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State/Territory Name: NY

State Plan Amendment (SPA): NY-22-0019

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

December 15, 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 22-0019

Dear Director Bassiri:

We have reviewed the proposed New York State Plan Amendment (SPA) to Attachment 4.19-B submitted under TN-22-0019, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on March 31st, 2022. This plan proposes a minimum wage adjustment for freestanding clinics and ambulatory surgical centers.

Based upon the information provided by the State, we have approved the amendment with an effective date of January 1st, 2022. 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 <u>2 2</u> — <u>0 0 1 9</u>	2. STATE <u>NY</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1, 2022
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5. FEDERAL STATUTE/REGULATION CITATION § 1905(a)(9) § 1902(a) of the Social Security Act and 42 CFR 447 Clinic Services	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>01/01/22-09/30/22</u> \$ <u>5,212</u> b. FFY <u>10/01/22-09/30/23</u> \$ <u>6,950</u>
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7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Amendment 4.19-B: 2(p)(ii)	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Amendment 4.19-B: 2(p)(ii)
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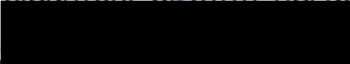
9. SUBJECT OF AMENDMENT

Minimum Wage Update for Article 28 Freestanding Clinics and Amb. Surg. Centers

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 	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
12. TYPED NAME Brett R. Friedman	
13. TITLE Acting Medicaid Director	
14. DATE SUBMITTED March 31, 2022	

FOR CMS USE ONLY

16. DATE RECEIVED 03/31/2022	17. DATE APPROVED December 15, 2023
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL 01/01/2022	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 **The State authorizes the following pen and ink changes:**

Box 5. Federal Statute/Regulation Citation:

§ 1905(a)(9) Clinic Services

**New York
2(p)(ii)**

1905(a)(9) Clinic Services**Minimum Wage – Article 28 Freestanding Clinics**

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 the Ambulatory Patient Group (APG) rate for freestanding clinics and ambulatory surgery centers under Article 28.

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

*Effective January 1, 2022, the minimum wage value for the Remainder of the State will be \$13.20.

The minimum wage add-on and the adjusted APG rate will be posted to Health Commerce System (HCS: https://commerce.health.state.ny.us/public/hcs_login.html). The minimum wage add-on will be developed and implemented as follows;

- a. 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 wage until all regions of the state reach \$15.00 per hour.
 - 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 specified wage bands, the total count of FTEs and total hours paid to employees earning less than the statutory minimum wage applicable for each MW 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 AHCF cost report data.
 1. The average hourly wages of employees in occupational titles where the reported average hourly wage is below the regional statutory minimum wage are identified.
 2. The total payroll hours of the titles identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the AHCF cost report is then subtracted from the projected payroll resulting in the expected wage costs increase.
 3. The facility's fringe benefit costs directly affected by the wage increase are identified, and the average fringe benefit percentage is calculated.
 4. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.

TN #22-0019

Approval Date December 15, 2023

Supersedes TN #17-0012

Effective Date January 1, 2022