



## Department of Health

**ANDREW M. CUOMO**  
Governor

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

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

NOV 18 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 #17-0013  
Non-Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #17-0013 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective January 1, 2017 (Appendix I). This amendment is being submitted based on enacted legislation. 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.

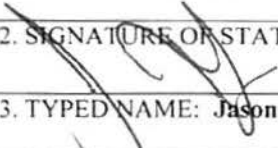
Copies of pertinent sections of State statute are enclosed for your information (Appendix III). Copies of the public notices of this plan amendment, which were given in the New York State Register on October 19, 2016 and November 23, 2016, are also enclosed for your information (Appendix IV). In addition, 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

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: <b>17-0013</b>	2. STATE <b>New York</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>January 1, 2017</b>	
5. TYPE OF PLAN MATERIAL ( <i>Check One</i> ):  <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT ( <i>Separate Transmittal for each amendment</i> )			
6. FEDERAL STATUTE/REGULATION CITATION: <b>§ 1902(a) of the Social Security Act, and 42 CFR § 447</b>		7. FEDERAL BUDGET IMPACT: ( <i>in thousands</i> ) a. FFY 01/01/17-09/30/17    \$159.37 b. FFY 10/01/17-09/30/18    \$264.16	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Amendment 4.19-B: 2(c)(iv)(b)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  <b>Amendment 4.19-B: 2(c)(iv)(b)</b>	
10. SUBJECT OF AMENDMENT: <b>Minimum Wage for Freestanding FQHCs (FMAP = 50%)</b>			
11. GOVERNOR'S REVIEW ( <i>Check One</i> ): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: <b>New York State Department of Health Division of Finance and Rate Setting 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210</b>	
13. TYPED NAME: <b>Jason A. Helgerson</b>			
14. TITLE: <b>Medicaid Director Department of Health</b>			
15. DATE SUBMITTED: <b>NOV 18 2016</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED:	
<b>PLAN APPROVED – ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

**Appendix I**  
**2017 Title XIX State Plan**  
**First Quarter Amendment**  
**Amended SPA Pages**

New York  
2(c)(iv)(b)

**Federally Qualified Health Centers (FQHCs) and Rural Health Clinics**

For providers choosing to be reimbursed under the Ambulatory Patient Group (APG) methodology, the Department will reconcile amounts actually paid in a calendar year through APG; to that which would have been paid through the PPS methodology. Adjustments will be made based upon this comparison to ensure that providers are not paid less than they would have under PPS.

In accordance with the provisions of Article 19 of the Labor Law as amended by Chapter 54 of the Laws of 2016 for New York State, which establishes new minimum wage increases, a regional minimum wage factor, effective beginning January 1, 2017, and until the minimum wage reaches the statutorily described per hour wage as enacted with the 2016/2017 State Budget, will be developed and used to adjust rates as an alternative rate method. A provider's FQHC PPS rate will be adjusted by a regional minimum wage factor based on the following:

- a. The minimum wage factor will be applied to the operating cost component of the FQHC PPS rate prior to the implementation of the Medicare Economic Index (MEI).
- b. A regional minimum wage factor will be developed for the minimum wage regions based on the percentage change of the minimum wage cost increase to the total current expenditures. The regions are as follows:
  - 1. NYC – New York City counties
  - 2. Downstate – consisting of Nassau, Suffolk, and Westchester counties
  - 3. Upstate – Rest of the State
- c. The minimum wage factor applied will correspond to the provider's minimum wage region location.
- d. The minimum wage rate adjustment will not be adjusted by the MEI until such time the rates are no longer updated annually for the minimum wage increase.
- e. The 2017 rate year minimum wage factor will be developed based on survey data received from providers and the 2014 AHCF cost report data, if the survey was not submitted by the provider. Subsequent years will be based on data submitted in the AHCF cost report beginning with the 2016 AHCF cost report for the 2018 rate year minimum wage factor calculation, with a 2-year base for each rate year increase.
- f. As this is an alternative rate method, providers will be required to agree to the implementation of this rate, however, this rate will not be subject to the comparison of the PPS FQHC rate. Since this rate will be an increase to the PPS FQHC rate, no comparison will be required.
- g. A provider that elects to be reimbursed using the Ambulatory Patient Group (APG) payment method will utilize this increased rate in their PPS rate to APG rate comparison since the APG rate will have been increased for minimum wage.

TN #17-0013

Approval Date \_\_\_\_\_

Supersedes TN #08-0036

Effective Date \_\_\_\_\_

**Appendix II**  
**2017 Title XIX State Plan**  
**First Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #17-0013**

This State Plan Amendment proposes to revise the freestanding Federally Qualified Health Center (FQHC) reimbursement methodology to increase rates of payment, due to minimum wage increase beginning January 1, 2017.

**Appendix III**  
**2017 Title XIX State Plan**  
**First Quarter Amendment**  
**Authorizing Provisions**

SPA #17-0013  
Chapter 54 of the Laws of 2016

PART K

Section 1. Subdivision 1 of section 652 of the labor law, as amended by section 1 of part P of chapter 57 of the laws of 2013, is amended to read as follows:

1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than:

\$4.25 on and after April 1, 1991,

\$5.15 on and after March 31, 2000,

\$6.00 on and after January 1, 2005,

\$6.75 on and after January 1, 2006,

\$7.15 on and after January 1, 2007,

\$8.00 on and after December 31, 2013,

\$8.75 on and after December 31, 2014,

\$9.00 on and after December 31, 2015, and until December 31, 2016, or,

if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors

or such other wage as may be established in accordance with the provisions of this article.

(a) New York City. (i) Large employers. Every employer of eleven or more employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

\$11.00 per hour on and after December 31, 2016,

\$13.00 per hour on and after December 31, 2017,

\$15.00 per hour on and after December 31, 2018, or, if greater, such

other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(ii) Small employers. Every employer of ten or less employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

\$10.50 per hour on and after December 31, 2016,

\$12.00 per hour on and after December 31, 2017,

\$13.50 per hour on and after December 31, 2018,

\$15.00 per hour on and after December 31, 2019, or, if greater, such

other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(b) Remainder of downstate. Every employer shall pay to each of its employees for each hour worked in the counties of Nassau, Suffolk and Westchester a wage not less than:

\$10.00 per hour on and after December 31, 2016,

\$11.00 per hour on and after December 31, 2017,

\$12.00 per hour on and after December 31, 2018,

\$13.00 per hour on and after December 31, 2019,

\$14.00 per hour on and after December 31, 2020,

\$15.00 per hour on and after December 31, 2021,

S. 6406--C

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A. 9006--C

or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(c) Remainder of state. Every employer shall pay to each of its employees for each hour worked outside of the city of New York and the



counties of Nassau, Suffolk, and Westchester, a wage of not less than:  
\$9.70 on and after December 31, 2016,  
\$10.40 on and after December 31, 2017,  
\$11.10 on and after December 31, 2018,  
\$11.80 on and after December 31, 2019,  
\$12.50 on and after December 31, 2020,  
and on each following December thirty-first, a wage published by the  
commissioner on or before October first, based on the then current mini-  
mum wage increased by a percentage determined by the director of the  
budget in consultation with the commissioner, with the result rounded to  
the nearest five cents, totaling no more than fifteen dollars, where the  
percentage increase shall be based on indices including, but not limited  
to, (i) the rate of inflation for the most recent twelve month period  
ending June of that year based on the consumer price index for all urban  
consumers on a national and seasonally unadjusted basis (CPI-U), or a  
successor index as calculated by the United States department of labor,  
(ii) the rate of state personal income growth for the prior calendar  
year, or a successor index, published by the bureau of economic analysis  
of the United States department of commerce, or (iii) wage growth; or,  
if greater, such other wage as may be established by federal law pursu-  
ant to 29 U.S.C. section 206 or its successors or such other wage as may  
be established in accordance with the provisions of this article.  
(d) The rates and schedules established in paragraphs (a) and (b) of  
this subdivision shall not be deemed to be the minimum wage under this  
subdivision for purposes of the calculations specified in subdivisions  
one and two of section five hundred twenty-seven of this chapter.

**Appendix IV**  
**2017 Title XIX State Plan**  
**First Quarter Amendment**  
**Public Notice**

said lands of the New York State Electric and Gas Corporation, a distance of 238.00 feet to an iron pipe set on the northerly bounds of aforementioned East and West Road, Parcel No. 29, thence westerly along said northerly bounds North 89° 48' 15" West a distance of 170.00 feet to the point or place of beginning, containing 0.93 acre of land, more or less.

AS shown on a map entitled "Survey of House No. 980", dated March 8, 2012 with a final revision date of March 11, 2014 and filed in the New York State Office of General Services as OGS Map No. 2525.

This abandonment shall be effective as of the date of approval of this declaration by the Commissioner of General Services or her duly authorized representative.

New York State Department  
of Corrections and Community  
Supervision

By: Anthony J. Annucci, Acting  
Commissioner

New York State Office of General  
Services

Approved: RoAnn M. Destito,  
Commissioner

### 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 institutional, non-institutional, and long term care services to comply with enacted statutory provisions. The following changes are proposed:

#### All Services

Effective on or after December 31, 2016, the Department of Health will adjust rates to take into account increased labor costs resulting from statutorily required increases in the New York State minimum wage. Under the statute, increases in the minimum wage will be phased in over a number of years until the minimum wage is \$15 per hour in all regions of the State, and Medicaid rates will be adjusted in those years to account for such increases.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2016/2017 is approximately \$8,500,000 and state fiscal year 2017/2018 is approximately \$47,300,000.

The public is invited to review and comment on this proposed State Plan Amendment (SPA), 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). In addition, approved SPA's beginning in 2011, are also available for viewing on this website.

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

#### New York State and Local Retirement Systems Unclaimed Amounts Payable to Beneficiaries

Pursuant to the Retirement and Social Security Law, the New York State and Local Retirement Systems hereby gives public notice of the amounts payable to beneficiaries.

The State Comptroller, pursuant to Sections 109 (a) and 409 (a) of the Retirement and Social Security Law has received, from the New York State and Local Retirement Systems, a listing of beneficiaries or estates having unclaimed amounts in the Retirement System. A list of the names contained in this notice is on file and open to public inspection at the office of the New York State and Local Retirement Systems located at 110 State St., in the City of Albany, New York.

Set forth below are the names and addresses (last known) of beneficiaries and estates appearing from the records of the New York State and Local Retirement Systems, entitled to the unclaimed benefits.

At the expiration of six months from the date of publication of this list of beneficiaries and estates, unless previously paid to the claimant, the amounts shall be deemed abandoned and placed in the pension accumulation fund to be used for the purpose of said fund.

Any amounts so deemed abandoned and transferred to the pension accumulation fund, may be claimed by the executor or administrator of the estates or beneficiaries so designated to receive such amounts, by filing a claim with the State Comptroller. In the event such claim is properly made, the State Comptroller shall pay over to the estates or to the person or persons making such claim, the amount without interest.

ANDERSON, TRACE PLAINVIEW CT

ANTHONY, LAWRENCE F ESTATE OF CAMDEN NY

BALESZEN, MARY ESTATE OF ALBANY NY

BECKER, MARY D ESTATE OF ALBANY NY

BENOIT, ALICE T ESTATE OF TITUSVILLE NY

BISSONNETTE, MICHAEL G MASTIC BEACH NY

BOLLINGER, FLORENCE C ESTATE OF BALLSTON SPA NY

BROWN, LOUIS E, JR ROCKVILLE CENTER NY

BROWN, RHOMAS J BROOKLYN NY

BUCHANAN, ELIZABETH JANE NORTH BABYLON NY

BUCHANAN, KIM POUGHKEEPSIE NY

CAIN, AMY BETH DEER PARK NY

CASALI, DEBRA M CARMEL NY

CHAMBERS, MAGGIE RALEIGH DC

CHAMBLEE JR, MILTON ALBANY VA

CHIVERS, BRENDA BUFFALO NY

CHIVERS, DOUGLAS BUFFALO NY

CHRISTY, DENISE BUFFALO NY

CLEARY, SHEILA ESTATE OF GAITHERSBURG MD

COMBS, DEXTER ALLEN WASHINGTON DC

CONKLIN, PAUL R MIDDLETOWN NY

CONKLING, VIRGINIA TONAWANDA NY

COOKE, CHARLES A NORTH MEDFORD NY

COOKE, CHRISTINA SELDEN NY

DABBRACCIO, ELIA ESTATE OF LOUDONVILLE NY

DAVIS, NICHOLAS ULSTER PARK NY

DE DIVITIS, GERALDINE SPRING VALLEY NY

**Public Notice**  
**NYS Department of Health**

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The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional, non-institutional, and long term care services to comply with enacted statutory provisions. The following changes are proposed:

**All Services**

The Department's proposal to adjust rates to take into account increased labor costs resulting from statutorily required increases in the New York State minimum wage is being amended to reflect a revision in the Medicaid expenditures. Under the statute, increases in the minimum wage will be phased in over a number of years until the minimum wage is \$15 per hour in all regions of the State, and Medicaid rates will be adjusted in those years to account for such increases.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2016/2017 is approximately \$18,000,000 and state fiscal year 2017/2018 is approximately \$104,000,000.

The public is invited to review and comment on this proposed State Plan Amendment (SPA), 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). In addition, SPAs approved since 2011 are also available for viewing on this website.

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

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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:

New York State Department of Health  
Division of Finance and Rate Setting  
99 Washington Ave – One Commerce Plaza  
Suite 1460  
Albany, New York 12210  
[spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

**Appendix V**  
**2017 Title XIX State Plan**  
**First Quarter Amendment**  
**Responses to Standard Funding Questions**

**NON-INSTITUTIONAL SERVICES**  
**State Plan Amendment #17-0013**

**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 budget appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health.

The source of the appropriation is the Medicaid General Fund Local Assistance Account. There have been no new provider taxes and no existing taxes have been modified as a result of this SPA.

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 additional payments made to those providers receiving a distribution.



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:** Federally Qualified Health Centers are not included in the UPL methodology.

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 Federally Qualified Health Center services is based on the Prospective Payment System (PPS). 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 FMAs 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.