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State/Territory Name: NY

State Plan Amendment (SPA): NY-22-0081

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 Pages

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

December 12, 2023

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

RE: New York Plan Amendment (SPA) Transmittal Number 22-0081

Dear Director Bassiri:

We have reviewed the proposed New York State Plan Amendment (SPA) to Attachment 4.19-B submitted under TN-22-0081, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on September 30th, 2022. This plan proposes updates to Ambulatory Patient Group (APG) rates for freestanding clinics and reimbursement for Licensed Mental Health Counselors (LMHCs) services and Licensed Marriage and Family Therapists (LMFTs) services.

Based upon the information provided by the State, we have approved the amendment with an effective date of July 1st, 2022. 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 Jerica Bennett at 1-410-786-1167 or jerica.bennett@cms.hhs.gov.

Sincerely,

A solid black rectangular box redacting 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. STATE _____
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3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI
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TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION
--

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY _____ \$ _____
b. FFY _____ \$ _____

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

10. 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	

11. OFFICIAL [REDACTED]
12. TYPED NAME
13. TITLE
14. DATE SUBMITTED September 30, 2022

15. RETURN TO

FOR CMS USE ONLY	
16. DATE RECEIVED 09/30/2022	17. DATE APPROVED December 12, 2023

PLAN APPROVED - ONE COPY ATTACHED	
18. EFFECTIVE DATE OF APPROVED MATERIAL 07/01/2022	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
2(g)(2)**

1905(a)(9) Clinic Services**APG Reimbursement Methodology – Freestanding Clinics**

The following links direct users to the various definitions and factors that comprise the APG reimbursement methodology, which can also be found in aggregate on the APG website at http://www.health.ny.gov/health_care/medicaid/rates/apg/index.htm. In addition, prior period information associated with these links is available upon request to the Department of Health.

Contact Information:

http://www.health.ny.gov/health_care/medicaid/rates/apg/index.htm Click on "Contacts."

3M APG Crosswalk*:

http://www.health.ny.gov/health_care/medicaid/rates/apg/index.htm Click on "3M Versions and Crosswalks," then on "3M APG Crosswalk" toward bottom of page, and finally on "Accept" at bottom of page.

APG Alternative Payment Fee Schedule; updated as of 07/01/22:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "Alternative Payment Fee Schedule."

APG Consolidation Logic; logic is from version 3.17.22.3 and 3.17.22.4, updated as of 07/01/22 and 10/01/22:

http://www.health.ny.gov/health_care/medicaid/rates/bundling/ Click on "2022"

APG 3M Definitions Manual; version 3.17 updated as of and 07/01/22 and 10/01/22:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "3M Versions and Crosswalk."

APG Investments by Rate Period; updated as of 07/01/10:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "Investments by Rate Period."

APG Relative Weights; updated as of 07/01/22:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "Weights, Proc Weights, and APG Fee Schedule Amounts."

Associated Ancillaries; updated as of 01/01/20:

http://www.health.ny.gov/health_care/medicaid/rates/apg/index.htm Click on "Ancillary Policy."

*Older 3M APG crosswalk versions available upon request.

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Carve-outs; updated as of 10/01/12. The full list of carve-outs is contained in Never Pay APGs and Never Pay Procedures:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "Carve Outs."

Coding Improvement Factors (CIF); updated as of 04/01/12 and 07/01/12:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "CIFs by Rate Period."

If Stand Alone, Do Not Pay APGs; updated 01/01/15:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "If Stand Alone, Do Not Pay APGs."

If Stand Alone, Do Not Pay Procedures; updated 07/01/22:

http://www.health.state.ny.us/health_care/medicaid/rates/methodology/index.htm Click on "If Stand Alone, Do Not Pay Procedures."

Modifiers; updated as of 07/01/22:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "Modifiers."

Never Pay APGs; updated as of 07/01/21:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "Never Pay APGs."

Never Pay Procedures; updated as of 07/01/22:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "Never Pay Procedures."

No-Blend APGs; updated as of 01/01/20:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "No Blend APGs."

No-Blend Procedures; updated as of 01/01/11:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "No-Blend Procedures."

No Capital Add-on APGs; updated as of 01/01/20:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm Click on "No Capital Add-on APGs."

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Supersedes TN #22-0009

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2(p)(i)**

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Effective for dates of service on and after September 1, 2009, payments to freestanding clinics for the following services will be based on fees or rates established by the Department of Health: (1) wheelchair evaluations, (2) eyeglass dispensing, and (3) individual psychotherapy services provided by licensed social workers to persons under the age of 21, and to persons requiring such services as a result of or related to pregnancy or giving birth, and (4) individual psychotherapy services provided by licensed social workers at freestanding clinics that provided, billed for, and received payment for these services between January 1, 2007 through December 31, 2007. Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers. A link to the APG alternative rates for all periods is available in the APG Reimbursement Methodology – Freestanding Clinics section.

Effective for dates of service on and after July 1, 2022, Medicaid will reimburse freestanding clinics for services provided by Licensed Mental Health Counselors (LMHCs), operating within their scope of practice and for services rendered by LMHC limited permit holders operating under the supervision of an LMHC. Reimbursement for LMHCs and LMHC limited permit holders will be based on rates established by the Department of Health. Except as otherwise noted in the plan, state-developed rates are the same for both governmental and private providers. Reimbursement for LMHC services will be done via rate codes, which are published by the Department on the “Alternative Payment Fee Schedule” and are effective for services provided on or after July 1, 2022. The rates are published on the Department of Health website at the following link:

https://www.health.ny.gov/health_care/medicaid/rates/methodology/alt_payment_fee.htm

Effective for dates of service on and after July 1, 2022, Medicaid will reimburse freestanding clinics for services provided by Licensed Marriage and Family Therapists (LMFTs), operating within their scope of practice and for services rendered by LMFT limited permit holders operating under the supervision of an LMFT. Reimbursement for LMFTs and LMFT limited permit holders will be based on rates established by the Department of Health. Except as otherwise noted in the plan, state-developed rates are the same for both governmental and private providers. Reimbursement for LMFT services will be done via rate codes, which are published by the Department on the “Alternative Payment Fee Schedule”, and are effective for services provided on or after July 1, 2022. The rates are published on the Department of Health website at the following link:

https://www.health.ny.gov/health_care/medicaid/rates/methodology/alt_payment_fee.htm

VII. Rates for services provided in freestanding clinic and ambulatory surgery center facilities located outside of New York State will be as follows:

- APG rates in effect for similar services for providers located in the downstate region of New York State will apply to services provided by out-of-state providers located in the New Jersey counties of Sussex, Passaic, Bergen, Hudson, Essex, Union, Middlesex and Monmouth; in the Pennsylvania county of Pike; and in the Connecticut counties of Fairfield and Litchfield;

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Supersedes TN #15-0013

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2(p)(i.a)**

1905(a)(9) Clinic Services

- and rates in effect for similar services for providers located in the upstate region of New York State will apply to all other out-of-state providers.
- In the event the Department determines that an out-of-state provider is providing services which are not available within New York State, the Department will negotiate payment rates and conditions with such a provider up to, but not in excess of, the provider's usual and customary charges. Prior approval by the Department will be required with regard to services provided by such providers.
- For the purpose of APG reimbursement to out-of-state providers, the downstate region of New York State will consist of the New York counties of Bronx, New York, Kings, Queens, Richmond, Nassau, Suffolk, Westchester, Rockland, Orange, Putnam and Dutchess, and the upstate region of New York State will consist of all other New York counties.

System updating

The following elements of the APG reimbursement system will be updated no less frequently than annually:

- the listing of reimbursable APGs and the relative weight assigned to each APG;
- the base rates;
- the applicable ICD-10-CM codes utilized in the APG software system;
- the applicable CPT-4/HCPCS codes utilized in the APG software system; and
- the APG software system.

TN **#22-0081**

Approval Date December 12, 2023

Supersedes TN **#NEW**

Effective Date **July 1, 2022**