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State/Territory Name: NY

State Plan Amendment (SPA): NY-23-0026

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Page

DEPARTMENT OF HEALTH & HUMAN SERVICES

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



Financial Management Group

June 21, 2023

Amir Bassiri
New York State
Department of Health (DOH)
Acting Medicaid Director
99 Washington Ave-One Commerce Plaza Suite 1432
Albany, NY 12210

RE: New York Plan Amendment (SPA) Transmittal Number 23-0026

Dear Director Bassiri:

We have reviewed the proposed New York State Plan Amendment (SPA) to Attachment 4.19-B submitted under TN-23-0026, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on March 30th, 2023. This plan proposes to update the minimum wage for Certified Home Health Agency (CHHA) Rates.

Based upon the information provided by the State, we have approved the amendment with an effective date of January 1st, 2023. We are enclosing the approved CMS-179 and a copy of the new state plan page.

If you have any additional questions or need further assistance, please contact Jerica Bennett at 1-410-786-1167 or jerica.bennett@cms.hhs.gov.

Sincerely,



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 3 — 0 0 2 6

2. STATE

N Y

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

January 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION

§ 1905(a)(7) Home Health Care Services

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 01/01/23-09/30/23 \$ 1,986
b. FFY 10/01/23-09/30/24 \$ 2,648

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-B: Page 4(8)(1)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-B: Page 4(8)(1)

9. SUBJECT OF AMENDMENT

Minimum Wage-CHHA

10. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME

Amir Bassiri

13. TITLE

Medicaid Director

14. DATE SUBMITTED March 30, 2023

15. 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 CMS USE ONLY

16. DATE RECEIVED
03/30/2023

17. DATE APPROVED
June 21, 2023

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
01/01/2023

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

Todd McMillion

21. TITLE OF APPROVING OFFICIAL

Director, Division of Reimbursement Review

22. REMARKS

New York
4(8)(1)

1905(a)(7): Home Health Care Services

Adjustment for Minimum Wage Increases. Effective January 1, 2017, and every January 1, thereafter until the minimum wage reaches the state statutorily described per hour wage as shown below, a minimum wage add-on will be developed and applied to Certified Home Health Agency (CHHA) Rate.

Minimum Wage (MW) Region	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021	12/31/2022
New York City (Large Employers)	\$11.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00
New York City (Small employers)	\$10.50	\$12.00	\$13.50	\$15.00	\$15.00	\$15.00	\$15.00
Nassau, Suffolk, & Westchester counties	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00	\$15.00
Remainder of the State	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	\$13.20	\$14.20*

*Effective January 1, 2023, the minimum wage value for the Remainder of the State will be \$14.20.

The minimum wage adjustment will be developed and implemented as follows:

1. Minimum wage costs will mean the additional costs incurred beginning January 1, 2017 and thereafter, as a result of New York State statutory increases to minimum wages until all regions of the State reach \$15.00 per hour.
2. The 2017 facility specific minimum wage add-on will be developed based on collected survey data received and attested to by CHHA providers. If a provider does not submit a survey, the minimum wage add-on will be **calculated based on the Provider's cost report wage data from two years prior** to the period being calculated. **If a facility fails to submit both the attested survey and the cost report, the facility's minimum wage add-on will not be calculated.**
 - i. Minimum wage cost development based on survey data collected.
 1. Survey data will be collected for facility specific wage data.
 2. Facilities will report by wage bands, the total count of FTEs and total hours paid to all employees (contracted and non-contracted staff) earning less than the statutory minimum wage applicable for each region.
 3. Facilities will report an average fringe benefit percentage for the employees directly affected by the minimum wage increase.
 4. The minimum wage costs are calculated by multiplying the total hours paid by the difference between the statutory minimum wage and the midpoint of each wage band where the facility has reported total **hours paid. To this result, the facility's average fringe benefit percentage is applied and added to the costs.**
 - ii. Minimum wage cost development based on the cost report data.
 - a. The average hourly wages of employees where the reported average hourly wage is below the regional statutory minimum wage are identified.
 - b. The total payroll hours of the employees identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the cost report is then subtracted from the projected payroll resulting in the expected wage costs increase.
 - c. **The facility's fringe benefit costs directly affected by the wage increase are identified,** and the average fringe benefit percentage is calculated.
 - d. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.

TN: #23-0026

Approval Date: June 21, 2023

Superseding TN: #22-0022

Effective Date: January 1, 2023