



## Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

JUN 3 0 2016

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 #16-0007  
Non-Institutional Services

Dear Mr. Melendez:


The State requests approval of the enclosed amendment #16-0007 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective April 1, 2016 (Appendix I). This amendment is being submitted based upon State Regulations. 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 enacted State Regulations are enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register on March 30, 2016, is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

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, Office of Health Insurance Programs at (518) 474-6350.

Sincerely,

  
Jason A. Helgerson  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:  
**16-0007**

2. STATE  
**New York**

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

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  
**April 1, 2016**

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:  
**§ 1902(r)(5) of the Social Security Act, and 42 CFR 447**

7. FEDERAL BUDGET IMPACT: (*in thousands*)  
a. FFY 04/01/16-09/30/16 **\$0.00**  
b. FFY 10/01/16-09/30/17 **\$0.00**

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  
**Attachment 3.1A Supplement: Pages 2(c.2.8), 2(c.2.9), 2(c.2.10),  
2(c.2.11), 2(e), 2(e.1), 2(e.2), 2(e.3)**

9. PAGE NUMBER OF THE SUPERSEDED PLAN  
SECTION OR ATTACHMENT (*If Applicable*):

**Attachment 3.1B Supplement: Pages 2(c.2.8), 2(c.2.9), (c.2.10),  
2(c.2.11), 2(e), 2(e.1), 2(e.2), 2(e.3)**

**Attachment 4.19-B: Page 5(a)(ii)**

10. SUBJECT OF AMENDMENT:  
**OPWDD Preventive and Rehabilitative Services  
(FMAP = 50%)**

11. 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

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME: **Jason A. Helgerson**

14. TITLE: **Medicaid Director  
Department of Health**

15. DATE SUBMITTED: **JUN 3 0 2016**

16. RETURN TO:

**New York State Department of Health  
Division of Finance and Rate Setting  
99 Washington Ave – One Commerce Plaza  
Suite 1460  
Albany, NY 12210**

**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**  
**2016 Title XIX State Plan**  
**Second Quarter Amendment**  
**Amended SPA Pages**





New York  
2(c.2.8)

**13c. Preventive Services – Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD)**

Physical Rehabilitative and Preventive Services Program: The Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) program reimburses preventive and rehabilitative physical therapy, occupational therapy, speech and language pathology, and psychotherapy services delivered to individuals with developmental disabilities. Services reimbursed under IPSIDD will not be limited to restorative goals but may also be delivered to help patients to improve or acquire new functionality and skills and to maintain or slow the loss of functionality and skills. Services reimbursed under IPSIDD may be delivered in practitioner offices, in private homes, in non-certified community locations (e.g., patient's place of employment), and in residential habilitation, day habilitation, and pre-vocational facilities certified by the NYS Office for People with Developmental Disabilities (OPWDD). IPSIDD services will not duplicate equivalent services a patient may receive through a freestanding clinic, hospital outpatient department, or other Medicaid-funded program. Services reimbursed under IPSIDD are limited to individuals who have been determined by the State to have a developmental disability as stated below:

A disability of a person which:

- (a) (1) is attributable to intellectual disability, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia or autism;  
(2) is attributable to any other condition of a person found to be closely related to intellectual disability because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of intellectually disabled persons or requires treatment and services similar to those required for such persons; or  
(3) is attributable to dyslexia resulting from a disability described in subparagraph (1) or (2) of this paragraph;
- (b) originates before such person attains age 22;
- (c) has continued or can be expected to continue indefinitely; and
- (d) constitutes a substantial handicap to such person's ability to function normally in society.

The specific services that are reimbursed under IPSIDD, and the qualifications of practitioners who may deliver them, are described below:

- **Physical Therapy**  
Physical Therapy services, as identified by the American Medical Association (AMA) Current Procedural Terminology (CPT) codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Physical Therapists and NYS certified Physical Therapy Assistants.



New York  
2(c.2.9)

**Practitioner Qualifications:**

- Physical Therapist - NYS Licensed Physical Therapist with a master's or higher degree from a NYS Registered or American Physical Therapy Association (APTA) Accredited Physical Therapy Program, or equivalent. For clinicians who participated in a program located in the United States but not NYS Registered or APTA accredited, applicants must have completed a program satisfactory to the NYS Education Department which is substantially equivalent to a master's or higher degree program in physical therapy. The National Physical Therapy Examination, or an examination determined to be comparable in content, is required for physical therapy licensure in NYS. In addition to NYS licensure, a Physical Therapist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
  
  - Physical Therapist Assistant - A NYS Certified Physical Therapist Assistant must have completed a NYS Registered Physical Therapy Assistant Program or APTA Accredited Physical Therapy Assistant Program and have completed a two-year college program for physical therapy assistants. For clinicians who have completed a Physical Therapy Assistants Program located outside the United States that is not APTA Accredited, the program must be determined to be equivalent or an applicant may demonstrate competency by passing a national examination satisfactory to the NYS Education Department. The National Physical Therapist Assistant Examination is required for physical therapist assistant applicants. **Supervision requirement:** Services delivered by a Physical Therapist Assistant must be performed under the supervision of a NYS licensed Physical Therapist meeting the requirements outlined above, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by Physical Therapist Assistants will be billed under the National Provider Identifier (NPI) of the supervising Physical Therapist, who is ultimately responsible for services rendered.
- **Occupational Therapy**  
Occupational Therapy services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Occupational Therapists and NYS certified Occupational Therapy Assistants.

**Practitioner Qualifications:**

- Occupational Therapist - A NYS Licensed Occupational Therapist with a baccalaureate or entry-level master's degree in occupational therapy, or a post-baccalaureate certificate in occupational therapy from a NYS Registered or American Occupational Therapy Association (AOTA) Accredited Occupational Therapist Program, or equivalent. Clinicians must also have a minimum of six months of supervised occupational therapy experience. Occupational therapists must pass the National Board of Certification in Occupational Therapy (NBCOT) Occupational Therapy Registered (OTR) examination and must pass the Certified Occupational Therapy Assistant (COTA) examination. In addition to NYS licensure, an Occupational Therapist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.



New York  
2(c.2.10)

- Occupational Therapist Assistant - A NYS Certified Occupational Therapist Assistant must have a two year associate degree from a program for occupational therapy assistants from a NYS Registered Occupational Therapy Assistant Program or AOTA Accredited Occupational Therapy Assistant Program. An alternative is a non-NYS Registered or a non-AOTA Accredited Occupational Therapy Assistant degree Program, where the candidate has completed a post-secondary program in occupational therapy of at least two years duration which is satisfactory to the NYS Education Department. Occupational therapist assistants must pass the NBCOT COTA examination. **Supervision requirement:** Services delivered by an Occupational Therapist Assistant must be performed under the supervision of a NYS licensed Occupational Therapist meeting the requirements previously outlined, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by Occupational Therapist Assistants will be billed under the NPI of the supervising Occupational Therapist, who is ultimately responsible for services rendered.
  
- **Speech/Language**  
Speech and Language services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Speech and Language Pathologists.  
**Practitioner Qualification:**
  - Speech and Language Pathologist - A NYS Licensed Speech-Language Pathologist with a graduate degree in speech-language pathology from a NYS registered licensure qualifying program, a program accredited by the American Speech Language and Hearing Association (ASHA) or the equivalent as well as supervised practice of at least 300 hours. NYS licensed speech-language pathologists must have satisfactorily completed at least nine months of paid supervised experience and passed a written, State-approved licensing examination, the Specialty Area test of the Praxis Services, Praxis II. In addition to NYS licensure, a Speech and Language Pathologist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
  
- **Psychotherapy and Developmental Testing**  
Psychotherapy and Developmental Testing services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed psychologists, applied behavioral sciences specialists, licensed clinical social workers, and licensed master social workers.  
**Practitioner Qualifications:**
  - Licensed Psychologist - A NYS Licensed Psychologist with a doctoral degree in psychology awarded upon completion of a doctoral program in psychology registered by the NYS Education Department and designated as licensure qualifying or determined by the NYS Education Department to be the substantial equivalent in design, scope, content and resources to a NYS registered program that is licensure qualifying. The Licensed Psychologist must pass the examination designed to test knowledge related to all areas of psychology. In addition to NYS licensure, a Licensed Psychologist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.



New York  
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- Applied Behavioral Sciences Specialist (ABSS) - An Applied Behavioral Sciences Specialist (ABSS) with a Master's degree in a clinical and/or treatment field of psychology from an accredited institution, who has training in assessment techniques and behavioral program development. **Supervision requirement:** Services delivered by an ABSS must be performed under the supervision of a NYS Licensed Psychologist meeting the requirements previously outlined, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by an ABSS will be billed under the NPI of the supervising Licensed Psychologist, who is ultimately responsible for services rendered.
- Licensed Clinical Social Worker (LCSW) - A NYS Licensed Clinical Social Worker (LCSW) with a Master's degree in Social Work (MSW) with at least 12 semester hours of clinical coursework acceptable to the NYS Education Department, must have at least three years post-MSW supervised experience in diagnosis, psychotherapy and assessment-based treatment planning acceptable to the NYS Education Department, meet clinical examination requirements and complete coursework or training in the identification and reporting of child abuse. In addition to NYS licensure, a LCSW delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
- Licensed Master Social Worker (LMSW) - A Licensed Master Social Worker (LMSW) with successful completion of the "Masters" examination administered by the Association of Social Work Boards (ASWB) or an examination determined by the NYS Education Department to be comparable in content. **Supervision requirement:** Services delivered by an LMSW must be performed under the supervision of a LCSW or a Licensed Psychologist meeting the requirements outlined above, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by a LMSW will be billed under the NPI of the supervising LCSW or Licensed Psychologist, who is ultimately responsible for services rendered.

**Limitations:** IPSIDD Services cannot duplicate services available through other State Plan options and must be prior authorized. An annual prior authorization for a maximum of 50 visits each for PT, OT, Speech and Psychotherapy services will be granted based upon attestation of medical necessity by a qualified IPSIDD billing provider. Further visits beyond the initial 50 visits can be prior authorized upon the State's review and approval of documentation supporting medical necessity.



New York  
2(e)

**13d. Rehabilitative Services – Independent Practitioner Services for Individuals With Developmental Disabilities (IPSIDD)**

Physical Rehabilitative and Preventive Services Program: The Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) program reimburses preventive and rehabilitative physical therapy, occupational therapy, speech and language pathology, and psychotherapy services delivered to individuals with developmental disabilities. Services reimbursed under IPSIDD will not be limited to restorative goals but may also be delivered to help patients to improve or acquire new functionality and skills and to maintain or slow the loss of functionality and skills. Services reimbursed under IPSIDD may be delivered in practitioner offices, in private homes, in non-certified community locations (e.g., patient's place of employment), and in residential habilitation, day habilitation, and pre-vocational facilities certified by the NYS Office for People with Developmental Disabilities (OPWDD). IPSIDD services will not duplicate equivalent services a patient may receive through a freestanding clinic, hospital outpatient department, or other Medicaid-funded program. Services reimbursed under IPSIDD are limited to individuals who have been determined by the State to have a developmental disability as stated below:

A disability of a person which:

- (a) (1) is attributable to intellectual disability, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia or autism;  
(2) is attributable to any other condition of a person found to be closely related to intellectual disability because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of intellectually disabled persons or requires treatment and services similar to those required for such persons; or  
(3) is attributable to dyslexia resulting from a disability described in subparagraph (1) or (2) of this paragraph;
- (b) originates before such person attains age 22;
- (c) has continued or can be expected to continue indefinitely; and
- (d) constitutes a substantial handicap to such person's ability to function normally in society.

The specific services that are reimbursed under IPSIDD, and the qualifications of practitioners who may deliver them, are described below:

- **Physical Therapy**  
Physical Therapy services, as identified by the American Medical Association (AMA) Current Procedural Terminology (CPT) codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Physical Therapists and NYS certified Physical Therapy Assistants.

New York  
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**Practitioner Qualifications:**

- Physical Therapist - NYS Licensed Physical Therapist with a master's or higher degree from a NYS Registered or American Physical Therapy Association (APTA) Accredited Physical Therapy Program, or equivalent. For clinicians who participated in a program located in the United States but not NYS Registered or APTA accredited, applicants must have completed a program satisfactory to the NYS Education Department which is substantially equivalent to a master's or higher degree program in physical therapy. The National Physical Therapy Examination, or an examination determined to be comparable in content, is required for physical therapy licensure in NYS. In addition to NYS licensure, a Physical Therapist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
  
  - Physical Therapist Assistant - A NYS Certified Physical Therapist Assistant must have completed a NYS Registered Physical Therapy Assistant Program or APTA Accredited Physical Therapy Assistant Program and have completed a two-year college program for physical therapy assistants. For clinicians who have completed a Physical Therapy Assistants Program located outside the United States that is not APTA Accredited, the program must be determined to be equivalent or an applicant may demonstrate competency by passing a national examination satisfactory to the NYS Education Department. The National Physical Therapist Assistant Examination is required for physical therapist assistant applicants. **Supervision requirement:** Services delivered by a Physical Therapist Assistant must be performed under the supervision of a NYS licensed Physical Therapist meeting the requirements outlined above, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by Physical Therapist Assistants will be billed under the National Provider Identifier (NPI) of the supervising Physical Therapist, who is ultimately responsible for services rendered.
- **Occupational Therapy**  
Occupational Therapy services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Occupational Therapists and NYS certified Occupational Therapy Assistants.

**Practitioner Qualifications:**

- Occupational Therapist - A NYS Licensed Occupational Therapist with a baccalaureate or entry-level master's degree in occupational therapy, or a post-baccalaureate certificate in occupational therapy from a NYS Registered or American Occupational Therapy Association (AOTA) Accredited Occupational Therapist Program, or equivalent. Clinicians must also have a minimum of six months of supervised occupational therapy experience. Occupational therapists must pass the National Board of Certification in Occupational Therapy (NBCOT) Occupational Therapy Registered (OTR) examination and must pass the Certified Occupational Therapy Assistant (COTA) examination. In addition to NYS licensure, an Occupational Therapist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.



New York  
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- Occupational Therapist Assistant - A NYS Certified Occupational Therapist Assistant must have a two year associate degree from a program for occupational therapy assistants from a NYS Registered Occupational Therapy Assistant Program or AOTA Accredited Occupational Therapy Assistant Program. An alternative is a non-NYS Registered or a non-AOTA Accredited Occupational Therapy Assistant degree Program, where the candidate has completed a post-secondary program in occupational therapy of at least two years duration which is satisfactory to the NYS Education Department. Occupational therapist assistants must pass the NBCOT COTA examination. **Supervision requirement:** Services delivered by an Occupational Therapist Assistant must be performed under the supervision of a NYS licensed Occupational Therapist meeting the requirements previously outlined, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by Occupational Therapist Assistants will be billed under the NPI of the supervising Occupational Therapist, who is ultimately responsible for services rendered.
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  - Speech and Language Pathologist - A NYS Licensed Speech-Language Pathologist with a graduate degree in speech-language pathology from a NYS registered licensure qualifying program, a program accredited by the American Speech Language and Hearing Association (ASHA) or the equivalent as well as supervised practice of at least 300 hours. NYS licensed speech-language pathologists must have satisfactorily completed at least nine months of paid supervised experience and passed a written, State-approved licensing examination, the Specialty Area test of the Praxis Services, Praxis II. In addition to NYS licensure, a Speech and Language Pathologist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
- **Psychotherapy and Developmental Testing**  
Psychotherapy and Developmental Testing services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed psychologists, applied behavioral sciences specialists, licensed clinical social workers, and licensed master social workers.  
**Practitioner Qualifications:**
  - Licensed Psychologist - A NYS Licensed Psychologist with a doctoral degree in psychology awarded upon completion of a doctoral program in psychology registered by the NYS Education Department and designated as licensure qualifying or determined by the NYS Education Department to be the substantial equivalent in design, scope, content and resources to a NYS registered program that is licensure qualifying. The Licensed Psychologist must pass the examination designed to test knowledge related to all areas of psychology. In addition to NYS licensure, a Licensed Psychologist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.



New York  
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- Applied Behavioral Sciences Specialist (ABSS) - An Applied Behavioral Sciences Specialist (ABSS) with a Master's degree in a clinical and/or treatment field of psychology from an accredited institution, who has training in assessment techniques and behavioral program development. **Supervision requirement:** Services delivered by an ABSS must be performed under the supervision of a NYS Licensed Psychologist meeting the requirements previously outlined, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by an ABSS will be billed under the NPI of the supervising Licensed Psychologist, who is ultimately responsible for services rendered.
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**13c. Preventive Services – Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD)**

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(3) is attributable to dyslexia resulting from a disability described in subparagraph (1) or (2) of this paragraph;
- (b) originates before such person attains age 22;
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New York  
2(c.2.9)

**Practitioner Qualifications:**

- Physical Therapist - NYS Licensed Physical Therapist with a master's or higher degree from a NYS Registered or American Physical Therapy Association (APTA) Accredited Physical Therapy Program, or equivalent. For clinicians who participated in a program located in the United States but not NYS Registered or APTA accredited, applicants must have completed a program satisfactory to the NYS Education Department which is substantially equivalent to a master's or higher degree program in physical therapy. The National Physical Therapy Examination, or an examination determined to be comparable in content, is required for physical therapy licensure in NYS. In addition to NYS licensure, a Physical Therapist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
  
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- **Occupational Therapy**  
Occupational Therapy services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Occupational Therapists and NYS certified Occupational Therapy Assistants.

**Practitioner Qualifications:**

- Occupational Therapist - A NYS Licensed Occupational Therapist with a baccalaureate or entry-level master's degree in occupational therapy, or a post-baccalaureate certificate in occupational therapy from a NYS Registered or American Occupational Therapy Association (AOTA) Accredited Occupational Therapist Program, or equivalent. Clinicians must also have a minimum of six months of supervised occupational therapy experience. Occupational therapists must pass the National Board of Certification in Occupational Therapy (NBCOT) Occupational Therapy Registered (OTR) examination and must pass the Certified Occupational Therapy Assistant (COTA) examination. In addition to NYS licensure, an Occupational Therapist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.



New York  
2(c.2.10)

- Occupational Therapist Assistant - A NYS Certified Occupational Therapist Assistant must have a two year associate degree from a program for occupational therapy assistants from a NYS Registered Occupational Therapy Assistant Program or AOTA Accredited Occupational Therapy Assistant Program. An alternative is a non-NYS Registered or a non-AOTA Accredited Occupational Therapy Assistant degree Program, where the candidate has completed a post-secondary program in occupational therapy of at least two years duration which is satisfactory to the NYS Education Department. Occupational therapist assistants must pass the NBCOT COTA examination. **Supervision requirement:** Services delivered by an Occupational Therapist Assistant must be performed under the supervision of a NYS licensed Occupational Therapist meeting the requirements previously outlined, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by Occupational Therapist Assistants will be billed under the NPI of the supervising Occupational Therapist, who is ultimately responsible for services rendered.
  
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  - Speech and Language Pathologist - A NYS Licensed Speech-Language Pathologist with a graduate degree in speech-language pathology from a NYS registered licensure qualifying program, a program accredited by the American Speech Language and Hearing Association (ASHA) or the equivalent as well as supervised practice of at least 300 hours. NYS licensed speech-language pathologists must have satisfactorily completed at least nine months of paid supervised experience and passed a written, State-approved licensing examination, the Specialty Area test of the Praxis Services, Praxis II. In addition to NYS licensure, a Speech and Language Pathologist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
  
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  - Licensed Psychologist - A NYS Licensed Psychologist with a doctoral degree in psychology awarded upon completion of a doctoral program in psychology registered by the NYS Education Department and designated as licensure qualifying or determined by the NYS Education Department to be the substantial equivalent in design, scope, content and resources to a NYS registered program that is licensure qualifying. The Licensed Psychologist must pass the examination designed to test knowledge related to all areas of psychology. In addition to NYS licensure, a Licensed Psychologist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.



New York  
2(c.2.11)

- Applied Behavioral Sciences Specialist (ABSS) - An Applied Behavioral Sciences Specialist (ABSS) with a Master's degree in a clinical and/or treatment field of psychology from an accredited institution, who has training in assessment techniques and behavioral program development. **Supervision requirement:** Services delivered by an ABSS must be performed under the supervision of a NYS Licensed Psychologist meeting the requirements previously outlined, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by an ABSS will be billed under the NPI of the supervising Licensed Psychologist, who is ultimately responsible for services rendered.
- Licensed Clinical Social Worker (LCSW) - A NYS Licensed Clinical Social Worker (LCSW) with a Master's degree in Social Work (MSW) with at least 12 semester hours of clinical coursework acceptable to the NYS Education Department, must have at least three years post-MSW supervised experience in diagnosis, psychotherapy and assessment-based treatment planning acceptable to the NYS Education Department, meet clinical examination requirements and complete coursework or training in the identification and reporting of child abuse. In addition to NYS licensure, a LCSW delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
- Licensed Master Social Worker (LMSW) - A Licensed Master Social Worker (LMSW) with successful completion of the "Masters" examination administered by the Association of Social Work Boards (ASWB) or an examination determined by the NYS Education Department to be comparable in content. **Supervision requirement:** Services delivered by an LMSW must be performed under the supervision of a LCSW or a Licensed Psychologist meeting the requirements outlined above, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by a LMSW will be billed under the NPI of the supervising LCSW or Licensed Psychologist, who is ultimately responsible for services rendered.

**Limitations:** IPSIDD Services cannot duplicate services available through other State Plan options and must be prior authorized. An annual prior authorization for a maximum of 50 visits each for PT, OT, Speech and Psychotherapy services will be granted based upon attestation of medical necessity by a qualified IPSIDD billing provider. Further visits beyond the initial 50 visits can be prior authorized upon the State's review and approval of documentation supporting medical necessity.



New York  
2(e)

**13d. Rehabilitative Services – Independent Practitioner Services for Individuals With Developmental Disabilities (IPSIDD)**

Physical Rehabilitative and Preventive Services Program: The Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) program reimburses preventive and rehabilitative physical therapy, occupational therapy, speech and language pathology, and psychotherapy services delivered to individuals with developmental disabilities. Services reimbursed under IPSIDD will not be limited to restorative goals but may also be delivered to help patients to improve or acquire new functionality and skills and to maintain or slow the loss of functionality and skills. Services reimbursed under IPSIDD may be delivered in practitioner offices, in private homes, in non-certified community locations (e.g., patient's place of employment), and in residential habilitation, day habilitation, and pre-vocational facilities certified by the NYS Office for People with Developmental Disabilities (OPWDD). IPSIDD services will not duplicate equivalent services a patient may receive through a freestanding clinic, hospital outpatient department, or other Medicaid-funded program. Services reimbursed under IPSIDD are limited to individuals who have been determined by the State to have a developmental disability as stated below:

A disability of a person which:

- (a) (1) is attributable to intellectual disability, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia or autism;  
(2) is attributable to any other condition of a person found to be closely related to intellectual disability because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of intellectually disabled persons or requires treatment and services similar to those required for such persons; or  
(3) is attributable to dyslexia resulting from a disability described in subparagraph (1) or (2) of this paragraph;
- (b) originates before such person attains age 22;
- (c) has continued or can be expected to continue indefinitely; and
- (d) constitutes a substantial handicap to such person's ability to function normally in society.

The specific services that are reimbursed under IPSIDD, and the qualifications of practitioners who may deliver them, are described below:

- **Physical Therapy**  
Physical Therapy services, as identified by the American Medical Association (AMA) Current Procedural Terminology (CPT) codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Physical Therapists and NYS certified Physical Therapy Assistants.

New York  
2(e.1)

**Practitioner Qualifications:**

- Physical Therapist - NYS Licensed Physical Therapist with a master's or higher degree from a NYS Registered or American Physical Therapy Association (APTA) Accredited Physical Therapy Program, or equivalent. For clinicians who participated in a program located in the United States but not NYS Registered or APTA accredited, applicants must have completed a program satisfactory to the NYS Education Department which is substantially equivalent to a master's or higher degree program in physical therapy. The National Physical Therapy Examination, or an examination determined to be comparable in content, is required for physical therapy licensure in NYS. In addition to NYS licensure, a Physical Therapist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
  
  - Physical Therapist Assistant - A NYS Certified Physical Therapist Assistant must have completed a NYS Registered Physical Therapy Assistant Program or APTA Accredited Physical Therapy Assistant Program and have completed a two-year college program for physical therapy assistants. For clinicians who have completed a Physical Therapy Assistants Program located outside the United States that is not APTA Accredited, the program must be determined to be equivalent or an applicant may demonstrate competency by passing a national examination satisfactory to the NYS Education Department. The National Physical Therapist Assistant Examination is required for physical therapist assistant applicants. **Supervision requirement:** Services delivered by a Physical Therapist Assistant must be performed under the supervision of a NYS licensed Physical Therapist meeting the requirements outlined above, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by Physical Therapist Assistants will be billed under the National Provider Identifier (NPI) of the supervising Physical Therapist, who is ultimately responsible for services rendered.
- **Occupational Therapy**  
Occupational Therapy services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Occupational Therapists and NYS certified Occupational Therapy Assistants.

**Practitioner Qualifications:**

- Occupational Therapist - A NYS Licensed Occupational Therapist with a baccalaureate or entry-level master's degree in occupational therapy, or a post-baccalaureate certificate in occupational therapy from a NYS Registered or American Occupational Therapy Association (AOTA) Accredited Occupational Therapist Program, or equivalent. Clinicians must also have a minimum of six months of supervised occupational therapy experience. Occupational therapists must pass the National Board of Certification in Occupational Therapy (NBCOT) Occupational Therapy Registered (OTR) examination and must pass the Certified Occupational Therapy Assistant (COTA) examination. In addition to NYS licensure, an Occupational Therapist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.



New York  
2(e.2)

- Occupational Therapist Assistant - A NYS Certified Occupational Therapist Assistant must have a two year associate degree from a program for occupational therapy assistants from a NYS Registered Occupational Therapy Assistant Program or AOTA Accredited Occupational Therapy Assistant Program. An alternative is a non-NYS Registered or a non-AOTA Accredited Occupational Therapy Assistant degree Program, where the candidate has completed a post-secondary program in occupational therapy of at least two years duration which is satisfactory to the NYS Education Department. Occupational therapist assistants must pass the NBCOT COTA examination. **Supervision requirement:** Services delivered by an Occupational Therapist Assistant must be performed under the supervision of a NYS licensed Occupational Therapist meeting the requirements previously outlined, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by Occupational Therapist Assistants will be billed under the NPI of the supervising Occupational Therapist, who is ultimately responsible for services rendered.
- **Speech/Language**  
Speech and Language services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed Speech and Language Pathologists.  
**Practitioner Qualification:**
  - Speech and Language Pathologist - A NYS Licensed Speech-Language Pathologist with a graduate degree in speech-language pathology from a NYS registered licensure qualifying program, a program accredited by the American Speech Language and Hearing Association (ASHA) or the equivalent as well as supervised practice of at least 300 hours. NYS licensed speech-language pathologists must have satisfactorily completed at least nine months of paid supervised experience and passed a written, State-approved licensing examination, the Specialty Area test of the Praxis Services, Praxis II. In addition to NYS licensure, a Speech and Language Pathologist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
- **Psychotherapy and Developmental Testing**  
Psychotherapy and Developmental Testing services, as identified by the AMA CPT codes listed in the IPSIDD program fee schedule, delivered by NYS licensed psychologists, applied behavioral sciences specialists, licensed clinical social workers, and licensed master social workers.  
**Practitioner Qualifications:**
  - Licensed Psychologist - A NYS Licensed Psychologist with a doctoral degree in psychology awarded upon completion of a doctoral program in psychology registered by the NYS Education Department and designated as licensure qualifying or determined by the NYS Education Department to be the substantial equivalent in design, scope, content and resources to a NYS registered program that is licensure qualifying. The Licensed Psychologist must pass the examination designed to test knowledge related to all areas of psychology. In addition to NYS licensure, a Licensed Psychologist delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.



New York  
2(e.3)

- Applied Behavioral Sciences Specialist (ABSS) - An Applied Behavioral Sciences Specialist (ABSS) with a Master's degree in a clinical and/or treatment field of psychology from an accredited institution, who has training in assessment techniques and behavioral program development. **Supervision requirement:** Services delivered by an ABSS must be performed under the supervision of a NYS Licensed Psychologist meeting the requirements previously outlined, including the requirement for two years of experience serving individuals with developmental disabilities. Services delivered by an ABSS will be billed under the NPI of the supervising Licensed Psychologist, who is ultimately responsible for services rendered.
- Licensed Clinical Social Worker (LCSW) - A NYS Licensed Clinical Social Worker (LCSW) with a Master's degree in Social Work (MSW) with at least 12 semester hours of clinical coursework acceptable to the NYS Education Department, must have at least three years post-MSW supervised experience in diagnosis, psychotherapy and assessment-based treatment planning acceptable to the NYS Education Department, meet clinical examination requirements and complete coursework or training in the identification and reporting of child abuse. In addition to NYS licensure, a LCSW delivering services reimbursed under IPSIDD must have two years of experience treating individuals with developmental disabilities as verified and approved by OPWDD.
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**Limitations:** IPSIDD Services cannot duplicate services available through other State Plan options and must be prior authorized. An annual prior authorization for a maximum of 50 visits each for PT, OT, Speech and Psychotherapy services will be granted based upon attestation of medical necessity by a qualified IPSIDD billing provider. Further visits beyond the initial 50 visits can be prior authorized upon the State's review and approval of documentation supporting medical necessity.



**Appendix II**  
**2016 Title XIX State Plan**  
**Second Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #16-0007**

This State Plan Amendment proposes to outline the qualifications for Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) that will be covered through the preventive and rehabilitative services listed below. Additionally, OPWDD will show the Current Procedural Terminology (CPT) codes that will be covered.

- Occupational Therapy
- Physical Therapy
- Speech and Language Pathology
- Psychotherapy



**Appendix III**  
**2016 Title XIX State Plan**  
**Second Quarter Amendment**  
**Authorizing Provisions**

Local governments must also enforce Subpart 4-1, relating to regulation of cooling towers. Local governments have the power to enforce the provisions of the State Sanitary Code, including this new Part. PHL §§ 228, 229, 309(1)(f) and 324(1)(c).

**Compliance Requirements:**

Compliance requirement for small businesses and local governments are the same as those requirements set forth in the Regulatory Impact Statement.

**Professional Services:**

To comply with inspection and certification requirements with respect to cooling towers, small businesses and local governments will need to obtain services of a P.E., C.I.H., certified water technologist, or environmental consultant with training and experience performing inspections in accordance with current standard industry protocols including, but not limited to ASHRAE 188-2015. Small businesses and local governments will need to secure laboratory services for Legionella culture analysis. To comply with disinfection requirements with respect to cooling towers, small businesses and local governments will need to obtain the services of a commercial pesticide applicator or pesticide technician, or pesticide apprentice under supervision of a commercial pesticide applicator.

Compliance with the provisions that apply to general hospitals and healthcare facilities may require expertise in areas such engineering, physical facility management, water treatment methods, and monitoring of the environmental conditions of their potable water distribution systems.

**Compliance Costs:**

Compliance costs for small business and local government are consistent with the costs outlined in the Regulatory Impact Statement.

**Economic and Technological Feasibility:**

Although there will be an impact on building owners, including small businesses and local governments, compliance with the regulation is considered economically and technologically feasible, in part because the requirements are consistent industry best practices. This regulation is also necessary to protect public health, and it is expected to reduce cases of legionellosis in communities around cooling towers, as well as for patients and residents in general hospitals and residential healthcare facilities. Accordingly, the benefits to public health are anticipated to outweigh any costs.

**Minimizing Adverse Impact:**

The Department provides a cooling tower registry, technical consultation, coordination, and information and updates. In addition, the Department has issued guidance for general hospitals and cooling towers, which is consistent with the proposed regulations. Covered facilities that have followed the guidance will already be in compliance with most of the new regulations.

**Small Business and Local Government Participation:**

Development of the emergency regulations, upon which these regulations were based, was coordinated with New York City.

**Cure Period:**

Violation of this regulation can result in civil and criminal penalties. However, the regulations allow for time to adopt plans and performed required actions. Accordingly, and in light of the magnitude of the public health threat posed by Legionella, no cure period is warranted.

**Rural Area Flexibility Analysis**

Pursuant to Section 202-bb of the State Administrative Procedure Act (SAPA), a rural area flexibility analysis is not required. These provisions apply uniformly throughout New York State, including all rural areas. The proposed rule will not impose an adverse economic impact on rural areas, nor will it impose any disproportionate reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

**Job Impact Statement**

**Nature of the Impact:**

The New York State Department of Health (NYSDOH) expects there to be a positive impact on jobs or employment opportunities. The requirements in the regulation generally coincide with industry standards and manufacturers specification for the operation and maintenance of cooling towers. However, it is expected that a subset of owners have not adequately followed industry standards and will hire firms or individuals to assist them with compliance and to perform inspections and certifications.

**Categories and Numbers Affected:**

The Department anticipates no negative impact on jobs or employment opportunities as a result of the proposed regulations.

**Regions of Adverse Impact:**

The Department anticipates no negative impact on jobs or employment opportunities in any particular region of the state.

**Minimizing Adverse Impact:**

Not applicable.

**Office for People with Developmental Disabilities**

**AMENDED NOTICE OF ADOPTION**

**Article 16 Clinic Services and Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD)**

**I.D. No.** PDD-42-15-00002-AA

**Filing No.** 358

**Filing Date:** 2016-03-30

**Effective Date:** 2016-04-20

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of Parts 635, 671 and 679; and addition of Subpart 635-13 to Title 14 NYCRR.

**Amended action:** This action amends the rule that was filed with the Secretary of State on March 11, 2016, to be effective April 1, 2016, File No. 00280. The notice of adoption, I.D. No. PDD-42-15-00002-A, was published in the March 30, 2016 issue of the *State Register*.

**Statutory authority:** Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00

**Subject:** Article 16 Clinic Services and Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD).

**Purpose:** To discontinue off-site article 16 clinic services and add requirements for IPSIDD.

**Substance of amended rule:** The final regulations amend requirements in 14 NYCRR Part 679 pertaining to Article 16 clinic services, and add a new 14 NYCRR Subpart 635-13 to identify new requirements pertaining to a new Medicaid State plan service, Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD).

The regulations eliminate provision of previously allowed off-site delivery of OPWDD certified Article 16 clinic services to individuals with developmental disabilities effective April 1, 2016. The off-site locations included OPWDD certified residential and day programs and other, non-certified, sites in the community.

The regulations specify that Article 16 clinic services must only be delivered at sites that are specifically certified to provide those services. The regulations clarify requirements pertaining to satellite sites where on-site clinic services may be provided. The regulations clarify that the satellite sites can occupy dedicated or designated spaces and can be co-located with another OPWDD certified or funded non-residential program or services under certain conditions.

The regulations also include requirements pertaining to the provision of IPSIDD on and after the effective date of the regulations. IPSIDD services are limited to physical, occupational, and speech therapy; social work; and psychology services that may be provided to individuals in service arrangements subject to prior authorization from OPWDD. The regulations identify requirements on applicability and service definition; eligibility and enrollment of individuals; qualifications for independent practitioners to provide the service; and general provisions for service delivery.

The regulations include amendments to update the name of OPWDD (from OMRDD) and to update the definition of developmental disability in accordance with the updated definition in Mental Hygiene Law section 1.03. The regulations also include corrections to a number of cross references and minor grammar and punctuation edits.

The regulations are being revised to accommodate a later effective date and to clarify the intent of certain requirements in response to public comments. The revisions clarify requirements concerning 1) the prohibition of duplicative services; 2) the coordination of the provision of clinical services funded through IPSIDD; and 3) the provision of behavioral intervention and support services that are directly related to the residential habilitation plan.

**Amended rule as compared with adopted rule:** Nonsubstantive revisions were made in Subpart 635-13 and Part 679.

**Text of amended rule and any required statements and analyses may be obtained from:** Office of Counsel, Bureau of Policy and Regulatory Affairs, Office for People With Developmental Disabilities, 44 Holland Avenue, Albany, NY 12229, (518) 474-7700, email: RAU.Unit@opwdd.ny.gov



**Additional matter required by statute:** Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described herein will have no effect on the environment, and an E.I.S. is not needed.

**Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

The only changes made to the rule text are as follows: Throughout the rule, the references to the effective date of the regulations are replaced with "April 1, 2016."

This change does not necessitate revisions to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis for Small Business and Local Governments, Rural Area Flexibility Analysis or Job Impact Statement.

**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Cost Report Submission and Penalty Changes**

I.D. No. PDD-16-16-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of section 635-4.4 of Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, section 13.09(b)

**Subject:** Cost Report Submission and Penalty Changes.

**Purpose:** To amend requirements for submission of cost reports and penalties for failure to submit cost reports to OPWDD.

**Text of proposed rule:** 635-4.4 Failure to file required financial and statistical reports.

(a) Each provider shall submit all cost reports in the form and format and by the method specified by OPWDD [to OPWDD] so that OPWDD receives them no later than [120 days after the last day of the reporting period] *June 1st for providers reporting on the January 1st through December 31st period or December 1st for providers reporting on the July 1st through June 30th period.*

(b) [A provider may apply for one 30 day extension for filing a cost report. An application for extension shall document in writing that the provider cannot file the cost report by the original due date specified in subdivision (a) of this section. In the event that the provider applies for an extension, the revised due date for filing a cost report shall be 150 days after the last day of the reporting period.]

[(c)] If the provider fails to file a cost report, in the form and format and by the method specified by OPWDD, on or before the [original or revised] due date, the provider shall be subject to a reduction in reimbursement under subdivision [(c)] (d) of this section.

[(d)]/c) [If a] A provider [has applied for an extension, it] may make a written request for a waiver of reduction in reimbursement due to *extraordinary and/or unforeseeable circumstances beyond its control, such as a natural disaster, which will prevent it from filing the cost report by the [revised] due date.* The application must contain detailed facts supporting the request, describe the extraordinary and/or unforeseeable circumstances and explain why the provider believes such circumstances will prevent it from filing the cost report by the [revised] due date.

(1) Written requests for a waiver of the reduction in reimbursement must be received by OPWDD [within the timeframes specified in subparagraphs (i) and (ii) of this paragraph] *no later than June 1st for providers reporting on the January 1st through December 31st period or December 1st for providers reporting on the July 1st through June 30th period.*

[(i)] For circumstances that occur prior to the original due date specified in subdivision (a) of this section (120 days after the last day of the reporting period), the request must be received prior to the original due date.]

[(ii)] For circumstances that occur during the 30 day extension period, the request must be received no later than the revised due date specified in subdivision (b) of this section (150 days after the last day of the reporting period). In order to demonstrate that such circumstances occurred during the 30 day extension period, the written request must include the date of occurrence of the circumstances.]

(2) *If the request is received on or before the due date specified in subdivision (a) of this section,* OPWDD shall review the request and approve or deny the request based upon the facts and circumstances described in the application and any other relevant facts and circumstances. OPWDD shall approve the request if OPWDD determines that there are *extraordinary and/or unforeseeable circumstances beyond the provider's control that will prevent the provider from filing the cost report by the [revised] due date.* OPWDD shall deny the request if OPWDD determines

that there are not *extraordinary and/or unforeseeable circumstances beyond the provider's control* or that such circumstances should not prevent the provider from filing the cost report by the [revised] due date. OPWDD shall notify the provider in writing of its approval or denial of the request. OPWDD's determination shall be final.

(3) If OPWDD denies the request for a waiver of the reduction in reimbursement, the provider shall be subject to a reduction in reimbursement under subdivision [(c)] (d) of this section.

(4) If OPWDD approves the request for a waiver of the reduction in reimbursement, OPWDD shall determine a revised due date [(that is beyond the 30 day extension period)] and shall notify the provider in writing of the revised due date. If the provider does not submit the cost report by the revised due date, the provider shall be subject to a reduction in reimbursement under subdivision [(c)] (d) of this section.

[(c)]/d) The reduction in reimbursement shall equal two percent of the total billed [but unremitted] price(s), rate(s) and/or fee(s) in the payment systems beginning on [the first day of the month following] the due date of the cost report, or the revised due date of the cost report if OPWDD has approved the provider's request for a waiver of the reduction in reimbursement in accordance with subdivision (c)(4) of this section, and continuing until the next regularly scheduled payment cycle following the last day of the month in which the cost report is received. For a provider subject to this sanction, the reduction shall apply to reimbursements for the following services: Intermediate Care Facilities for Persons with Developmental Disabilities, Medicaid Service Coordination, Day Treatment, Clinic Treatment Facilities, residential habilitation in individualized residential alternatives (IRAs) and community residences (CRs), and all other HCBS waiver services.

(e) *Additional penalty applicable to providers of HCBS waiver services. If the cost report is still outstanding on the first day of the second month following the due date, the two percent penalty will be replaced by a 50 percent penalty on the first day of the eighth month following the due date. This penalty will continue until the next regularly scheduled payment cycle following the due date of the providers' cost report for the subsequent cost reporting period or the last day of the month in which the cost report is received, whichever is later. If OPWDD determines that a provider will likely be unable to meet its financial obligations with the imposition of the 50 percent penalty or if the provider fails to file the overdue cost report by the end of the provider's next cost report period, OPWDD may request that the provider voluntarily surrender its operating certificate for the HCBS services(s) and/or take action to revoke the provider's operating certificate in accordance with Article 16 of the Mental Hygiene Law.*

(f) *The following chart provides the dates described in subdivisions (d) and (e) of this section:*

|  | <i>January 1st through<br/>December 31st Filers</i> | <i>July 1st through June<br/>30th Filers</i> |
|--|---|--|
| <i>Cost Report Due Date</i>                                | <i>June 1st</i>                                     | <i>December 1st</i>                          |
| <i>2 Percent Penalty Starts</i>                            | <i>June 1st</i>                                     | <i>December 1st</i>                          |
| <i>Due Date to Avoid 50 Percent Penalty</i>                | <i>August 1st</i>                                   | <i>February 1st *</i>                        |
| <i>50 Percent Penalty Starts</i>                           | <i>February 1st *</i>                               | <i>August 1st *</i>                          |
| <i>Due Date of Cost Report for Next Cost Report Period</i> | <i>June 1st*</i>                                    | <i>December 1st</i>                          |

\* *These dates apply to the year subsequent to the year the cost report is due.*

[(f)] (g) If the provider discovers that a cost report submitted to OPWDD is incomplete, inaccurate or incorrect, the provider must submit a revised cost report.

[(g)] (h) *Upon OPWDD's review of a provider's cost report that has been submitted in accordance with the form and format specified in this subpart, [i]f OPWDD determines that a cost report is incomplete, inaccurate, incorrect or otherwise unacceptable, OPWDD shall send the provider a written notice. Such notice shall give the provider an opportunity to submit, within a 30 day period from receipt of such notice, a revised cost report or additional data, or a request for a waiver of reduction in reimbursement due to extraordinary and/or unforeseeable circumstances beyond the provider's control that prevent it from filing a revised cost report or submitting additional data within the 30 day period. A request must contain detailed facts supporting it, describe the extraordinary and/or unforeseeable circumstances and explain why the provider believes such circumstances will prevent it from filing a revised cost report or submitting additional data within 30 days.*

**Appendix IV  
2016 Title XIX State Plan  
Second Quarter Amendment  
Public Notice**



addition to any rebates payable to the Department pursuant any other provision of federal or state law.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2016/2017 is (\$12 million).

- Effective October 1, 2016, fee-for-service reimbursement for a pharmacy prescription drug designated as a specialty drug by one or more Medicaid managed care providers will not exceed the amount such providers pay for the drug, as determined by the commissioner based on managed care providers' claim encounter data for the drug.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2016/2017 is (\$3.7 million).

- Effective April 1, 2016, when the price of a generic prescription drug dispensed to a NYS Medicaid enrollee (managed care or fee-for-service) increases at a rate greater than the rate of inflation, the commissioner of health is authorized to require the drug manufacturer to provide rebates to the Department, in addition to any rebates payable to the Department pursuant any other provision of federal or state law.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2016/2017 is (\$47.5 million) and state fiscal year 2017/2018 (\$47.5 million).

The overall estimated annual net aggregate decrease in gross Medicaid expenditures attributable to reform and other initiatives contained in the budget for state fiscal year 2016/2017 is (\$107.4 million); and the estimated annual net aggregate increase in gross Medicaid expenditures attributable to an extension of upper payment limit (UPL) payments for state fiscal year 2016/2017 in \$2.2 billion.

The public is invited to review and comment on this proposed State Plan Amendment. Copies of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status).

Copies of the proposed State Plan Amendments 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

*For further information and to review and comment, please contact:* Department of Health, Division of Finance and Rate Setting, 99 Washington Ave. – One Commerce Plaza, Suite 1460, Albany, NY 12210, e-mail: [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

**PUBLIC NOTICE**

**Office for People with Developmental Disabilities and Department of Health**

Pursuant to 42 CFR Section 447.205, the New York State Office for People with Developmental Disabilities (OPWDD) and the New York State Department of Health hereby gives public notice of the following:

OPWDD and the Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services related to the qualifications for OPWDD covered services to comply with proposed regulatory provisions. The following changes are proposed:

Effective on and after April 1, 2016, OPWDD will outline the qualifications for Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) that will be covered through the preventive services: Occupational Therapy; Physical Therapy; Speech and Language Pathology; and Psychotherapy. Additionally, OPWDD will show the Current Procedural Terminology (CPT) codes that will be covered and include a clarification that the Applied Behavioral Science Specialist (ABSS) title will not be limited to the treatment of individuals with an autism spectrum diagnosis.

The public is invited to review and comment on this proposed State Plan Amendment. Copies of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status).

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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

*For further information and to review and comment, please contact:* Department of Health, Division of Finance and Rate Setting, 99 Washington Ave. – One Commerce Plaza, Suite 1460, Albany, NY 12210, e-mail: [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

**PUBLIC NOTICE**

**Department of State  
F-2016-0033**

**Date of Issuance – March 30, 2016**

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New

**Appendix V**  
**2016 Title XIX State Plan**  
**Second Quarter Amendment**  
**Responses to Standard Funding Questions**



**NON-INSTITUTIONAL SERVICES**  
**State Plan Amendment #16-0007**

**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:** These services are not clinic or outpatient hospital services and therefore are not subject to the UPL.

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:** No governmental provider receives payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services.

#### **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 State 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:** Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 11-06, and documentation of such is included with this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.