



Department of Health

ANDREW M. CUOMO
Governor

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

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

MAR 19 2018

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 #18-0004
Non-Institutional Services

Dear Mr. Melendez:


The State requests approval of the enclosed amendment #18-0004 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective January 1, 2018 (Appendix I). This amendment is being submitted based on State statute. 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.

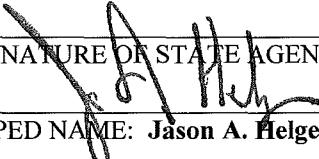
Copies of pertinent sections of State regulations are enclosed for your information (Appendix III). A copy of the public notices of this plan amendment, which was given in the New York State Register on December 20, 2017 and January 24, 2018, are also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions and the standard access questions are also enclosed (Appendix V and VI, respectively).

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

Sincerely,


Jason A. Helgerson
Medicaid Director
Office of Health Insurance Programs

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 18-0004	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE January 1, 2018	
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: §1902(a) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 01/01/18-09/30/18 (\$0.75) b. FFY 10/01/18-09/30/19 (\$1)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B Pages: 2(g)(1), 2(g)(2), 2(g)(3)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Attachment 4.19-B Pages: 2(g)(1), 2(g)(2), 2(g)(3)	
10. SUBJECT OF AMENDMENT: January 2018 APG Updates – Freestanding Clinics (FMAP = 50%)			
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: New York State Department of Health Bureau of Federal Relations & Provider Assessments 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: MAR 19 2018			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED:	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

Appendix I
2018 Title XIX State Plan
First Quarter Amendment
Amended SPA Pages

**New York
2(g)(1)**

APG Reimbursement Methodology – Freestanding Clinics

For the purposes of sections pertaining to the Ambulatory Patient Group, and excepted as otherwise noted, the term freestanding clinics shall mean freestanding Diagnostic and Treatment Centers (D&TCs) and shall include freestanding ambulatory surgery centers.

For dates of service beginning September 1, 2009 through December 31, [2017] 2018, for freestanding Diagnostic and Treatment Center (D&TC) and ambulatory surgery center services, the operating component of rates shall be reimbursed using a methodology that is prospective and associated with resource utilization to ensure that ambulatory services are economically and efficiently provided. The methodology is based upon the Ambulatory Patient Group (APG) classification and reimbursement system. This methodology incorporates payments for the separate covered Medicaid benefits in accordance with the payment methods for these services. Reimbursement for the capital component of these rates shall be made as an add-on to the operating component as described in the APG Rate Computation section.

The Ambulatory Patient Group patient classification system is designed to explain the amount and type of resources used in an ambulatory visit by grouping patients with similar clinical characteristics and similar resource use into a specific APG. Each procedure code associated with a patient visit is assigned to an APG using the grouping logic developed by 3M Health Information Systems (3M). When evaluation and management codes are coded, the APG grouping logic also uses the diagnosis code to make the APG assignment. Ultimately, the procedures and diagnoses coded for a patient visit will result in a list of APGs that correspond on a one-for-one basis with each procedure coded for the visit.

TN #18-0004

Approval Date _____

Supersedes TN #16-0002

Effective Date _____

Appendix II
2018 Title XIX State Plan
First Quarter Amendment
Summary

SUMMARY
SPA #18-0004

This State Plan Amendment proposes to extend the Ambulatory Patient Group (APG) methodology for freestanding clinic and ambulatory surgery center services for the effective period January 1, 2018 through December 31, 2018, and revise the APG methodology to reflect the recalculated weights with component updates to become effective January 1, 2018.

Appendix III
2018 Title XIX State Plan
First Quarter Amendment
Authorizing Provisions

PHL §2807(2-a)(e):

(e) (i) notwithstanding any inconsistent provisions of this subdivision, the commissioner shall promulgate regulations establishing, subject to the approval of the state director of the budget, methodologies for determining rates of payment for the services described in this subdivision. Such regulations shall reflect utilization of the ambulatory patient group (APG) methodology, in which patients are grouped based on their diagnosis, the intensity of the services provided and the medical procedures performed, and with each APG assigned a weight reflecting the projected utilization of resources. Such regulations shall provide for the development of one or more base rates and the multiplication of such base rates by the assigned weight for each APG to establish the appropriate payment level for each such APG. Such regulations may also utilize bundling, packaging and discounting mechanisms.

If the commissioner determines that the use of the APG methodology is not, or is not yet, appropriate or practical for specified services, the commissioner may utilize existing payment methodologies for such services or may promulgate regulations, and may promulgate emergency regulations, establishing alternative payment methodologies for such services.

(ii) Notwithstanding this subdivision and any other contrary provision of law, the commissioner may incorporate within the payment methodology described in subparagraph (i) of this paragraph payment for services provided by facilities pursuant to licensure under the mental hygiene law, provided, however, that such APG payment methodology may be phased into effect in accordance with a schedule or schedules as jointly determined by the commissioner, the commissioner of mental health, the commissioner of alcoholism and substance abuse services, and the commissioner of mental retardation and developmental disabilities.

(iii) Regulations issued pursuant to this paragraph may incorporate quality related measures limiting or excluding reimbursement related to potentially preventable conditions and complications; provided however, such quality related measures shall not include any preventable conditions and complications not identified for Medicare nonpayment or limited payment.

**Appendix IV
2018 Title XIX State Plan
First Quarter Amendment
Public Notice**

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

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

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

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

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, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave., One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), 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 revise provisions of the Ambulatory Patient Group (APG) reimbursement methodology on and after January 1, 2018. 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 January 1, 2018.

The estimated annual net aggregate decrease in gross Medicaid attributable to this initiative contained in the budget for state fiscal year 2018/2019 is \$4,340,000.

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.

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

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.

BENEFICIARY NAME	PUBLICATION CITY	PUB STATE
OOYBAMROONG,DON	ALBANY	NY
SIRIPONG,ROTCHANA	ALBANY	NY
WICHAIKUL,JINTANA RATANA	ALBANY	NY
TROMBLEY,DOROTHY M ESTATE OF	MALONE	NY

WOOLMAN,MELISSA	SYRACUSE	NY	WASHINGTON,WIL-	SYRACUSE	NY
DEYO,FREDA MARY	CLIMAX	NY	LIAM DARNELL		
LAFARO,ROBERT J	SHELTON	CT	REECE,BERNESTEEN	BROOKLYN	NY
ESTATE OF			SCHAIRER,ERIN	LAKESWOOD	CO
STANFORD,LATONYA	ALBANY	NY	POWERS,JEAN	SPEONK	NY
TYLER,AUDREY	HUNTINGTON	NY	SMITH,TRUDY L	MEDINA	NY
BETH			GARY,LINDA ESTATE	SODUS	NC
BENNETT,DEANNE	SYRACUSE	NY	OF		
BENNETT,KELLY	SYRACUSE	NY	ZUK,ROBERT E	ACCORD	NY
FALCONE,JUSTINE R	ALTAMONTE SPRINGS	FL	LAYTON,KATHERINE	WINSTED	CT
WAAS,RUTH ESTATE	SPRING VALLEY	NY	LEE		
OF			LAYTON,LINDA LEE	WINSTED	CT
EURICH,ROBERT C	WALLKILL	NY	COLE,DEBORAH	PAYSON	NY
ESTATE OF			COONS,LEORA JANE	CANANDAIGUA	NY
GREEN,SHELLY	ESTATE OF		
POWERS,RUTH L	KINGSTON	NY	ELQUHIR,CECILIE	ALLENHURST	NY
ESTATE OF			ESTATE OF		
CERINO,TINA	ALBANY	NY	HUGHES,JAY	STAFFORD	VA
MOREHOUSE,PAULA	ALBANY	NY	LEKUS,ESTATE OF	OAKLAND	CA
DIRENZO,KATHLEEN	HIGHLAND MILLS	NY	DIANA R		
ANN			BURKE,ASHLEY M	TAYLOR	MI
MELLEN,JUDITH F	ALBANY	NY	HOTCHKISS,CORINNE	HORSEHEADS	NY
PARRIS,CECIL R JR	NEW YORK	NY	E		
ESTATE OF			HOTCHKISS,ELISE R	HORSEHEADS	NY
MISRA,BISHAMBHAR	ALBANY	NY	KING,THERESE M	ROCKY POINT	NY
LAL			ESTATE OF		
PANASUK,PATRICK	EUGENE	OR	MADUBELA,JERRY	SOUTH AFRICA	..
TOBIAS,GENEVIEVE	BUFFALO	NY	JABU THABO		
ESTATE OF			SANTI	SOUTH AFRICA	..
BEDNARK,MARY	UTICA	NY	HLOMPHO,ELIZABETH		
ROSE ESTATE OF					
GELB,RITA T	PONTE VERDA	FL	SANTI	SOUTH AFRICA	..
	BEACH		KABELO,ROMGOLLO		
ONG,ZENAIDA S	ALBANY	NY	SANTI	SOUTH AFRICA	..
WYSOCKI,DREW	SARASOTA	FL	MALEFA,MAGDALENA		
OHALLORAN,GARRY	GREENVILLE	NY	ROWLEY,MADELINE	HOLLEY	NY
OHAL-	GREENVILLE	NY	BILL,AMY JEAN	MONROE	NY
LORAN,STEPHEN			KENZLER,AMANDA	EAST AMHERST	NY
CUSIMANO,COSMO	SPENCER	NY	YASKOVIC,FRANCIS	YONKERS	NY
JOSEPH			ESTATE OF		
LEVINSON,DOROTHY	BROOKLYN	NY	DAY,PATRICIA L	ILION	NY
ESTATE OF			DAY,TIMOTHY M	ILION	NY
BARBER,CHARLOTTE	LAKE HAVASU CITY	AZ	ARNDT,DELLA	CARMEL	NY
HENDRICKSON,DORO-	OCEANSIDE	NY			
THY E EST OF					
DEWEY,CAROLYN F	CANANDAIGUA	NY			
ESTATE OF					
TONI,KATHRYN F	NIAGARA FALLS	NY			
TORRES,LEONIDES	BRONX	NY			
TORRES,MARIE	BRONX	NY			
HOGAN,ADDISON	RALEIGH	AZ			
HOGAN,LIAM	RALEIGH	NC			
HOCHBERG,SHEILA	HOLLYWOOD	FL			
WHITE,KELLY	CENTEREACH	NY			
MCCARTHY,TIMOTHY	BUFFALO	NY			
P					
KUT,STEPHEN E	E MEADOW	NY			
CAMPBELL,ROBERT B	SPRINGTOWN	PA			
MOSS,RACHEL	HASBROUCK	NJ			
	HEIGHTS				

PUBLIC NOTICE

REVISED

Department of State

F-2017-0841

Date of Issuance – December 6, 2017

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

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2017-0841, Suffolk County Parks Department is proposing the Indian Island Living Shoreline Project at Indian Island County Park in

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

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

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

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

PUBLIC NOTICE Department of Health

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

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

The following is a clarification to the December 20, 2017 notice provision to include recalculated weight and component updates. It will also include the Ambulatory Patient Group reimbursement methodology extension for the period January 1, 2018 through December 31, 2018.

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

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.

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, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave., One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), e-mail: spa_inquiries@health.state.ny.us

PUBLIC NOTICE

New York City Deferred Compensation Plan & NYCE IRA

The New York City Deferred Compensation Plan & NYCE IRA (the "Plan") is seeking proposals from qualified vendors to provide Educational/Communication and Information Services for the City of New York Deferred Compensation Plan. The Request for Proposals ("RFP") will be available beginning on Friday, January 19, 2018. Responses are due no later than 4:30 p.m. Eastern Time on Friday, February 16, 2018. To obtain a copy of the RFP, please visit the Plan's web site at www1.nyc.gov/site/olr/about/about-rfp.page and download and review the applicable documents.

If you have any questions, please submit them by fax to Georgette Gestely, Director, at (212) 306-7376.

Consistent with the policies expressed by the City, proposals from certified minority-owned and/or women-owned businesses or proposals that include partnering arrangements with certified minority-owned and/or women-owned firms are encouraged. Additionally, proposals from small and New York City-based businesses are also encouraged.

PUBLIC NOTICE

Department of State
F-2017-0708

Date of Issuance – January 17, 2018

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

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York. Electronic copies of the submission can also be downloaded at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2017-0708_PN.pdf

In F-2017-0708, William Witzke of Albertson Marine, Inc., is proposing to reconstruct an existing Wave Wall, widen an existing boat launch runway and install a low-sill bulkhead at Albertson Marine's marina located at 61500 Route 25 (Main Road) in the town of Southold, Suffolk County. The stated purpose for reconstructing the wave wall is to maintain the level of storm protection the wall currently provides into the future. Widening the existing boat launch runway will provide for safer and more efficient use of the existing boat launch. The stated purpose of the low-sill bulkhead is to maintain shoreline and contiguous navigability within the marina.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, February 2, 2018.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning and Development, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2017-0991 and F-2017-0996

Date of Issuance – January 24, 2018

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

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2017-0991, Mr. Robert F. Dakin, is proposing to dredge an embayment and open water area along the St. Lawrence River near 7 Ferguson Drive, City of Hammond, St. Lawrence County. The applicant proposes to dredge a total of 550± cubic yards of silt and loose rock.

In F-2017-0996, Mr. Robert Sampson, is proposing to dredge an embayment off the St. Lawrence River near 24 Ferguson Drive, City of Hammond, St. Lawrence County. The applicant proposes to dredge 190± cubic yards of silt.

These landowners propose to jointly undertake the Sampson-Dakin Dredging Project to create adequate water depth and maneuverability at their existing residential dock facilities. The dredged material would be disposed of at an upland location.

The proposed activities would be undertaken within the State-designated Significant Coastal Fish and Wildlife Habitat (SCFWH) unit of the American Island Pools. Information on this habitat and its important functions and values to be evaluated in considering these projects may be found at: http://www.dos.ny.gov/opd/programs/consistency/Habitats/GreatLakes/American_Island_Pools.pdf

The applicants' consistency certifications and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2017-0991_Application.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, February 24, 2018.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2017-0993

Date of Issuance – January 24, 2018

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

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent to the maximum extent practicable with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2017-0993, or the "Barretto Point Park Floating Pool Lady", the applicant, New York City Department of Parks and Recreation (NYCDPR) is seeking to permanently moor the Floating Pool Lady at Barretto Point Park in the South Bronx neighborhood of Hunts Point under the NYSDEC permit number 2-6007-00741/00008. The pool has been moored at this park shoreline of the East River on a seasonal basis and has successfully operated for the past ten summers at this location.

The purpose of the Floating Pool is to enhance summer recreational opportunities in Hunts Point, an historically underserved community, while at the same time reviving an in-water recreational opportunity that was once available along the City's waterfront. In the 1870's, floating baths were moored each summer at city piers designated for public use. These floating baths were vessels, open in the center with slats in the bottom to allow saline river water to flow through the pool. The floating pool today addresses a lack of swimming facilities in the South Bronx, the only community in New York City without a major pool. In a city with so little publicly accessible water and beachfront, the pool offers a means to provide access to water-based recreation and connect New Yorkers to the waterfront and an "on-water" experience that would otherwise be unavailable.

The floating pool comprises a 260' long x 80' wide barge that has been modified to include a 7-lane, 25-meter recreational swimming pool and ancillary facilities including showers, potable water, and changing areas. There is an adjacent spud barge 30' long x 90' wide. Two, 140' long and 6'-7' wide ADA compliant gangways provide access to the floating pool from the shoreline of the Barretto Point Park. Each gangway will be anchored to a 10' x 20' platform, elevated about 4.5 feet. The draft of the floating pool is approximately 4.6' when filled. Prior seasons have seen the barge transported to the site by tugboat. A permanent mooring will allow for the continued recreational use, while eliminating the need for transport and storage, allowing NYCDPR resources to be allocated to maintenance and other Parks and projects.

Permanent mooring and operation of the barge and associated infrastructure will necessarily permanently displace approximately 23,500 square feet (0.54 acres) of open water surface and incurs shading of aquatic habitat. NYCDPR funded a two-year study, beginning in 2014, to evaluate the impacts. The study suggested no significant impacts would be incurred by the permanent mooring. The unavoidable over-water coverage and loss of open water aquatic habitat is offset, in part, through mitigation work being conducted off-site at the NYCDPR Ferry Point Park to restore wetlands and a tidal connection to the East River along the Park's East Waterfront.

The proposed activities would be undertaken within the New York City Waterfront Revitalization Program (WRP) planning area. As the WRP is a component of the NYSCMP, activities under federal permitting authority are also subject to review for their consistency with the local program and its specific provisions and policies.

Any interested parties and/or agencies desiring to express their

Appendix V
2018 Title XIX State Plan
First Quarter Amendment
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #18-0004

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, which is part of the Global Cap. The Global Cap is funded by General Fund and HCRA resources.

There are no additional provider taxes levied and no existing taxes have been modified.

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: The State will submit the 2018 UPL demonstration by March 2019.

- 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 freestanding diagnostic and treatment and ambulatory surgery center services is based upon the Ambulatory Patient Group (APG) system with the exception of Federally Qualified Health Centers who have the option to opt into the APG system or remain on the Prospective Payment Methodology (PPS) as approved by CMS in SPA 01-03. 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**

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: The 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.

Appendix VI
2018 Title XIX State Plan
First Quarter Amendment
Responses to Standard Access Questions

**APPENDIX VI
NON-INSTITUTIONAL SERVICES
State Plan Amendment #18-0004**

CMS Standard Access Questions

The following questions have been asked by CMS and are answered by the State in relation to all payments made to all providers under Attachment 4.19-B of the state plan.

- 1. Specifically, how did the State determine that the Medicaid provider payments that will result from the change in this amendment are sufficient to comply with the requirements of 1902(a)(30)?**

Response: This amendment seeks to accurately pay providers for the service they performed. As the impact is insignificant as compared to the Medicaid program and this category of service, this change will not have a great effect on providers.

- 2. How does the State intend to monitor the impact of the new rates and implement a remedy should rates be insufficient to guarantee required access levels?**

Response: The State has various ways to ensure that access levels in the Medicaid program are retained and is currently not aware of any access issues. Additionally, Freestanding clinics and Ambulatory Surgery centers must notify and receive approval from the Department's Office of Health Systems Management (OHSM) in order to discontinue services. This Office monitors and considers such requests in the context of access as they approve/deny changes in services. Finally, providers cannot discriminate based on source of payment.

For providers that are not subject to an approval process, the State will continue to monitor provider complaint hotlines to identify geographic areas of concern and/or service type needs. If Medicaid beneficiaries begin to encounter access issues, the Department would expect to see a marked increase in complaints. These complaints will be identified and analyzed in light of the changes proposed in this State Plan Amendment.

Finally, the State ensures that there is sufficient provider capacity for Medicaid Managed Care plans as part of its process to approve managed care rates and plans. Should sufficient access to services be compromised, the State would be alerted and would take appropriate action to ensure retention of access to such services.

3. **How were providers, advocates and beneficiaries engaged in the discussion around rate modifications? What were their concerns and how did the State address these concerns?**

Response: Any major changes are discussed at a monthly association meeting. This change is due to a review of payments to providers in order to accurately reflect Medicaid policy and is insignificant as compared to the Medicaid program and this category of service.

4. **What action(s) does the State plan to implement after the rate change takes place to counter any decrease to access if the rate decrease is found to prevent sufficient access to care?**

Response: Should any essential community provider experience Medicaid or other revenue issues that would prevent access to needed community services, per usual practice, the State would meet with them to explore the situation and discuss possible solutions, if necessary.

5. **Is the State modifying anything else in the State Plan which will counterbalance any impact on access that may be caused by the decrease in rates (e.g. increasing scope of services that other provider types may provide or providing care in other settings)?**

Response: Over the course of the past three years, the State has undertaken a massive reform initiative to better align reimbursement with care. When fully implemented, the initiative will invest over \$600 million in the State's ambulatory care system (outpatient, ambulatory surgery, emergency department, clinic and physicians) to incentivize care in the most appropriate setting. The State has also increased its physician reimbursement schedule to resemble Medicare payments for similar services, thus ensuring continued access for Medicaid beneficiaries. While some of these initiatives are outside the scope of the State Plan, they represent some of the measures the State is taking to ensure quality care for the State's most vulnerable population.