provision of appropriate programs, supports, and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with intellectual and developmental disabilities, as stated in Mental Hygiene Law (MHL) Section 13.07.

c. OPWDD and DOH have the statutory authority to develop rate setting methodologies and to promulgate rules and regulations regarding rate setting methodologies applying to facilities under the jurisdiction of OPWDD, pursuant to Mental Hygiene Law Section 43.02.

d. Intermediate Care Facilities for Individuals with Intellectual Disabilities are part of New York Medicaid's standard coverage as stated in SSL 365-a(2)(b)

**Appendix IV
2020 Title XIX State Plan
Fourth 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

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 5, 2020
Time: 9:00 a.m. - 1:00 p.m.

Video Conference Only: The webcast information for this meeting will be posted on the Division of Criminal Justice website under the Newsroom, Open Meeting/ Webcasts.

<https://www.criminaljustice.ny.gov/pio/openmeetings.htm>

PUBLIC NOTICE

Division of Criminal Justice Services
Law Enforcement Agency Accreditation Council

Pursuant to Public Officers Law § 104, the NYS Division of Criminal Justice Services gives notice of a virtual meeting of the Law Enforcement Agency Accreditation Council to be held on:

Date: Thursday, June 4, 2020
Time: 10:00 a.m.

For further information, please contact: Division of Criminal Justice Services, Office of Public Safety, Alfred E. Smith Office Bldg., 80 S. Swan St., Albany, NY 12210, 518-457-2667

Live Webcast will be available as soon as the meeting commences at: <http://www.criminaljustice.ny.gov/pio/openmeetings.htm>

PUBLIC NOTICE

Division of Criminal Justice Services
Municipal Police Training Council

Pursuant to Public Officers Law § 104, the NYS Division of Criminal Justice Services gives notice of a virtual meeting of the Municipal Police Training Council to be held on:

Date: Wednesday, June 3, 2020
Time: 10:00 a.m.

For further information, please contact: Division of Criminal Justice Services, Office of Public Safety, Alfred E. Smith Office Bldg., 80 S. Swan St., Albany, NY 12210, 518-457-2667

Live Webcast will be available as soon as the meeting commences at: <http://www.criminaljustice.ny.gov/pio/openmeetings.htm>

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 and long term care services. Proposed changes are being made to effect certain rate setting provisions in the approved 2020-2021 New York State Budget, to reflect historical utilization and efficiencies, and to make other operational, technical and streamlining changes. The following changes are proposed:

Non-Institutional Services:

Effective on or after July 1, 2020 the Commissioner of Health in consultation with the Commissioner of the Office for People With Developmental Disabilities (OPWDD), will amend the State Plan for Health Home services to adjust reimbursement to reflect historical utilization and other efficiencies related to the transition to CCOs.

Long Term Care Services:

Effective on or after October 1, 2020, DOH and OPWDD propose to amend the State Plan, to revise the rate setting methodology for calculating the occupancy adjustment for Intermediate Care Facilities for Individuals with Intellectual Disabilities by limiting or eliminating the adjustment based on a system-wide assessment of vacancy utilization, impose a limit on the amount of administration that is recognized in the rate methodology, as well as consider other actions to limit reimbursement where individuals are not in residence.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to these initiatives contained in the budget for state fiscal year 2020-2021 is approximately (\$ 75.2 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, NY 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 Health

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

The Department of Health (DOH) proposes to amend the Office for People With Developmental Disabilities (OPWDD) 1915(c) Home and Community-Based Services Comprehensive Waiver (NY.0238). Proposed changes are being made to effect certain rate setting provisions in the approved 2020-2021 New York State Budget and to make other operational changes and streamlining changes.

The Amendment will revise the rate setting methodology for calculating the occupancy adjustment for Supervised Residential Habilitation services by limiting or eliminating the adjustment based on a system-wide assessment of vacancy utilization, as well as consider other actions to limit reimbursement where individuals are not in residence. The rate setting regions for Community Prevocational Services will be realigned with the rate settings regions already in use for Community Habilitation services.

The description of Community Habilitation will be updated to reflect that OPWDD will implement clinical review tools to formalize a three-step review process for consistency and efficiency of decision making and fairness and equity of service authorizations for Community Habilitation. This amendment will also implement technical changes to streamline the completion of the Documentation of Choices form by eliminating the need for Regional Office staff to sign the form.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2020-2021 is approximately \$103.8 million.

The public is invited to review and comment on this proposed HCBS Waiver Amendment, a copy of which will be available for public review on the OPWDD's website at: <https://opwdd.ny.gov/providers/home-and-community-based-services-waiver> as of June 1, 2020. Individuals without Internet access may view the proposed Amendment at any local (county) social services district.

Copies will be also be available at local Developmental Disabilities Regional Offices (DDRO) at the following addresses:

Finger Lakes DDRO
620 Westfall Rd./326 Sun St.
Rochester, NY 14620

Western NY DDRO
1200 East and West Rd., Building 16
West Seneca, NY 14224

Broome DDRO
249 Glenwood Rd.
Binghamton, NY 13905
Central NY DDRO
187 Northern Concourse

North Syracuse, NY 13212

Sunmount DDRO
2445 State Route 30
Tupper Lake, NY 12986

Capital District DDRO
500 Balltown Rd.
Schenectady, NY 12304

Hudson Valley DDRO
9 Wilbur Rd.
Thiells, NY 10984

Taconic DDRO
38 Firemens Way
Poughkeepsie, NY 12603

Bernard Fineson DDRO
80-45 Winchester Blvd, Building 80, 2nd Floor Administrative Suite
Queens Village, NY 11427

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., 7th Floor
New York, NY 10004

Staten Island DDRO
930 Willowbrook Rd.
Staten Island, NY 10314

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

Written comments will be accepted by email at peoplefirstwaiver@opwdd.ny.gov or by mail at Office for People With Developmental Disabilities, Division of Policy and Program Development, 44 Holland Avenue, Albany, NY 12229. All comments must be postmarked or emailed by July 1, 2020. Please indicate "OPWDD 1915(c) October 2020 Waiver Amendment Comments" in the subject line.

PUBLIC NOTICE

Department of State
F-2020-0084

Date of Issuance – May 27, 2020

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 (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP).

Appendix V
2020 Title XIX State Plan
Fourth Quarter Amendment
Responses to Standard Funding Questions

APPENDIX V
LONG TERM CARE SERVICES
State Plan Amendment #20-0055

CMS Standard Funding Questions

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-D of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

- 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 payments, a complete listing of providers that return a portion of their payments, 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: OPWDD's ICF/IID rate setting methodology includes a 5.5 percent reimbursable provider assessment on the gross receipts of the ICF/IID facility. This assessment is authorized by Public Law 102-234, Section 43.04 of the New York State Mental Hygiene Law, Federal Medicaid regulations at 42 CFR 433.68, and Attachment 4.19-D, Part II page 29. All voluntary and State-operated ICF/IIDs are subject to this provider assessment.

Using "Authorization to Withhold" forms submitted by voluntary providers, OPWDD recoups the assessment from the ICF/IID Medicaid payment before the payment is sent to the voluntary provider. This assessment is deposited into a fund called "Assessments for Business Organizations."

For State operated ICF/IIDs, the Legislature appropriates an amount for payment of the assessment. Periodically, funds from this appropriation are used to pay the assessment. These amounts are deposited into the general fund of the State Treasury.

Aside from the assessments, providers receive and retain all the Medicaid payments for ICF/IID services.

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 through 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 governmental 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: For services delivered by non-State operated ICF/IIDs, which are the subject of the proposed changes, the source of funds for the State share is tax revenues appropriated to OPWDD. When these ICF/IIDs bill eMedNY for payment, the Department of Health covers the non-federal share expenditures in the first instance. Throughout the state fiscal year, such expenditures are applied against OPWDD appropriations through an accounting transaction in the Statewide Financial System, known as a Journal Voucher, that effectively reimburses DOH for the actual State share value of claims made by OPWDD provider agencies. The total non-federal share liability for non-State operated ICF/IIDs for the current fiscal year is projected at approximately \$400 million.

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 supplemental or enhanced payments are made in the ICF/IID program.

- 4. For clinic or outpatient hospital services 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.**

Response: This plan amendment does not concern clinic or outpatient hospital services.

- 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: As this SPA relates to payments to NFP providers, and not governmental providers, this question is not applicable.

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 11-06, 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.

Appendix VI
2020 Title XIX State Plan
Fourth Quarter Amendment
Responses to Standard Access Questions

**APPENDIX VI
LONG TERM CARE SERVICES
State Plan Amendment 20-0055**

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 State Plan Amendment seeks to revise the rate setting methodology for calculating the occupancy adjustment for ICFs/IID by limiting or eliminating the adjustment based on a system-wide assessment of vacancy utilization, impose a limit on the amount of administration that is recognized in the rate methodology, as well as consider other actions to limit reimbursement where individuals are not in residence.

- 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. Certain classes of providers must notify and receive approval from the Department's Office of Primary Care and Health Systems Management 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 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 2020-2021 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.

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: Over the course of the past three years, the State has undertaken a massive reform initiative to better align reimbursement with care. When fully implemented, the initiative will invest over \$600 million in the State's ambulatory care system (outpatient, ambulatory surgery, emergency department, clinic and physicians) to incentivize care in the most appropriate setting. The State has also increased its physician reimbursement schedule to resemble Medicare payments for similar services, thus ensuring continued access for Medicaid beneficiaries. 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.