

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Centers for Medicare & Medicaid Services  
Center for Medicaid & CHIP Services  
233 North Michigan Ave., Suite 600  
Chicago, Illinois 60601



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**Financial Management Group**

September 1, 2020

Donna Frescatore  
Medicaid Director  
New York State Department of Health  
One Commerce Plaza, Suite 1211  
Albany, NY 12210

RE: NY-20-0033

Dear Ms. Frescatore:

We have reviewed the proposed amendment to Attachment 4.19-B of your Medicaid State plan submitted under transmittal number 20-0033. This amendment proposes to decrease workforce salary for home health care workers by reducing the worker recruitment and retention by 25 percent for certified home health agencies and hospice programs.

Based upon the information provided by New York, we have approved the amendment with an effective date of April 2, 2020. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Division of Reimbursement Review analyst Yvette Moore at (646) 694-0915 or [Yvette.Moore@cms.hhs.gov](mailto:Yvette.Moore@cms.hhs.gov)

Sincerely,

A solid black rectangular box used to redact the signature of Todd McMillion.

Todd McMillion  
Director  
Division of Reimbursement Review

Enclosures

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

1. TRANSMITTAL NUMBER

2 0 — 0 0 3 3

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 2, 2020

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

§1902(r)(5) of the Social Security Act, and 42 CFR 447

7. FEDERAL BUDGET IMPACT

a. FFY 04/02/20-09/30/20 \$ (377,617.00)

b. FFY 10/01/20-09/30/21 \$ (\$755,234.00)

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment: 4.19-B Page(s): 4(a), 4(a)(i), 4(a)(vii), 4(a)(viii), 10

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Attachment: 4.19-B Page(s): 4(a), 4(a)(i), 4(a)(vii), 4(a)(viii), 10

10. SUBJECT OF AMENDMENT

WR&R Reductions 2020-2021  
(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

[Redacted Signature]

13. TYPED NAME

Donna Frescatore

14. TITLE

Medicaid Director, Department of Health

15. DATE SUBMITTED

June 30, 2020

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

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED

18. DATE APPROVED

9/1/2020

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL

4/2/2020

20. SIGNATURE OF REGIONAL OFFICIAL

[Redacted Signature]

21. TYPED NAME

Todd McMillion

22. TITLE

Director, Division of Reimbursement Review

23. REMARKS

**PEN & INK AUTHORIZATION:**

Block #6 - Clarification - 1902(r)(5) does not exist - Correct reference is 1902(a)

Block #7 - Clarification - State uses the actual dollar impact instead of reporting in thousands.

Block #8 - Remove Page 4(a)(viii) and replace with the correct page which is 4(a)(viii)(1)

Block #9 - Remove Page 4(a)(viii) and replace with the correct page which is 4(a)(viii)(1)

New York  
4(a)

For the rate periods on and after January 1, 2005 through December 31, 2006, and April 1, 2007 through March 31, 2009, there will be no such reconciliation of the amount of savings in excess of or lower than one million five hundred thousand dollars.

In addition, separate payment rates for nursing services provided to patients diagnosed with Acquired Immune Deficiency Syndrome (AIDS) will be established based upon regional services prices. Such prices will be computed based upon average nursing costs per visit calculated by aggregating base year allowable costs and statistics reported by certified home health agencies within each of four state regions, and increased by a case mix adjustment factor which represents the relative ratio of additional resources needed to provide home care nursing services to AIDS patients when compared to the average case mix of home care patients. Such AIDS regional nursing prices will be trended annually.

Effective for services provided on and after April 1, 2011, separate payment rates will no longer be established for nursing services provided to patients diagnosed with AIDS; the rate for nursing services provided to patients diagnosed with AIDS will be the prospective certified home health agency rate for nursing services established for the effective period.

The Commissioner will adjust medical assistance rates of payment for services provided by AIDS home care programs for purposes of improving recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility in the following amounts for services provided on and after December first, two thousand two.

Rates of payment by governmental agencies for AIDS home care programs (including services provided through contracts with licensed home care services agencies) will be increased by [three] two and one quarter percent.

Providers which have their rates adjusted for this purpose will use such funds solely for the recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility. Providers are prohibited from using such funds for any other purpose.

The Commissioner is authorized to audit each provider to ensure compliance with this purpose and will recoup any funds determined to have been used for purposes other than recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility.

In the case of services provided by providers through contracts with licensed home care services agencies, rate increases received by providers will be reflected in either the fees paid or benefits or other supports provided to non-supervisory home care services workers or any worker with direct patient care responsibility of such contracted licensed home care services agencies and such fees, benefits or other supports will be proportionate to the contracted

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Supersedes TN #11-0053 Effective Date April 2, 2020

New York  
4(a)(i)

volume of services attributable to each contracted agency. Such agencies [shall] will submit to providers with which they contract written certifications attesting that such funds will be used solely for the purposes of recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility and [shall] will maintain in their files expenditure plans specifying how such funds will be used for such purposes. The Commissioner is authorized to audit such agencies to ensure compliance with such certifications and expenditure plans and [shall] will recoup any funds determined to have been used for purposes other than those set forth in this section.

The Commissioner of Health will additionally adjust rates of payment for AIDS home care service providers, for the purpose of improving recruitment and retention of home health aides or non-supervisory personnel with direct patient care responsibility.

These additional adjustments to rates of payments [shall] will be calculated by allocating the available funding proportionally based on each AIDS home care service provider's, home health aide or other direct care services total annual hours of service provided to Medicaid patients, as reported in each such agency's most recently available cost report as submitted to the Department. The total aggregate available funding for AIDS home care service providers is as follows:

- For the period June 1, 2006 through December 31, 2006 - \$540,000.
- For the period January 1, 2007 through June 30, 2007 - \$540,000.
- For the period July 1, 2007 through March 31, 2008 - \$1,080,000.
- For the period April 1, 2008 through March 31, 2009 - \$1,080,000.
- For the period April 1, 2009 through March 31, 2010 - \$1,080,000.
- For the period April 1, 2010 through March 31, 2011 - \$1,080,000.
- For the period April 1, 2011 through March 31, 2012 - \$1,080,000.
- For the period April 1, 2012 through March 31, 2013 - \$1,080,000.
- For the period April 1, 2013 through March 31, 2014 - \$1,080,000.
- For the period June 5, 2014 through March 31, 2015 - \$1,080,000.
- For the period April 1, 2015 through March 31, 2016 - \$1,080,000.
- For the period April 1, 2016 through March 31, 2017 - \$1,080,000.
- For the period April 1, 2017 through March 31, 2018 - \$1,080,000.
- For the period April 1, 2018 through March 31, 2019 - \$1,080,000.
- For the period April 1, 2019 through March 31, 2020 - \$1,080,000.
- For the period April 2, 2020 through March 31, 2021, and thereafter - \$1,080,000.

Payments made pursuant to this section [shall] will not be subject to subsequent adjustment or reconciliation.

For providers established after November 1, 2005, the Department utilizes Medicaid data from the initial cost report submitted to the Department, which would allow the inclusion of those providers in the distribution.

New York  
4(a)(vii)

The Commissioner of Health is authorized to require group health insurance plans and employer based group health plans to report to the Department, insofar as such reporting does not violate any provisions the Federal Employee Retirement Income Security Act (ERISA), at such times and in such manner as the Commissioner [shall] will decide, any information needed, including but not limited to, the number of people in such plans who become ineligible each month for the continuation coverage described herein. In addition, every certified health maintenance organization and every insurer licensed by the Superintendent of Insurance will submit reports in such form and at such times as may be required.

**Recruitment And Retention**

The Commissioner will adjust medical assistance rates of payment for services provided by certified home health agencies for purposes of improving recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility in the following amounts for services provided on and after December 1, 2002.

Rates of payment by governmental agencies for certified home health agency services (including services provided through contracts with licensed home care services agencies) will be increased by [three] two and one quarter percent.

Providers, which have their rates adjusted for this purpose will use such funds solely for the recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility. Providers are prohibited from using such funds for any other purpose.

The Commissioner is authorized to audit each provider to ensure compliance with this purpose and will recoup any funds determined to have been used for purposes other than recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility.

In the case of services provided by providers through contracts with licensed home care services agencies, rate increases received by providers will be reflected in either the fees paid or benefits or other supports provided to non-supervisory home care services workers or any worker with direct patient care responsibility of such contracted licensed home care services agencies and such fees, benefits or other supports will be proportionate to the contracted volume of services attributable to each contracted agency. Such agencies will submit to providers with which they contract written certifications attesting that such funds will be used solely for the purposes of recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility and will maintain in their files expenditure plans specifying how such funds will be used for such purposes. The Commissioner is authorized to audit such agencies to ensure compliance with such certifications and expenditure plans and will recoup any funds determined to have been used for purposes other than those set forth in this section.

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Supersedes TN #05-0049 Effective Date April 2, 2020

**New York  
4(a)(viii)(1)**

**Recruitment and Retention of Direct Patient Care Personnel**

The Commissioner of Health will additionally adjust rates of payment for certified home health agencies, for purposes of improving recruitment and retention of home health aides or non-supervisory personnel with direct patient care responsibility.

These additional adjustments to rates of payments [shall] will be calculated by allocating the available funding proportionally based on each certified home health agency's, home health aide or other direct care services total annual hours of service provided to Medicaid patients, as reported in each such agency's most recently available cost report as submitted to the Department. For home health services paid under the episodic payment system, allocation of the recruitment and retention payment is included in episodic payment prices paid under that system. The total aggregate available funding for all eligible certified home health agency providers is as follows:

For the period June 1, 2006 through December 31, 2006 - \$20,100,000.  
 For the period January 1, 2007 through June 30, 2007 - \$20,100,000.  
 For the period July 1, 2007 through March 31, 2008 - \$40,200,000.  
 For the period April 1, 2008 through March 31, 2009 - \$40,200,000.  
 For the period April 1, 2009 through March 31, 2010 - \$40,200,000.  
 For the period April 1, 2010 through March 31, 2011 - \$40,200,000.  
 For the period April 1, 2011 through March 31, 2012 - \$40,200,000.  
 For the period April 1, 2012 through March 31, 2013 - \$40,200,000.  
 For the period April 1, 2013 through March 31, 2014 - \$40,200,000.  
 For the period June 5, 2014 through March 31, 2015 - \$26,736,000.  
 For the period April 1, 2015 through March 31, 2016 - \$26,736,000.  
 For the period April 1, 2016 through March 31, 2017 - \$26,736,000.  
 For the period April 1, 2017 through March 31, 2018 - \$26,736,000.  
 For the period April 1, 2018 through March 31, 2019 - \$26,736,000.  
 For the period April 1, 2019 through March 31, 2020 - \$26,736,000.  
For the period April 2, 2020 through March 31, 2021 and thereafter - \$26,736,000.

Payments made pursuant to this section will not be subject to subsequent adjustment or reconciliation.

For providers established after November 1, 2005, the Department utilizes Medicaid data from the initial cost report submitted to the Department, which would allow the inclusion of those providers in the distribution.

**TN #20-0033**

**Approval Date** September 1, 2020

**Supersedes TN #14-0025**

**Effective Date** April 2, 2020

**New York  
10**

**Hospice Services: Routine Home Care, Continuous Home Care, Inpatient Respite Care, And General Inpatient Care**

Medicaid payment for hospice care will be in amounts no lower than the Medicare rates for: general inpatient, inpatient respite, routine home care and continuous home care using the same methodology as used under Part A of Title XVIII Annual adjustments [shall] will be made to these rates commencing October 1, 1990, using inflation factors developed by the State.

The Commissioner of Health will increase medical assistance rates of payment by up to three percent for hospice services provided on and after December first, two thousand two, for purposes of improving recruitment and retention of non-supervisory workers or workers with direct patient care responsibility.

Rates of payment will be additionally adjusted for the purpose of further enhancing the provider's ability to recruit and retain non-supervisory workers or workers with direct patient care responsibility. These additional adjustments to rates of payment will be allocated proportionally based on each hospice provider's non-supervisory workers' or direct patient care workers' total annual hours of service provided to Medicaid patients as reported in each such provider's most recently available cost report as submitted to the Department. The total aggregate available funding for all eligible hospice providers is as follows:

For the period June 1, 2006 through December 31, 2006 - \$730,000.  
 For the period January 1, 2007 through June 30, 2007 - \$730,000.  
 For the period July 1, 2007 through March 31, 2008 - \$1,460,000.  
 For the period April 1, 2008 through March 31, 2009 - \$1,460,000.  
 For the period April 1, 2009 through March 31, 2010 - \$1,460,000.  
 For the period April 1, 2010 through March 31, 2011 - \$1,460,000.  
 For the period April 1, 2011 through March 31, 2012 - \$1,460,000.  
 For the period April 1, 2012 through March 31, 2013 - \$1,460,000.  
 For the period April 1, 2013 through March 31, 2014 - \$1,460,000.  
 For the period June 5, 2014 through March 31, 2015 - \$1,460,000.  
 For the period April 1, 2015 through March 31, 2016 - \$1,460,000.  
 For the period April 1, 2016 through March 31, 2017 - \$1,460,000.  
 For the period April 1, 2017 through March 31, 2018 - \$1,460,000.  
 For the period April 1, 2018 through March 31, 2019 - \$1,460,000.  
 For the period April 1, 2019 through March 31, 2020 - \$1,460,000.  
For the period April 2, 2020 through March 31, 2021 and thereafter - \$1,460,000.

For providers established after November 1, 2005, the Department utilizes Medicaid data from the initial cost report submitted to the Department, which would allow the inclusion of those providers in the distribution.

Hospice services providers that have their rates adjusted for this purpose [shall] will use such funds solely for the purposes of recruitment and retention of non-supervisory workers or workers with direct patient care responsibility and are prohibited from using such funds for any other purposes. Each hospice provider receiving funds [shall] will submit, at a time and in a manner determined by the Commissioner, a written certification attesting that such funds will be used solely for the purpose of recruitment and retention of non-supervisory workers or workers with

**TN #20-0033** \_\_\_\_\_

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