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State/Territory Name: NY

State Plan Amendment (SPA): NY-23-0029

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 23-0029

Dear Director Bassiri:

We have reviewed the proposed New York State Plan Amendment (SPA) to Attachment 4.19-B submitted under TN-23-0029, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on March 30th, 2023. This plan proposes to update the minimum wage for Hospice Services 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. STATE _____
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI	
4. PROPOSED EFFECTIVE DATE	
6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY _____ \$ _____ b. FFY _____ \$ _____	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

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

5. FEDERAL STATUTE/REGULATION CITATION

9. SUBJECT OF AMENDMENT

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
[REDACTED]

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED March 30, 2023

15. RETURN TO

FOR CMS USE ONLY

16. DATE RECEIVED 03/30/2023	17. DATE APPROVED June 21, 2023
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL 01/01/2023	19. SIGNATURE OF APPROVING OFFICIAL [REDACTED]
20. TYPED NAME OF APPROVING OFFICIAL Todd McMillion	21. TITLE OF APPROVING OFFICIAL Director, Division of Reimbursement Review

22. REMARKS

**New York
6(b)**

1905(a)(18) Hospice Services**Adjustment for Minimum Wage Increases**

Effective April 1, 2018, and every January 1, thereafter until the minimum wage reaches the statutorily described per hour wage as shown below, the rates of payment for services provided by Non-Residence Hospice providers include rate add-on to reimbursement in accordance with the wage chart shown below to address increases in labor costs.

Minimum Wage Chart

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	\$11.00	\$13.00	\$15.00	\$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 April 1, 2018, 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 2018 provider specific minimum wage add-on will be developed based on collected survey data received and attested to by hospice providers. If a hospice provider fails to submit the attested survey data, a provider will not receive a minimum wage add-on.
 - i. Minimum wage cost development based on survey data collected.
 - a. Survey data will be collected for provider specific wage data.
 - b. 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.
 - c. Facilities will report an average fringe benefit percentage for the employees directly affected by the minimum wage increase.
 - d. 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 provider has reported total hours paid. To this result, the provider's average fringe benefit percentage is applied and added to the costs.
3. The provider specific cost amount will be adjusted by a factor calculated by dividing the provider's average dollar per hour under minimum wage by the regional average. The resulting amount will be divided by patient days to arrive at a rate per diem add on, which will be applied to only Medicaid days for purposes of Medicaid reimbursement.
4. In subsequent years until the minimum wage is completely implemented statewide, the Department will survey facilities utilizing the same methodology.

TN: #23-0029

Approval Date: June 21, 2023

Superseding TN: #22-0023

Effective Date: January 1, 2023