



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

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

SEP 28 2017

RE: SPA #17-0057  
Non-Institutional Services

Dear Mr. Melendez:

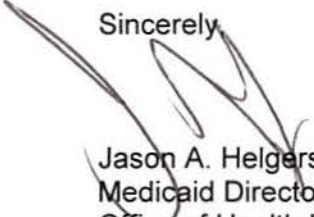
The State requests approval of the enclosed amendment #17-0057 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective July 1, 2017 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

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 enacted legislation 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 June 28, 2017, is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

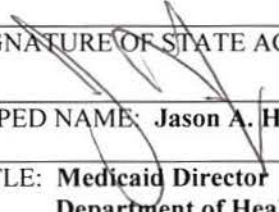
If you have any questions regarding this State Plan Amendment submission, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 474-6350.

Sincerely,



Jason A. Helgerson  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>17-0057</b>	2. STATE <b>New York</b>
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</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>July 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 07/01/17-09/30/17 \$ 33,187.50 b. FFY 10/01/17-09/30/18 \$ 132,750.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Attachment 3.1-A Supplement: Page 2(xii)(A), 2(xii)(B), 2(xii)(C), 2(xii)(E), 2(xii)(G), 2(xii)(I), 2(xii)(K), 2(xii)(L), 2(xii)(M), 2(xii)(N), 2(xii)(P)  Attachment 3.1-B Supplement: Page 2(xii)(A), 2(xii)(B), 2(xii)(C), 2(xii)(E), 2(xii)(G), 2(xii)(I), 2(xii)(K), 2(xii)(L), 2(xii)(M), 2(xii)(N), 2(xii)(P)  Attachment 4.19-B: Page 17(e), 17(f), 17(g), 17(h), 17(i)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT <i>(If Applicable)</i> :  Attachment 3.1-A Supplement: Page 2(xii)(A), 2(xii)(B), 2(xii)(C), 2(xii)(E), 2(xii)(G), 2(xii)(I), 2(xii)(K), 2(xii)(L), 2(xii)(M), 2(xii)(N), 2(xii)(P) Attachment 3.1-B Supplement: Page 2(xii)(A), 2(xii)(B), 2(xii)(C), 2(xii)(E), 2(xii)(G), 2(xii)(I), 2(xii)(K), 2(xii)(L), 2(xii)(M), 2(xii)(N), 2(xii)(P) Attachment 4.19-B: Page 17(e), 17(f), 17(g), 17(h), 17(i)	
10. SUBJECT OF AMENDMENT: <b>Preschool/School Supportive Health Services (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 &amp; 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>SEP 28 2017</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**  
**Third Quarter Amendment**  
**Amended SPA Pages**



**New York  
17(e)**

**Type of Service**

**Early and Periodic screening, diagnostic and treatment services**

Early and Periodic screening, diagnostic and treatment services for individuals under 21 years of age, and treatment of conditions found.

Reimbursement Methodologies for Early and Periodic Screening, Diagnostic and Treatment Services provided as the School Supportive Health Services (SSHS) and Pre-School Supportive Health Services (PSSHS) Programs

School Supportive Health Services (SSHS) and Pre-School Supportive Health Services (PSSHS) are delivered by or through a school district[, a Section 4201 school], a county in the State or the City of New York and include the following Medicaid services as described in Appendix 1 to Attachment 3.1-A and B of the Medicaid State Plan under item 4.b, EPSDT.

- 1. Physical Therapy Services
- 2. Occupational Therapy Services
- 3. Speech Therapy Services
- 4. Psychological Counseling
- 5. Skilled Nursing Services
- 6. Psychological Evaluations
- 7. Medical Evaluations
- 8. Medical Specialist Evaluations
- 9. Audiological Evaluations
- 10. Special Transportation

Effective for dates of service on or after September 1, 2009, payments to a school district[, a Section 4201 school], a county in the State or the City of New York for School Supportive Health Services and Pre-School Supportive Health Services shall be based on fees established by the Department of Health.

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

**Supersedes TN #09-0061**

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

**New York  
17(f)**

Fees will be established for each service or procedure and, except for Special Transportation, such fees shall be set at 100[75]% of the 2017 [2010] Medicare fee schedule for the Mid Hudson Region.

Fees shall be published on the Department of Health’s website, on the State Education Department’s website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], and counties in the state and the City of New York.

**1. Physical Therapy Services**

Fees for physical therapy services and procedures shall be set at 100 [75]% percent of the 2017 [2010] Medicare fee schedule for the Mid Hudson Region.

Fees shall be published on the Department of Health’s website, on the State Education Department’s website, on the eMedNY website and shall be issued in policy and billing guidance for school districts[, Section 4201 schools], counties in the State and the City of New York.

**2. Occupational Therapy**

Fees for occupational therapy services and procedures shall be set at 100 [75]% of the 2017[2010] Medicare fee schedule for the Mid Hudson Region.

Fees shall be published on the Department of Health’s website, on the State Education Department’s website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

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

**New York  
17(g)**

**3. Speech Therapy Services**

Fees for speech therapy services and procedures shall be set at 100 [75]% of the 2017 [2010] Medicare fee schedule for the Mid Hudson region.

Such fees shall be published on the Department of Health’s website, on the State Education Department’s website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

**4. Psychological Counseling**

Fees for psychological counseling services shall be set at 100 [75]% of the 2017 [2010] Medicare fee schedule for the Mid Hudson Region.

Such fees shall be published on the Department of Health’s website, on the State Education Department’s website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

**5. Skilled Nursing Services**

Fees for skilled nursing services shall be set at 100 [75]% of the 2017 [2010 ]Medicare fee schedule for the Mid Hudson Region.

Such fees shall be published on the Department of Health’s website, on the State Education Department’s website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

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

**Supersedes TN #09-0061**

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

New York  
17(h)

**6. Psychological Evaluations**

Fees for psychological evaluations shall be set at 100 [75]% of the 2017 [2010] Medicare fee schedule for the Mid Hudson Region.

Such fees shall be published on the Department of Health's website, on the State Education Department's website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

**7. Medical Evaluations**

Fees for medical evaluations shall be set at 100 [75]% of the 2017 [2010] Medicare fee schedule for the Mid Hudson Region.

Such fees shall be published on the Department of Health's website, on the State Education Department's website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

**8. Medical Specialist Evaluations**

Fees for medical specialist evaluations shall be set at 100 [75]% of the 2017 [2010] Medicare fee schedule for the Mid Hudson Region.

Such fees shall be published on the Department of Health's website, on the State Education Department's website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

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**New York  
17(i)**

**9. Audiological Evaluations**

Fees for audiological evaluations shall be set at 100 [75]% of the 2017 [2010] Medicare fee schedule for the Mid Hudson Region.

Such fees shall be published on the Department of Health’s website, on the State Education Department’s website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

**10. Special Transportation**

One way rates of payment for special transportation services have been set based on a statistically valid cost study that was conducted in 1999 to establish round trip transportation rates. Such rates have been trended forward based on changes in the Consumer Price Index from 7/99 through 8/09 and converted to one way rates.

Such rates shall be published on the Department of Health’s website, on the State Education Department’s website, on the eMedNY website and shall be issued in policy and billing guidance distributed to school districts[, Section 4201 schools], counties in the State and the City of New York.

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



**New York  
2(xii)(A)**

**4b. Early and periodic screening, diagnostic and treatment services (EPSDT).**

School Supportive Health Services and Pre-School Supportive Health Services

School Supportive Health Services (SSHS) and Pre-School Supportive Health Services (PSSHS) are services provided by or through a school district[, a Section 4201 school], a county in the State, or New York City to children with disabilities, who attend public or State Education Department approved schools or preschools. The services must be:

- medically necessary and included in a Medicaid covered category in accordance with 1905(a), 1905(r)(5), 1903(c) of the Social Security Act;
- ordered or prescribed by a physician or other licensed practitioner acting within his or her scope of practice under New York State Law;
- included in the child's Individualized Education Program (IEP);
- provided by qualified professionals under contract with or employed by a school district[, a Section 4201 school,] or a county in the State or the City of New York;
- furnished in accordance with all requirements of the State Medicaid Program and other pertinent state and federal laws and regulations, including those for provider qualifications, comparability of services, and the amount, duration and scope provisions; and
- included in the state's plan or available under Early Periodic Screening, Diagnostic and Treatment (EPSDT) services.

Effective September 1, 2009, the services covered by the SSHS and PSSHS Program for Medicaid eligible children under the age of 21 who are eligible for Early and Periodic Screening, Diagnostic and Treatment services (EPSDT) include medically necessary physical therapy services, occupational therapy services, speech therapy services, psychological counseling, skilled nursing services, psychological evaluations, medical evaluations, medical specialist evaluations, audiological evaluations, and special transportation within the limits of EPSDT services. A school district[, Section 4201 school], a county in the State, and New York City must be enrolled as a Medicaid provider in order to bill Medicaid.

**1. Physical Therapy Services**

**Definition:** Physical therapy services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

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**New York  
2(xii)(B)**

**Services:** Physical therapy services provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York, must have a written order or prescription from a physician, physician assistant, or nurse practitioner who is acting within the scope of his or her practice under NYS law and must be provided to a child by or under the direction of a qualified physical therapist. Physical therapy services must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). These services include any necessary supplies and equipment utilized during the therapy session.

Medically necessary EPSDT services are health care, diagnostic services, treatments and other measures necessary to correct or ameliorate physical defects, mental illnesses, and other disabilities.

Physical therapy services include but are not limited to:

- Identification of children with physical therapy needs;
- Evaluation for the purpose of determining the nature, extent and degree of the need for physical therapy services;
- Provision of physical therapy services for the purpose of preventing or alleviating movement dysfunction and related functional problems;
- Obtaining, interpreting, and integrating information appropriate to program planning;
- Diagnosis and treatment of physical disability, injury or disease using physical and mechanical means, including but not limited to, heat, cold, light, air, water, sound, electricity, massage, mobilization and therapeutic exercise with or without assistive devices, and
- The performance and interpretation of tests and measurements to assist pathopsychological, pathomechanical and developmental deficits of human systems to determine treatment and assist in diagnosis and prognosis.

Physical therapy services may be provided in an individual or group setting.

**Providers:** Services must be provided by:

- a New York State licensed and registered physical therapist qualified in accordance with 42 CFR 440.110(a) and with applicable state and federal laws and regulations, acting within his or her scope of practice under New York State Law; or
- a certified physical therapy assistant "under the direction of" such a qualified licensed and registered physical therapist, acting within his or her scope of practice under New York State Law.

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**New York  
2(xii)(C)**

“Under the direction of” means that, with respect to each Medicaid beneficiary, the qualified therapist:

- sees the participant at the beginning of and periodically during the course of treatment;
- is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and
- keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

Services may be rendered in the setting in which the child’s IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner’s offices, at home and/or in community based settings.

**2. Occupational Therapy Services**

**Definition:** Occupational therapy services as outlined in this section of the State Plan are available to Medicaid eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Occupational therapy services provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York must have a written order or prescription from a physician, physician assistant, or nurse practitioner who is acting within the

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**New York  
2(xii)(E)**

- is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment and
- keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

Services may be rendered in the settings in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, 4201 schools, state operated schools, in private practitioner's offices, at home and/or in community based settings.

**3. Speech Therapy Services**

**Definition:** Speech therapy services as outlined in this section of the State Plan are available to Medicaid eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Speech therapy services provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York must have a written order or prescription from a physician, physician assistant, nurse practitioner, or a speech-language pathologist who is acting within his or her scope of practice under New York State law and must be provided to a child by or under the direction of a qualified speech-language pathologist. Speech therapy services must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE).

Medically necessary EPSDT services are health care, diagnostic services, treatments and other measures to correct or ameliorate physical defects, mental illnesses, and other disabilities.

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**New York  
2(xii)(G)**

- spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and
- keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, at home and/or in community based settings.

**4. Psychological Counseling**

**Definition:** Psychological counseling services outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Psychological counseling provided by or through a school district[; a Section 4201 school]; a county in the State or the City of New York must have a referral from a physician, physician assistant, or a nurse practitioner who is acting within the scope of his or her practice under NYS law or an appropriate school official or other voluntary health or social agency and must be provided to a child by or under the direction of a qualified practitioner. Psychological counseling services must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE).

Medically necessary EPSDT services are health care, diagnostic services, treatments and other measures to correct or ameliorate physical defects, mental illnesses, and other disabilities.

Psychological counseling services include:

- treatment services using a variety of techniques to assist the child in ameliorating behavioral and emotional problems that are severe enough to require treatment.

Psychological counseling services may be provided in an individual or group setting.

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**New York  
2(xii)(I)**

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, at home and/or in community based settings.

**5. Skilled Nursing**

**Definition:** Skilled nursing services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Skilled nursing services provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York, must have a written order or prescription from a physician, physician assistant, or nurse practitioner acting within his or her scope of practice under New York State law and must be provided to a child by a registered nurse acting within his or her scope of practice under New York State law, or by a NYS licensed practical nurse acting within his or her scope of practice under New York State law "under the direction of" a NYS licensed and registered nurse or licensed physician, dentist or other licensed health care provider authorized under the Nurse Practice Act. Skilled nursing services must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE) when there is a specific need based on a medical condition of the child.

Medically necessary EPSDT services are health care, diagnostic services, treatments and other measures necessary to correct and ameliorate physical defects, mental illnesses, and other disabilities.

Skilled nursing services include the promotion of health, prevention of illness, care of the ill and disabled people through the provision of services essential to the maintenance and restoration of health. Skilled nursing services may include:

- health assessments and evaluations;
- medical treatments and procedures;
- administering and/or monitoring medication needed by the student during school hours; and
- consultation with licensed physicians, parents and staff regarding the effects of medication.

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**New York  
2(xii)(K)**

programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, and/or in community based settings.

**6. Psychological Evaluations**

**Definition:** Psychological evaluations outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

Psychological evaluations provided by or through a school district[; a Section 4201 school]; a county in the State or the City of New York must have a referral from a physician, physician assistant, or nurse practitioner acting within his or her scope of practice under New York State law or an appropriate school official or other voluntary health or social agency and must be provided to a child by a qualified practitioner. Psychological evaluations must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If a psychological evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP.

**Services:** Medically necessary EPSDT services are health care, diagnostic services, treatments, and other measures to correct or ameliorate physical defects, mental illnesses, and other disabilities.

Psychological evaluations include but are not limited to:

- Administering psychological tests and other assessment procedures;
- Interpreting testing and assessment results, and
- Evaluating a Medicaid recipient for the purpose of determining the needs for specific psychological, health or related services.

**Providers:** Psychological evaluations must be provided by a qualified provider who meets the requirements of 42 CFR Section 440.60 or 42 CFR Section 440.50(a) and other applicable state and federal laws and regulations. Psychological evaluation services may only be provided by a professional whose credentials are comparable to those of providers who are able to provide psychological evaluation services in the community.

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**New York  
2(xii)(L)**

Services may be provided by:

- a New York State licensed and registered psychiatrist, qualified in accordance with 42CFR Section 440.50(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under NYS law; or
- a New York State licensed and registered psychologist, qualified in accordance with 42CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under NYS law.

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, and/or in community based settings.

**7. Medical Evaluations**

**Definition:** Medical evaluations outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Medically necessary EPSDT services are health care, diagnostic services, treatments, and other measures to correct or ameliorate physical defects, mental illnesses, and other disabilities.

Medical evaluations provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York must be performed by a physician, physician assistant, or nurse practitioner acting within the scope of his or her practice under New York State law. A medical evaluation must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If a medical evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP.

A medical evaluation is the recording of:

- chief complaints;
- present illness;

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**New York  
2(xii)(M)**

- past medical history;
- personal history and social history;
- a system review
- a complete physical evaluation;
- ordering of appropriate diagnostic tests and procedures, and
- recommended plan of treatment

**Providers:** A medical evaluation must be provided by a New York State licensed and registered, physician, physician assistant, or nurse practitioner qualified in accordance with 42 CFR Section 440.50(a), 440.60(a) and 440.166(a) and other applicable state and federal laws and regulations, acting within his or her scope of practice under NYS law.

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, and/or in community based settings.

**8. Medical Specialist Evaluations**

**Definition:** Medical specialist evaluations outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Medically necessary EPSDT services are health care, diagnostic services, treatments, and other measures to correct and ameliorate physical defects, mental illnesses, and other disabilities.

Medical specialist evaluations provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York must be provided by a New York State licensed and registered physician, physician assistant, or nurse practitioner specialist acting within his or her scope of practice and related area of specialization. A medical specialist evaluation must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If a medical specialist evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP.

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**New York  
2(xii)(N)**

A medical specialist evaluation is:

- an examination of the affected bodily area or organ system and other symptomatic or related organ systems;
- the ordering of appropriate diagnostic tests and procedures, and
- the reviewing of the results and reporting on the tests and procedures.

**Providers:** A medical specialist evaluation must be provided by a qualified New York State licensed and registered physician, physician assistant, or nurse practitioner specialist practicing in the related area of specialization within his or her scope of practice under NYS law, in accordance with 42CFR Section 440.50(a), 440.60(a), and 440.166(a) and other applicable state and federal laws and regulations.

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, and/or in community based settings.

**9. Audiological Evaluations**

**Definition:** Audiological evaluations as outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Audiological evaluations provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York must have a written order from a physician, physician assistant, or nurse practitioner who is acting within the scope of his or her practice under NYS law and provided to a child by a qualified practitioner. An audiological evaluation must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If an audiological evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP.

Medically necessary EPSDT services are health care, diagnostic services, treatments, and other measures to correct and ameliorate physical defects, mental illnesses, and other disabilities.

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**New York  
2(xii)(P)**

**Services:** Special transportation provided by or through a school district[; a Section 4201 school]; a county in the State or the City of New York must be included in the IEP as recommended by the Committee on Special Education (CSE), or the Committee on Preschool Special Education (CPSE). Special transportation arrangements must be identified in the IEP.

Special transportation is provided when a child requires specialized transportation equipment, supports or services because of his/her disability as cited in 34 CFR 300.34(c)(16)(iii).

Special transportation is limited to those situations where the child receives transportation to obtain a Medicaid covered service (other than transportation), and both the Medicaid covered service and the need for special transportation are included in the child's IEP. Special transportation can only be billed on a day that a Medicaid reimbursable service was delivered and may only be billed at the rate for each one way trip.

**Providers:** Special transportation services must be provided by a qualified Medicaid provider. Attendance documentation (bus logs) is required in order to bill Medicaid. In order to receive payment for services provided to a Medicaid recipient, a vendor must be lawfully authorized to provide transportation services on the date the services are rendered.

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**New York  
2(xii)(A)**

**4b. Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT).**

School Supportive Health Services and Pre-School Supportive Health Services

School Supportive Health Services (SSHS) and Pre-School Supportive Health Services (PSSHS) are services provided by or through a school district[, a Section 4201 school], a county in the State, or New York City to children with disabilities, who attend public or State Education Department approved schools or preschools. The services must be:

- medically necessary and included in a Medicaid covered category in accordance with 1905(a), 1905 (r)(5), 1903(c) of the Social Security Act;
- ordered or prescribed by a physician or other licensed practitioner acting within his or her scope of practice under New York State Law;
- included in the child's Individualized Education Program (IEP);
- provided by qualified professionals under contract with or employed by a school district[, a Section 4201 school,] or a county in the State or the City of New York;
- furnished in accordance with all requirements of the State Medicaid Program and other pertinent state and federal laws and regulations; including those for provider qualifications, comparability of services, and the amount, duration and scope of provisions; and
- included in the state's plan or available under Early Periodic Screening, Diagnostic and Treatment (EPSDT) services.

Effective September 1, 2009, the services covered by the SSHS and PSSHS Program for Medicaid eligible children under the age of 21 who are eligible for Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT) include medically necessary physical therapy services, occupational therapy services, speech therapy services, psychological counseling, skilled nursing services, psychological evaluations, medical evaluations, medical specialist evaluations, audiological evaluations, and special transportation within the limits of EPSDT services. A school district[, Section 4201 school], a county in the State, and New York City must be enrolled as a Medicaid provider in order to bill Medicaid.

**1. Physical Therapy Services**

**Definition:** Physical therapy services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

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**New York  
2(xii)(B)**

**Services:** Physical therapy services provided by or through; a school district[: a Section 4201 school]; a county in the State or the City of New York, must have a written order or prescription from a physician, physician assistant, or nurse practitioner who is acting within the scope of his or her practice under NYS law and must be provided to a child by or under the direction of a qualified physical therapist. Physical therapy services must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). These services include any necessary supplies and equipment utilized during the therapy session.

Medically necessary EPSDT services are health care, diagnostic services, treatments and other measures necessary to correct or ameliorate physical defects, mental illnesses, and other disabilities.

Physical therapy services include but are not limited to:

- Identification of children with physical therapy needs;
- Evaluation for the purpose of determining the nature, extent and degree of the need for physical therapy services;
- Provision of physical therapy services for the purpose of preventing or alleviating movement dysfunction and related functional problems;
- Obtaining, interpreting, and integrating information appropriate to program planning;
- Diagnosis and treatment of physical disability, injury or disease using physical and mechanical means, including but not limited to heat, cold, light, air, water, sound, electricity, massage, mobilization and therapeutic exercise with or without assistive devices, and
- The performance and interpretation of tests and measurements to assist pathopsychological, pathomechanical and developmental deficits of human systems to determine treatment and assist in diagnosis and prognosis.

Physical therapy services may be provided in an individual or group setting.

**Providers:** Services must be provided by:

- a New York State licensed and registered physical therapist qualified in accordance with 42 CFR 440.110(a) and with applicable state and federal laws and regulations, acting within his or her scope of practice under New York State Law; or
- a certified physical therapy assistant "under the direction of" such a qualified licensed and registered physical therapist, acting within his or her scope of practice under New York State Law.

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**New York  
2(xii)(C)**

"Under the direction of" means that, with respect to each Medicaid beneficiary, the qualified therapist:

- sees the participant at the beginning of and periodically during the course of treatment;
- is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and
- keeps documentation supporting the supervision of services and ongoing involvement in the treatment

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, at home and/or in community based settings.

**2. Occupational Therapy Services**

**Definition:** Occupational therapy services as outlined in this section of the State Plan are available to Medicaid eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Occupational therapy services provided by or through; a school district[; a Section 4201 school]; a county in the State or the City of New York must have a written order or prescription from a physician, physician assistant, or nurse practitioner who is acting within the

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**New York  
2(xii)(E)**

- is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment and
- keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

Services may be rendered in the settings in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Education Services (BOCES) programs, approved preschool programs, public schools, approved private schools, 4201 schools, state operated schools, in private practitioner's offices, at home and/or in community based settings.

**3. Speech Therapy Services**

**Definition:** Speech therapy services as outlined in this section of the State Plan are available to Medicaid eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Speech therapy services provided by or through: a school district[; a section 4201 school]; a county in the State or the City of New York must have a written order or prescription from a physician, physician assistant, nurse practitioner, or a speech-language pathologist who is acting within his or her scope of practice under New York State law and must be provided to a child by or under the direction of a qualified speech-language pathologist. Speech therapy services must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE).

Medically necessary EPSDT services are health care, diagnostic services, treatments and other measures to correct or ameliorate physical defects, mental illnesses, and other disabilities.

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**New York  
2(xii)(G)**

- spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and
- keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

Services may be rendered in the setting in which the child’s IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner’s offices, at home and/or in community based settings.

**4. Psychological Counseling**

**Definition:** Psychological counseling services outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Psychological counseling provided by or through a school district[; a Section 4201 school]; a county in the State or City of New York must have a referral from a physician, physician assistant, or nurse practitioner who is acting within the scope of his or her practice under NYS law or an appropriate school official or other voluntary health or social agency and must be provided to a child by or under the direction of a qualified practitioner. Psychological counseling services must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE).

Medically necessary EPSDT services are health care, diagnostic services, treatments and other measures to correct or ameliorate physical defects, mental illnesses, and other disabilities.

Psychological counseling services include:

- treatment services using a variety of techniques to assist the child in ameliorating behavior and emotional problems that are severe enough to require treatment.

Psychological counseling services may be provided in an individual or group setting.

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**New York  
2(xii)(I)**

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, at home and/or in community based settings.

**5. Skilled Nursing**

**Definition:** Skilled nursing services outlined in this section of the State Plan are available to Medicaid eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Skilled nursing services provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York, must have a written order or prescription from a physician, physician assistant, or nurse practitioner acting within his or her scope of practice under New York State law and must be provided to a child by a registered nurse acting within his or her scope of practice under New York State law, or by a NYS licensed practical nurse acting within his or her scope of practice under New York State law "under the direction of" a NYS licensed and registered nurse or licensed physician, dentist or other licensed health care provider authorized under the Nurse Practice Act. Skilled nursing services must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE) when there is a specific need based on a medical condition of the child.

Medically necessary EPSDT services health care, diagnostic services, treatments and other measures necessary to correct ameliorate physical defects, mental illnesses and other disabilities.

Skilled nursing services include the promotion of health, prevention of illness, care of the ill and disabled people through the provision of services essential to the maintenance and restoration of health. Skilled nursing services may include:

- health assessments and evaluations;
- medical treatments and procedures;
- administering and/or monitoring medication needed by the student during school hours; and
- consultation with licensed physicians, parents and staff regarding the effects of medication.

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**New York  
2(xii)(K)**

programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, and/or in community based settings.

**6. Psychological Evaluations**

**Definition:** Psychological evaluations outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

Psychological evaluations provided by or through a school district[; a Section 4201 school]; a county in the State or the City of New York must have a referral from a physician, physician assistant, or a nurse practitioner acting within his or her scope of practice under New York State law or an appropriate school official or other voluntary health or social agency and must be provided to a child by a qualified practitioner. Psychological evaluations must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If a psychological evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP.

**Services:** Medically necessary EPSDT services are health care, diagnostic services, treatments, and other measures to correct or ameliorate physical defects, mental illnesses, and other disabilities.

Psychological evaluations include but are not limited to:

- Administering psychological tests and other assessment procedures;
- Interpreting testing and assessment results, and
- Evaluating a Medicaid recipient for the purpose of determining the needs for specific psychological, health or related services.

**Providers:** Psychological evaluations must be provided by a qualified provider who meets the requirements of 42 CFR Section 440.60 or 42 CFR Section 440.50(a) and other applicable state and federal laws and regulations. Psychological evaluation services may only be provided by a professional whose credentials are comparable to those of providers who are able to provide psychological evaluation services in the community.

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**New York  
2(xii)(L)**

Services may be provided by:

- a New York State licensed and registered psychiatrist, qualified in accordance with 42 CFR Section 440.50(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under NYS law; or
- a New York State licensed and registered psychologist, qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under NYS law.

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Education Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, and/or in community based settings.

**7. Medical Evaluations**

**Definition:** Medical evaluations outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Medically necessary EPSDT services are health care, diagnostic services, treatments, and other measures to correct or ameliorate physical defects, mental illnesses and other disabilities.

Medical evaluations provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York must be performed by a physician, physician assistant, or nurse practitioner acting within the scope of his or her practice under New York State law. A medical evaluation must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If a medical evaluation is used to identify a child's health related needs as a part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP.

A medical evaluation is the recording of:

- chief complaints;
- present illness;

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**New York  
2(xii)(M)**

- past medical history;
- personal history and social history;
- a system review;
- a complete physical evaluation;
- ordering of appropriate diagnostic tests and procedures, and
- recommended plan of treatment.

**Providers:** A medical evaluation must be provided by a New York State licensed and registered, physician, physician assistant, or nurse practitioner qualified in accordance with 42 CFR Section 440.50(a), 440.60(a) and 440.166(a) and other applicable state and federal laws and regulations, acting within his or her scope of practice under NYS law.

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, and/or in community based settings.

**8. Medical Specialist Evaluations**

**Definition:** Medical specialist evaluations outlined in this section of the State plan are available to Medicaid-eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Medically necessary EPSDT services are health care, diagnostic services, treatments, and other measures to correct and ameliorate physical defects, mental illnesses, and other disabilities.

Medical specialist evaluations provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York must be provided by a New York State licensed and registered physician, physician assistant, or nurse practitioner specialist acting within his or her scope of practice and related area of specialization. A medical specialist evaluation must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If a medical specialist evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP.

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**New York  
2(xii)(N)**

A medical specialist evaluation is:

- an examination of the affected bodily area or organ system and other symptomatic or related organ systems;
- the ordering of appropriate diagnostic tests and procedures, and
- the reviewing of the results and reporting on the tests and procedures.

**Providers:** A medical specialist evaluation must be provided by a qualified New York State licensed and registered physician, physician assistant, or nurse practitioner specialist practicing in the related area of specialization within his or her scope of practice under NYS law, in accordance with 42 CFR Section 440.50(a), 440.60(a), and 440.166(a) and other applicable state and federal laws and regulations.

Services may be rendered in the setting in which the child's IEP will be implemented, including but not limited to Article 28 facilities, Board of Cooperative Educational Services (BOCES) programs, approved preschool programs, public schools, approved private schools, Section 4201 schools, state operated schools, in private practitioner's offices, and/or in community based settings.

**9. Audiological Evaluations**

**Definition:** Audiological evaluations as outlined in this section of the State Plan are available to Medicaid-eligible beneficiaries under 21 years of age, who are eligible for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and for whom services are medically necessary.

**Services:** Audiological evaluations provided by or through: a school district[; a Section 4201 school]; a county in the State or the City of New York must have a written order from a physician, physician assistant, or nurse practitioner who is acting within the scope of his or her practice under NYS law and provided to a child by a qualified practitioner. An audiological evaluation must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If an audiological evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP.

Medically necessary EPSDT services are health care, diagnostic services, treatments, and other measures to correct and ameliorate physical defects, mental illnesses, and other disabilities.

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**New York  
2(xii)(P)**

**Services:** Special transportation provided by or through a school district[; a section 4201 school]; a county in the State or the City of New York must be included in the IEP as recommended by the Committee on Special Education (CSE) , or the Committee on Preschool Special Education (CPSE). Special transportation arrangements must be identified in the IEP.

Special transportation is provided when a child requires specialized transportation equipment, supports or services because of his/her disability as cited in 34 CFR 300.34 (c) (16) (iii).

Special transportation is limited to those situations where the child receives transportation to obtain a Medicaid covered service (other than transportation), and both the Medicaid covered service and the need for special transportation are included in the child's IEP. Special transportation can only be billed on a day that a Medicaid reimbursable service was delivered and may only be billed at the rate for each one way trip.

**Providers:** Special transportation services must be provided by a qualified Medicaid provider. Attendance documentation (bus logs) is required in order to bill Medicaid. In order to receive payment for services provided to a Medicaid recipient, a vendor must be lawfully authorized to provide transportation services on the date the services are rendered.

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

**SUMMARY**  
**SPA #17-0057**

This State Plan Amendment proposes to increase interim encounter-based fee rates.

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



S.2809-B/A-4009.B - Part H

§ 6. Section 368-d of the social services law is amended by adding three new subdivisions 4, 5 and 6 to read as follows:

4. The commissioner of health is authorized to contract with one or more entities to conduct a study to determine actual direct and indirect costs incurred by public school districts and state operated/state supported schools which operate pursuant to article eighty-five, eighty-seven or eighty-eight of the education law for medical care, services and supplies, including related special education services and special transportation, furnished to children with handicapping conditions.

5. Notwithstanding any inconsistent provision of sections one hundred twelve and one hundred sixty-three of the state finance law, or section one hundred forty-two of the economic development law, or any other law, the commissioner of health is authorized to enter into a contract or contracts under subdivision four of this section without a competitive bid or request for proposal process, provided, however, that:

(a) The department of health shall post on its website, for a period of no less than thirty days:

(i) A description of the proposed services to be provided pursuant to the contract or contracts;

(ii) The criteria for selection of a contractor or contractors;

(iii) The period of time during which a prospective contractor may seek selection, which shall be no less than thirty days after such information is first posted on the website; and

(iv) The manner by which a prospective contractor may seek such selection, which may include submission by electronic means;

(b) All reasonable and responsive submissions that are received from prospective contractors in timely fashion shall be reviewed by the commissioner of health; and

(c) The commissioner of health shall select such contractor or contractors that, in his or her discretion, are best suited to serve the purposes of this section.

6. The commissioner shall evaluate the results of the study conducted pursuant to subdivision four of this section to determine, after identification of actual direct and indirect costs incurred by public school districts and state operated/state supported schools, whether it is advisable to claim federal reimbursement for expenditures under this section as certified public expenditures. In the event such claims are submitted, if federal reimbursement received for certified public expenditures on behalf of medical assistance recipients whose assistance and care are the responsibility of a social services district in a city with a population of over two million, results in a decrease in the state share of annual expenditures pursuant to this section for such recipients, then to the extent that the amount of any such decrease when combined with any decrease in the state share of annual expenditures described in subdivision five of section three hundred sixty-eight-e of this title exceeds fifty million dollars, the excess amount shall be transferred to such city. Any such excess amount transferred shall not be considered a revenue received by such social services district in determining the district's actual medical assistance expenditures for purposes of paragraph (b) of section one of part C of chapter fifty-eight of the laws of two thousand five.

§ 7. Section 368-e of the social services law is amended by adding three new subdivisions 3, 4 and 5 to read as follows:



3. The commissioner of health is authorized to contract with one or more entities to conduct a study to determine actual direct and indirect costs incurred by counties for medical care, services and supplies, including related special education services and special transportation, furnished to pre-school children with handicapping conditions.

4. Notwithstanding any inconsistent provision of sections one hundred twelve and one hundred sixty-three of the state finance law, or section one hundred forty-two of the economic development law, or any other law, the commissioner of health is authorized to enter into a contract or contracts under subdivision three of this section without a competitive bid or request for proposal process, provided, however, that:

(a) The department of health shall post on its website, for a period of no less than thirty days:

(i) A description of the proposed services to be provided pursuant to the contract or contracts;

(ii) The criteria for selection of a contractor or contractors;

(iii) The period of time during which a prospective contractor may seek selection, which shall be no less than thirty days after such information is first posted on the website; and

(iv) The manner by which a prospective contractor may seek such selection, which may include submission by electronic means;

(b) All reasonable and responsive submissions that are received from prospective contractors in timely fashion shall be reviewed by the commissioner of health; and

(c) The commissioner of health shall select such contractor or contractors that, in his or her discretion, are best suited to serve the purposes of this section.

5. The commissioner shall evaluate the results of the study conducted pursuant to subdivision three of this section to determine, after identification of actual direct and indirect costs incurred by counties for medical care, services, and supplies furnished to pre-school children with handicapping conditions, whether it is advisable to claim federal reimbursement for expenditures under this section as certified public expenditures. In the event such claims are submitted, if federal reimbursement received for certified public expenditures on behalf of medical assistance recipients whose assistance and care are the responsibility of a social services district in a city with a population of over two million, results in a decrease in the state share of annual expenditures pursuant to this section for such recipients, then to the extent that the amount of any such decrease when combined with any decrease in the state share of annual expenditures described in subdivision six of section three hundred sixty-eight-d of this title exceeds fifty million dollars, the excess amount shall be transferred to such city. Any such excess amount transferred shall not be considered a revenue received by such social services district in determining the district's actual medical assistance expenditures for purposes of paragraph (b) of section one of part C of chapter fifty-eight of the laws of two thousand five.

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



exemption qualifications of 575.8(a)(4). Individual cultivar assessments are available upon request. Therefore, a person may legally possess, sell, import, purchase, transport, or introduce the following plant cultivars and no labeling requirements apply:

**Prohibited Species**

Common Name	Scientific Name	Cultivar Name	Trademark Name	Accession Number	Patent	Status
Japanese Barberry	Berberis thunbergii	"Aurea"				Conditionally Exempt
Japanese Barberry	Berberis thunbergii	"UCONSBT045"	Crimson Cutie		PPAF	Conditionally Exempt
Japanese Barberry	Berberis thunbergii	"UCONSBT113"	Lemon Cutie		PPAF	Conditionally Exempt
Japanese Barberry	Berberis thunbergii	"UCONSBT048"	Lemon Glow		PPAF	Conditionally Exempt

**Regulated Species**

Common Name	Scientific Name	Cultivar Name	Trademark Name	Accession Number	Patent	Status
Chinese Silvergrass	Miscanthus sinensis	"NCMS1"	My Fair Maiden	H2008-091-004	PPAF	Conditionally Exempt
Chinese Silvergrass	Miscanthus sinensis	"Titi M7"	Scout		PPAF	Conditionally Exempt
Winter Creeper	Euroymnus fortunei	"Kewensis"				Conditionally Exempt
Winter Creeper	Euroymnus fortunei	"Vanilla Frosting"				Conditionally Exempt

Conditionally Exempt – Cultivars exempt from Part 575 Prohibited and Regulated requirements, subject to periodic re-evaluation.

Questions should be directed to: Department of Environmental Conservation, Lands and Forests, Invasive Species Coordination Unit, Dave Adams at (518) 402-9425, or isinfo@dec.ny.gov

**PUBLIC NOTICE**  
Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to revise provisions of the Ambulatory Patient Group (APG) reimbursement methodology on and after July 1, 2017. The following changes are proposed:

The Ambulatory Patient Group (APG) reimbursement methodology is revised to include recalculated weight and component updates that will become effective on and after July 1, 2017.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2017/2018 is (\$3.84) million.

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, Office of Health Insurance Programs, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, (518) 408-6657, [spa\\_inquiries@health.state.ny.us](mailto:spa_inquiries@health.state.ny.us)

**PUBLIC NOTICE**  
Department of Health

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

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

**Non-Institutional Services**

Effective on or after July 1, 2017 in accordance with Sections 368-d and 368-e of the Social Services Law, the Department of Health proposes to a) increase interim encounter-based fee rates and b) to utilize certified public expenditures (CPEs) reimbursement methodology through June 30, 2020.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative for state fiscal year 2017/2018 is \$250 million.

The public is invited to review and comment on this proposed State Plan Amendment, a copy 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 1432, Albany, NY 12210, [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

**PUBLIC NOTICE**  
Department of Health

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

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

**NON-INSTITUTIONAL SERVICES**  
**State Plan Amendment #17-0057**

**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 the state plan. 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 2 CFR 200 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 federal and non-federal shares associated with the provisions of this SPA are funded from appropriations by the State Legislature to two separate State agencies, the State Education Department (SED) and the State Department of Health (SDOH). The SED non-federal share appropriation authority is transferred or sub-allocated from the SED to the SDOH (the single state Medicaid agency) which enables the SDOH to draw general funds dollars directly to fund the non-federal share of payments for SSHS. This transfer authority for the federal share is already resident in the SDOH budget; transferring budget authorization from SED to DOH enables the SDOH to make the 100% computable payment.

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:** Question is not applicable as P/SSHS are not clinic or outpatient hospital services.

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 this State Plan for school supportive health services is subject to ceilings. Rates of payment for services are based upon the Medicare fee schedule, except for rates for special transportation services, which are based on a cost study. We are unaware of any requirement under current federal law or regulation that limits individual providers' payments to their actual costs.

#### **ACA Assurances:**

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

#### **MOE Period.**

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



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

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

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

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

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

**Response:** This 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.