NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

March 27, 2012

Mr. Michael Melendez
Associate Regional Administrator
Department of Health & Human Services
Centers for Medicare & Medicaid Services
New York Regional Office
Division of Medicaid and Children's Health Operations
26 Federal Plaza - Room 37-100 North
New York, New York 10278

RE: SPA #12-01
Non-Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #12-01 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective January 1, 2012 (Appendix I). This amendment is being submitted based on regulation. A summary of the plan amendment is provided in Appendix II.

The State of New York reimburses these services through the use of rates that are consistent with and promote efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area as required by §1902(a)(30) of the Social Security Act and 42 CFR §447.204.

Copies of pertinent sections of proposed State statute are enclosed for your information (Appendix III). Copies of the public notices of this plan amendment, which were given in the New York State Register on October 5, 2011 and October 12, 2011, are also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions (Appendix V) and evidence of tribal consultation are also enclosed.

If you have any questions regarding this State Plan Amendment submission, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting at (518) 474-6350.

Sincerely,

Jason A. Helgerson
Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL **FOR: HEALTH CARE FINANCING ADMINISTRATION**	1. TRANSMITTAL NUMBER: **12-01**	2. STATE **New York**
	3. PROGRAM IDENTIFICATION: **TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)**	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE **January 1, 2012**	

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: **Section 1902(a)(30) of the Social Security Act and 42 CFR Part 447.204**	7. FEDERAL BUDGET IMPACT: **a. FFY 01/01/12-09/30/12 $ 0** **b. FFY 10/01/12-09/30/13 $ 0**
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: **Attachment 4.19-B: 1(e)(2)**	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: **Attachment 4.19-B: 1(e)(2)**

10. SUBJECT OF AMENDMENT:
January 2012 Hospital OP APG Weight Adjustments (FMAP = 50%)

11. 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:

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO: **New York State Department of Health** **Corning Tower** **Empire State Plaza** **Albany, New York 12237**
13. TYPED NAME: **Jason A. Helgerson**	
14. TITLE: **Medicaid Director & Deputy Commissioner Department of Health**	
15. DATE SUBMITTED: March 27, 2012	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED:
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME:	22. TITLE:

23. REMARKS:

Appendix I
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Amended SPA Pages

APG Reimbursement Methodology

The following links direct users to the various definitions and factors that comprise the APG reimbursement methodology:

3M Contact Information; effective 12/1/2008:
http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/contacts.pdf

3M APG Crosswalk, version 3.1, effective 7/1/09:
(prior versions available upon request to the Department of Health)
https://dashboard.emedny.org/CrossWalk/html/cwAgreement.html

APG Consolidation/Bundling; effective 12/1/08 and last updated 7/1/09:
http://www.health.state.ny.us/health_care/medicaid/rates/apg/#apg_cons

APG Definitions Manual Versions; effective 12/1/08 and last updated 7/1/09:
http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/versions_with_effective_dates.xls

APG Weights; effective 12/1/08 and last updated 1/1/12:
http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/apg_payment_components.xls

Associated Ancillaries; effective 7/9/09:
http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/proc_subject_to_ancillary_policy.xls

Base Rates, Freestanding Clinics, effective 9/1/09:
http://www.health.ny.gov/health_care/medicaid/rates/apg/docs/dtc_apg_base_rates.pdf

Base Rates, Hospital Outpatient Clinics, effective 7/1/09:
http://www.health.ny.gov/health_care/medicaid/rates/apg/docs/hosp_base_rates.pdf

Coding Improvement Factors; effective 12/1/08 and last updated 7/1/09:
http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/apg_cifs_by_rate_period.xls

Uniform Packaging Ancillaries; effective 12/1/08:
http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/uniform_packaging_apgs.xls

Appendix II
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Summary

SUMMARY
SPA #12-01

This state plan amendment revises the Ambulatory Patient Group (APG) reimbursement methodology for hospital-based outpatient clinic and ambulatory surgery services, including emergency room services, to reflect the recalculated weights for January 1, 2012.

Appendix III
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Authorizing Provisions

To be published in State Register on March 14, 2012.

Pursuant to the authority vested in the Commissioner of Health by sections 2807(2-a)(e) of the Public Health Law, as amended by Part C of Chapter 58 of the Laws of 2008 and Part C of Chapter 58 of the Laws of 2009, the following sections of Subpart 86-8 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby amended, to be effective upon publication of the Notice of Adoption in the New York State Register, and to read as follows:

Subdivision (r) of section 86-8.2 is hereby repealed.

Section 86-8.7 is hereby repealed effective October 1, 2011 and a new section 86-8.7 is added to read as follows:

(a) The table of APG Weights, Procedure Based Weights and units, and APG Fee Schedule Fees and units for each effective period are published on the New York State Department of Health website at:

http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/apg_payment_components.xls

Subdivision (c) of section 86-8.9 is repealed and a new subdivision (c) is added, to read as follows:

(c) Drugs purchased under the 340B drug benefit program and billed under the APG reimbursement methodology shall be reimbursed at a reduced rate comparable to the reduced cost of drugs purchased through the 340B drug benefit program.

Subdivision (d) of section 86-8.9 is amended to read as follows:

* * *

94 CARDIAC REHABILITATION

274 PHYSICAL THERAPY, GROUP

275 SPEECH THERAPY AND EVALUATION, GROUP

322 MEDICATION ADMINISTRATION AND OBSERVATION

414 LEVEL I IMMUNIZATION AND ALLERGY IMMUNOTHERAPY

415 LEVEL II IMMUNIZATION

416 LEVEL III IMMUNIZATION

428 PATIENT EDUCATION, INDIVIDUAL

429 PATIENT EDUCATION, GROUP

451 SMOKING CESSATION TREATMENT

Subdivision (h) of section 86-8.10 is amended to read as follows:

* * *

065 RESPIRATORY THERAPY

066 PULMONARY REHABILITATION

117 HOME INFUSION

190 ARTIFICIAL FERTILIZATION

311 FULL DAY PARTIAL HOSPITALIZATION FOR SUBSTANCE ABUSE

313 HALF DAY PARTIAL HOSPITALIZATION FOR SUBSTANCE ABUSE

314 HALF DAY PARTIAL HOSPITALIZATION FOR MENTAL ILLNESS

319 ACTIVITY THERAPY

371 ORTHODONTICS

430 CLASS I CHEMOTHERAPY DRUGS

431 CLASS II CHEMOTHERAPY DRUGS

432 CLASS III CHEMOTHERAPY DRUGS

433 CLASS IV CHEMOTHERAPY DRUGS

434 CLASS V CHEMOTHERAPY DRUGS

441 CLASS VI CHEMOTHERAPY DRUGS

443 CLASS VII CHEMOTHERAPY DRUGS

452 DIABETES SUPPLIES

453 MOTORIZED WHEELCHAIR

454 TPN FORMULAE

456 MOTORIZED WHEELCHAIR ACCESSORIES

465 CLASS XIII COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

999 UNASSIGNED

Subdivision (i) of section 86-8.10 is amended to read as follows:

* * *

281 MAGNETIC RESONANCE ANGIOGRAPHY – HEAD AND/OR NECK

282 MAGNETIC RESONANCE ANGIOGRAPHY – CHEST

283 MAGNETIC RESONANCE ANGIOGRAPHY – OTHER SITES

284 MYELOGRAPHY

285 MISCELLANEOUS RADIOLOGICAL PROCEDURES WITH CONTRAST

286 MAMMOGRAPHY

287 DIGESTIVE RADIOLOGY

288 DIAGNOSTIC ULTRASOUND EXCEPT OBSTETRICAL AND VASCULAR OF LOWER EXTREMITIES

289 VASCULAR DIAGNOSTIC ULTRASOUND OF LOWER EXTREMITIES

290 PET SCANS

291 BONE DENSITOMETRY

292 MRI – ABDOMEN

293 MRI – JOINTS

294 MRI – BACK

295 MRI – CHEST

296 MRI – OTHER

297 MRI - BRAIN

298 CAT SCAN BACK

299 CAT SCAN - BRAIN

300 CAT SCAN - ABDOMEN

301 CAT SCAN - OTHER

302 ANGIOGRAPHY, OTHER

303 ANGIOGRAPHY, CEREBRAL

330 LEVEL I DIAGNOSTIC NUCLEAR MEDICINE

331 LEVEL II DIAGNOSTIC NUCLEAR MEDICINE

332 LEVEL III DIAGNOSTIC NUCLEAR MEDICINE

373 LEVEL I DENTAL FILM

374 LEVEL II DENTAL FILM

375 DENTAL ANESTHESIA

380 ANESTHESIA

390 LEVEL I PATHOLOGY

391 LEVEL II PATHOLOGY

392 PAP SMEARS

393 BLOOD AND TISSUE TYPING

394 LEVEL I IMMUNOLOGY TESTS

395 LEVEL II IMMUNOLOGY TESTS

396 LEVEL I MICROBIOLOGY TESTS

397 LEVEL II MICROBIOLOGY TESTS

398 LEVEL I ENDOCRINOLOGY TESTS

399 LEVEL II ENDOCRINOLOGY TESTS

400 LEVEL I CHEMISTRY TESTS

401 LEVEL II CHEMISTRY TESTS

402 BASIC CHEMISTRY TESTS

403 ORGAN OR DISEASE ORIENTED PANELS

404 TOXICOLOGY TESTS

405 THERAPEUTIC DRUG MONITORING

406 LEVEL I CLOTTING TESTS

407 LEVEL II CLOTTING TESTS

408 LEVEL I HEMATOLOGY TESTS

409 LEVEL II HEMATOLOGY TESTS

410 URINALYSIS

411 BLOOD AND URINE DIPSTICK TESTS

413 CARDIOGRAM

435 CLASS I PHARMACOTHERAPY

436 CLASS II PHARMACOTHERAPY

437 CLASS III PHARMACOTHERAPY

438 CLASS IV PHARMACOTHERAPY

439 CLASS V PHARMACOTHERAPY

440 CLASS VI PHARMACOTHERAPY

444 CLASS VII PHARMACOTHERAPY

448 AFTER HOURS SERVICES

[451 SMOKING CESSATION TREATMENT]

455 IMPLANTED TISSUE OF ANY TYPE

457 VENIPUNCTURE

460 CLASS VIII COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

461 CLASS IX COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

462 CLASS X COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

463 CLASS XI COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

464 CLASS XII COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

470 OBSTETRICAL ULTRASOUND

471 PLAIN FILM

472 ULTRASOUND GUIDANCE

473 CT GUIDANCE

<u>490 INCIDENTAL TO MEDICAL, SIGNIFICANT PROCEDURE OR THERAPY VISIT</u>

Appendix IV
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Public Notice

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

PUBLIC NOTICE
Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to revise provisions of the Ambulatory Patient Group (APG) reimbursement methodology on or after January 1, 2012:

- Recalculated weights will become effective on January 1, 2012.

There is no estimated annual change to gross Medicaid expenditures as a result of the proposed amendments.

Copies of the proposed state plan amendment will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
95 Central Avenue, St. George
Staten Island, New York 10301

The public is invited to review and comment on this proposed state plan amendment.

For further information and to review and comment, please contact: Department of Health, Bureau of HCRA Operations and Financial Analysis, Corning Tower Bldg., Rm. 984, Empire State Plaza, Albany, NY 12237, (518) 474-1673, (518) 473-8825 (FAX), e-mail: spa__inquiries@health.state.ny.us

PUBLIC NOTICE
Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

To clarify the provision previously noticed on March 30, 2011, the uniform payment reduction for pharmacy services will be reduced to approximately 1%. The pharmacy program anticipates achieving commensurate savings for generic drugs through an enhanced State Maximum Allowable Cost (SMAC) initiative intended to optimize the scope and cost effectiveness of the existing SMAC Program; therefore, pharmacy services are excluded from the full 2% across-the-board payment reduction. The annual decrease in gross Medicaid expenditures for state fiscal year 2011/12 as a result of this action is $84.6 million and is included in the overall fiscal cited for the uniform across-the-board reduction for all services.

Copies of the proposed state plan amendment will be available for public review on the Department's website at: http://www.health.ny.gov/regulations/state__plans/status

In addition, copies will be on file in each local (county) social services district.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
95 Central Avenue, St. George
Staten Island, New York 10301

The public is invited to review and comment on this proposed state plan amendment.

Appendix V
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #12-01

CMS Standard Funding Questions

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-B of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

1. **Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the payments, a complete listing of providers that return a portion of their payments, the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.).**

   Response: Providers do retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular A-87 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

2. **Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either through an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local governmental entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:**
   - **(i) a complete list of the names of entities transferring or certifying funds;**
   - **(ii) the operational nature of the entity (state, county, city, other);**
   - **(iii) the total amounts transferred or certified by each entity;**
   - **(iv) clarify whether the certifying or transferring entity has general taxing authority: and,**
   - **(v) whether the certifying or transferring entity received appropriations (identify level of appropriations).**

   Response: Payments made to service providers under the provisions of this SPA are funded through a general appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Local Assistance Account under the General Fund/Aid to Localities.

3. **Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.**

   Response: The payments authorized for this provision are not supplemental or enhanced payments.

4. **For clinic or outpatient hospital services please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated,**

non-state government owned or operated, and privately owned or operated). Please provide a current (i.e., applicable to the current rate year) UPL demonstration.

Response: Based on guidance from CMS, the State and CMS staff will engage in discussions to develop a strategic plan to complete the appropriate UPL demonstration for 2012.

5. **Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?**

   Response: The rate methodology included in the State Plan for hospital-based outpatient clinic and ambulatory surgery services is either cost-based subject to ceilings or based upon the Ambulatory Patient Group (APG) system. We are unaware of any requirement under current federal law or regulation that limits individual providers' payments to their actual costs.

ACA Assurances:

1. **Maintenance of Effort (MOE). Under section 1902(gg) of the Social Security Act (the Act), as amended by the Affordable Care Act, as a condition of receiving any Federal payments under the Medicaid program during the MOE period indicated below, the State shall not have in effect any eligibility standards, methodologies, or procedures in its Medicaid program which are more restrictive than such eligibility provisions as in effect in its Medicaid program on March 10, 2010.**

   MOE Period.
   - **Begins on: March 10, 2010, and**
   - **Ends on: The date the Secretary of the Federal Department of Health and Human Services determines an Exchange established by a State under the provisions of section 1311 of the Affordable Care Act is fully operational.**

   Response: This SPA complies with the conditions of the MOE provision of section 1902(gg) of the Act for continued funding under the Medicaid program.

2. **Section 1905(y) and (z) of the Act provides for increased FMAPs for expenditures made on or after January 1, 2014 for individuals determined eligible under section 1902(a)(10)(A)(i)(VIII) of the Act. Under section 1905(cc) of the Act, the increased FMAP under sections 1905(y) and (z) would not be available for States that require local political subdivisions to contribute amounts toward the non-Federal share of the State's expenditures at a greater percentage than would have been required on December 31, 2009.**

Prior to January 1, 2014 States may potentially require contributions by local political subdivisions toward the non-Federal share of the States' expenditures at percentages greater than were required on December 31, 2009. However, because of the provisions of section 1905(cc) of the Act, it is important to determine and document/flag any SPAs/State plans which have such greater percentages prior to the January 1, 2014 date in order to anticipate potential violations and/or appropriate corrective actions by the States and the Federal government.

Response: This SPA would [ ] / would not [✓] violate these provisions, if they remained in effect on or after January 1, 2014.

3. **Please indicate whether the State is currently in conformance with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.**

   Response: This SPA does comply with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

Tribal Assurance:

Section 1902(a)(73) of the Social Security Act the Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular ongoing basis from designees of Indian health programs whether operated by the Indian Health Service HIS Tribes or Tribal organizations under the Indian Self Determination and Education Assistance Act ISDEAA or Urban Indian Organizations under the Indian Health Care Improvement Act.

IHCIA Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program CHIP. Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.

a) **Please describe the process the State uses to seek advice on a regular ongoing basis from federally recognized tribes Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments waiver proposals waiver extensions waiver amendments waiver renewals and proposals for demonstration projects prior to submission to CMS.**
b) **Please include information about the frequency inclusiveness and process for seeking such advice.**
c) **Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment when it occurred and who was involved.**

Response: The process that New York State uses is detailed in SPA #11-06, which was approved by CMS on 8/4/11. Tribal leaders were sent information regarding this

SPA via U.S. Postal Service, and health clinic administrators were sent the information via e-mail. Evidence of the mailing is attached to this SPA submission.