



Department of Health

ANDREW M. CUOMO
Governor

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

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

March 30, 2021

James G. Scott, Director
Division of Program Operations
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106

RE: SPA #21-0007
Non-Institutional Services

Dear Mr. Scott:

The State requests approval of the enclosed amendment #21-0007 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective March 1, 2021 (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.

A copy of pertinent sections of enacted legislation is 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 February 24, 2021, 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 Regina Deyette, Medicaid State Plan Coordinator, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 473-3658.

Sincerely,

Donna Frescatore
Medicaid Director
Office of Health Insurance Programs

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 1 — 0 0 0 7

2. STATE

New York

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)
TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

March 1, 2021

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

§1902(a) of the Social Security Act, and 42 CFR 447

7. FEDERAL BUDGET IMPACT

a. FFY 03/01/21-09/30/21 \$ 1,232.10

b. FFY 10/01/21-09/30/22 \$ 2,112.17

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment: 3.1-A Supplement Pages 3b-49, 3b-50, 3b-51, 3b-52, 3b-53, 3b-54, 3b-55
4.19-B Pages: 8, 8a, 9
4.19-B Supplement 1 Page: 3

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Attachment: 4.19-B Pages: 8, 8a, 9
4.19-B Supplement 1 Page: 3

10. SUBJECT OF AMENDMENT

OMH Rehab SPA
(FMAP=50%)

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL



13. TYPED NAME

Donna Frescatore

14. TITLE

Medicaid Director, Department of Health

15. DATE SUBMITTED

March 30, 2021

16. RETURN TO

New York State Department of Health
Division of Finance and Rate Setting
99 Washington Ave – One Commerce Plaza
Suite 1432
Albany, NY 12210

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

22. TITLE

23. REMARKS

Appendix I
2021 Title XIX State Plan
First Quarter Amendment
Amended SPA Pages

New York
3b-49

13d. Rehabilitative Services

Other Diagnostic, Screening, Preventive, and Rehabilitative Services - Rehabilitative Services

1905(a)(13); 42 CFR 440.130(d)

Outpatient Mental Health Services:

The State provides coverage for Outpatient Mental Health Services as defined at 42 CFR 440.130(d) and in this section. The State assures that rehabilitative services do not include and Federal Financial Participation is not available for any of the following in accordance with section 1905(a)(13) of the Act.

- a. educational, vocational and job training services;
- b. room and board;
- c. habilitation services;
- d. services to inmates in public institutions as defined in 42 CFR §435.1010;
- e. services to individuals residing in institutions for mental diseases as described in 42 CFR §435.1010;
- f. recreational and social activities; and
- g. services that must be covered elsewhere in the state Medicaid plan.

Outpatient Mental Health Services are recommended by a licensed practitioner of the healing arts acting within the scope of his/her professional license and applicable New York State law, including physicians, physician assistants, nurse practitioners, registered nurses, psychologists, licensed clinical social workers (LCSW), licensed master social workers (LMSW) under the supervision of a LCSW, licensed psychologist or psychiatrist, licensed mental health counselors (LMHC), licensed marriage and family therapists (LMFT), licensed psychoanalysts, and licensed creative arts therapists (LCAT).

Outpatient Mental Health Services are person-centered, recovery-oriented rehabilitative services designed to help individuals achieve and maintain recovery from mental health conditions by treating the symptoms of those conditions and restoring skills which have been lost due to the onset of mental illness and which are necessary for individuals to manage and cope with the symptoms and behaviors associated with mental health conditions and function successfully in the community. Medically necessary Outpatient Mental Health Services are those which are necessary to promote the maximum reduction of symptoms and/or restoration of an individual to their best age-appropriate functional level and are provided according to an individualized treatment plan.

Services to the beneficiary's family and significant others are for the direct benefit of the beneficiary, in accordance with the beneficiary's needs and treatment goals identified in the beneficiary's treatment plan, and for the purpose of assisting in the beneficiary's recovery.

TN #21- 0007
Supersedes TN NEW

Approval Date _____
Effective Date March 1, 2021

**New York
3b-50**

Provider Qualifications:

Outpatient Mental Health Services as described herein are provided by professionals, paraprofessionals, or peers qualified by credentials, training, and/or experience to provide direct services related to the treatment of mental illness and substance use disorders employed by or under contract with provider agencies licensed or authorized by the New York State Office of Mental Health, as follows:

1. Professional Staff include:

- a. Physician: An individual who is currently licensed or possesses a permit to practice medicine issued by the New York State Education Department;
- b. Psychiatrist: An individual who is currently licensed or possesses a permit to practice medicine issued by the New York State Education Department and who is either a diplomate of the American Board of Psychiatry and Neurology or is eligible to be certified by such Board or is certified by the American Osteopathic Board of Neurology and Psychiatry or is eligible to be certified by such Board;
- c. Physician assistant: An individual who is currently licensed or possesses a permit to practice as a physician assistant issued by the New York State Education Department;
- d. Nurse practitioner: An individual who is currently certified or possesses a permit to practice as a nurse practitioner issued by the New York State Education Department;
- e. Psychiatric nurse practitioner: An individual who is currently certified or possesses a permit to practice as a nurse practitioner with an approved specialty area of psychiatry issued by the New York State Education Department;
- f. Registered nurse: An individual who is currently licensed or possesses a permit to practice as a registered professional nurse issued by the New York State Education Department;
- g. Licensed Practical Nurse: An individual who is currently licensed or possesses a permit to practice as a licensed practical nurse issued by the New York State Education Department;
- h. Psychologist: An individual who is currently licensed or possesses a permit to practice as a psychologist issued by the New York State Education Department;
- i. Social worker: An individual who is either currently licensed or possesses a permit to practice as a licensed master social worker (LMSW) or as a licensed clinical social worker (LCSW) issued by the New York State Education Department;
- j. Mental health counselor: An individual who is currently licensed or possesses a permit to practice as a mental health counselor issued by the New York State Education Department;
- k. Marriage and family therapist: An individual who is currently licensed or possesses a permit to practice as a marriage and family therapist issued by the New York State Education Department;
- l. Psychoanalyst: An individual who is currently licensed or possesses a permit to practice as a psychoanalyst issued by the New York State Education Department;

**New York
3b-51**

m. Creative arts therapist: An individual who is currently licensed or possesses a permit to practice as a creative arts therapist issued by the New York State Education Department;

2. Paraprofessional staff are qualified by formal or informal training and professional experience in a mental health field or treatment setting. Paraprofessional staff shall be supervised by Professional staff. Paraprofessional staff shall be at least 18 years of age and have a bachelor's degree, which may be substituted for a high school diploma or equivalent and 1-3 years of relevant experience working with individuals with serious mental illness or substance use disorders.

3. Certified Peer Specialists, Credentialed Family Peer Advocates, and Credentialed Youth Peer Advocates are qualified by personal experience and shall be certified or provisionally certified as provided below. Certified Peer Specialists, Credentialed Family Peer Advocates, and Credentialed Youth Peer Advocates shall be supervised by competent mental health professionals, which include any Professional staff defined above.

Certified Peer Specialists shall:

1. Identify as being actively in recovery from a mental health condition or major life disruption and self-disclose one's mental health recovery journey; and
2. Possess a certification from or are provisionally certified as a Certified Peer Specialist by an OMH-approved Certified Peer Specialist certification program.

Credentialed Family Peer Advocates (FPA) shall:

1. Demonstrate 'lived experience' as a parent or primary caregiver who has navigated multiple child-serving systems on behalf of their child(ren) with social, emotional, developmental, health and/or behavioral healthcare needs;
2. Possess a credential from or are provisionally credentialed as a Family Peer Advocate by an OMH-approved Family Peer Advocate credentialing program;

Credentialed Youth Peer Advocate shall:

1. Demonstrate "lived experience" as a person with first-hand experience with mental health and/or co-occurring behavioral health challenges in juvenile justice, special education, and/or foster care settings who is able to assist in supporting young people attain resiliency/recovery and wellness; and
2. Possess a valid credential from or are provisionally certified as a Youth Peer Advocate by an OMH-approved Youth Peer Advocate credentialing program.

New York
3b-52

Service Descriptions:

Outpatient Mental Health Services include assessments/screening; treatment planning; counseling/therapy; medication treatment; psychiatric consultation; testing services; health monitoring; Screening, Brief Intervention and Referral to Treatment (SBIRT); complex care management; peer/family peer recovery support; and crisis intervention. Except as otherwise noted, all services are for both children and adults.

All Outpatient Mental Health Services are delivered on an individual or group basis in a wide variety of settings including provider offices, in the community, or in the individual's place of residence, consistent with guidance issued by the New York State Office of Mental Health. The setting in which the service is provided is determined by the individual's needs and goals documented in the individual's record. Collateral supports, such as identified family members or significant others, may participate in services for the benefit of the Medicaid beneficiary.

Outpatient Mental Health Services include:

- **Assessments/Screenings** – Including initial, immediate needs, risk, psychiatric, and functional/rehabilitative assessments, and health screenings and health physicals, for the purpose of gathering or updating information concerning the individual's mental and physical health history and status, including determination of substance use, in order to determine the appropriate diagnosis, assess the individual's functional limitations, and inform the treatment planning process. Health screenings and health physicals assess the need for and referral to additional physical health services. Assessments may include interactions between the professional and an individual's collateral supports to obtain necessary information for the benefit of the treatment planning for the individual.

Practitioners: Assessment/screenings, except psychiatric assessments, health screenings and health physicals are provided by Professional staff. Functional/rehabilitative assessments are provided by Professional staff and Paraprofessional staff under the supervision of Professional staff. Psychiatric assessments are provided by a Physician, Psychiatrist, Psychiatric nurse practitioner, or Physician's Assistant. Health screenings and health physicals are provided by a Physician, Psychiatrist, Physician's assistant, Nurse practitioner, Registered nurse or Licensed Practical Nurse.

- **Treatment Planning** – Is an ongoing, collaborative and person-centered process directed by the individual in collaboration with the individual's family or other collaterals, as appropriate and approved by the individual and a licensed clinician, resulting in the development of treatment and rehabilitative goals, needs, preferences, capacities and desired outcomes for the provision of Outpatient Mental Health Services.

Practitioners: Treatment Planning services are provided by Professional staff and Paraprofessional staff under the supervision of Professional staff.

New York
3b-53

- **Counseling/Therapy** – Individual, group, and family counseling/therapy services are therapeutic counseling services for the purpose of alleviating symptoms or dysfunction associated with an individual’s mental health condition or emotional disturbance, reversing or changing maladaptive patterns of behavior, encouraging personal growth and development, and supporting the individual’s capacity to restore age-appropriate developmental milestones. Services include tobacco use disorder treatment services. Collateral contact is permitted as needed to address the therapeutic goals of the beneficiary.

Practitioners: Counseling/Therapy Services are provided by Professional Staff and Paraprofessional staff under the supervision of Professional staff where appropriate under state scope of practice laws.

- **Medication Treatment** – Medication Treatment is a therapeutic and rehabilitative service to treat the symptoms of an individual’s mental illness and/or substance use disorder, including the following components which may be provided by the following professionals:
 - Prescribing medications, monitoring the effects of medications, evaluating target symptom response to medications, and ordering and reviewing diagnostic studies, provided by a Psychiatrist, Physician, Nurse practitioner, Psychiatric Nurse Practitioner, or Physician’s assistant; and
 - Preparing, administering and monitoring the injection of intramuscular medications, provided by a Psychiatrist, Physician, Nurse practitioner, Psychiatric Nurse Practitioner, Physician’s assistant, Registered professional nurse or Licensed practical nurse.
- **Psychiatric Consultation** – Psychiatric Consultation services are diagnostic and therapeutic services including an evaluation of a beneficiary who is not currently enrolled in the practitioner’s program when the service is provided, and such consultation is required for purposes of diagnosis, integration of treatment and continuity of care.

Practitioners: Psychiatric Consultation services are provided by a Physician, Psychiatrist, Nurse practitioner, Psychiatric nurse practitioner, or Physician’s assistant.

- **Testing Services, including Developmental Testing, Neurobehavioral Status Examination, and Psychological Testing** – Developmental testing services are diagnostic services including the administration, interpretation, and reporting of screening and assessment instruments for children and adolescents to assist in the determination of the child’s developmental level for the purpose of facilitating the mental health diagnosis and treatment planning processes. Neurobehavioral status examination is a clinical assessment of thinking, reasoning and judgment, including attention, language, memory, problem solving and visual spatial abilities and interpretation of the results for treatment planning. Psychological Testing Services are diagnostic services in which practitioners employ standard assessment methods and instruments to inform the assessment and treatment planning processes.

New York
3b-54

Practitioners: Developmental Testing Services and Neurobehavioral Status Examination services are provided by Professional staff. Psychological Testing Services are provided by a Psychologist, Psychiatrist, or Physician.

- **Health Monitoring** - Health Monitoring is a diagnostic and therapeutic service involving the continued measurement of specific health indicators associated with increased risk of medical illness and early death. For adults these indicators include, but are not limited to, blood pressure, body mass index (BMI), substance use, and tobacco use. For children these indicators include, but are not limited to, BMI, activity/exercise level, substance use, and smoking status.

Practitioners: Health Monitoring services are provided by a Psychiatrist, Physician, Nurse practitioner, Psychiatric nurse practitioner, Physician's assistant, Registered nurse or Licensed practical nurse.

- **Screening, Brief Intervention and Referral to Treatment (SBIRT) services** – SBIRT are evidence-based assessment, counseling, and referral services which provide: (i) screening to identify individuals exhibiting or who are at risk of substance use-related problems; (ii) early intervention, including counseling and skills restoration services to modify risky consumption patterns and behaviors; and (iii) referral to appropriate services for individuals who need more extensive, specialized treatment to address such substance consumption patterns and behaviors.

Practitioners: SBIRT services are provided by Professional staff and Paraprofessional staff under the supervision of Professional staff.

- **Peer and Family Peer Recovery Support Services** – Peer Recovery Support Services for adults and children/youth include age-appropriate psychoeducation, counseling, person-centered goal planning, modeling effective coping skills, and facilitating community connections and crisis support to reduce symptomology and restore functionality. Family Peer Recovery Support Services also include engagement, bridging support, parent skill development, and crisis support for families caring for a child who is experiencing social, emotional, medical, developmental, substance use and/or behavioral challenges in their home, school, placement, and/or community. Services are provided in individual or group settings to promote recovery, self-advocacy, and the development of natural supports and community living skills. Individuals and/or family members actively participate in decision-making and the delivery of services. Services are directed toward achievement of the specific, individualized, and result-oriented goals contained in an individual's treatment plan developed under the supervision of a competent mental health professional.

Practitioners: Services for adults are provided by Certified Peer Specialists under supervision as described in this section. Services for children/youth are provided by Credentialed Family Peer Advocates and Credentialed Youth Peer Advocates under supervision as described in this section.

New York
3b-55

- **Crisis Intervention Services, including crisis response and crisis planning** – Crisis intervention services are provided to address and remediate acute distress and rehabilitate individuals who are experiencing or who are at risk of experiencing acute mental health crises and to avoid the need for emergency or inpatient psychiatric hospital services, as follows:
 - Crisis response services: Include services to safely and respectfully de-escalate situations of acute distress or agitation which require immediate attention.
 - Crisis planning services: Include rehabilitative skills training services to assist individuals to effectively avoid or respond to mental health crises by identifying triggers that risk their remaining in the community or that result in functional impairments. Services assist the individual and/or family members, or other collaterals as necessary for the benefit of the beneficiary, with identifying a potential psychiatric or personal crisis, developing a crisis management or safety plan, and/or as appropriate, seeking other supports to restore stability and functioning.

Practitioners: Crisis intervention services are provided by Professional staff and Paraprofessional staff under supervision as provided in this section.

- **Complex Care Management** are care coordination services to address the impacts of an individual's mental health condition or symptomology on the individual's physical health, access to or engagement in care, or ability to maintain or establish community inclusion and/or community roles. This may include coordination of housing, rehabilitative, health and/or social supports necessary to prevent or address deterioration in mental health status. Critical events may include but are not limited to imminent loss of housing, employment, school placement or other complex social needs that could exacerbate mental health symptoms. These services are provided either in person or by telephone and may be provided without the beneficiary where appropriate for the benefit of the beneficiary.

Practitioners: Complex Care Management Services are provided by Professional staff and Paraprofessionals under supervision of Professional staff.

New York
8

[RESERVED]

Rehabilitative Services (42 CFR 440.130(d)): OMH outpatient community-based mental health rehabilitative services

Reimbursement Methodology

Ambulatory Patient Group (APG) reimbursement for all OMH outpatient community-based mental health rehabilitative services licensed by the New York State Office of Mental Health (OMH) will begin March 1, 2021. There are six peer groups based on provider type: Freestanding Upstate, Freestanding Downstate, county-operated, Hospital-based Upstate, Hospital-based Downstate and State-operated. Assignment to a peer group is based on the corporate information related to the licensure of the owner’s primary location.

Providers with sites designated to different peer groups will receive reimbursement based on the peer group where the services are provided. New providers of OMH outpatient community-based mental health rehabilitative services will be paid the same as other providers in their peer group.

Under the APG payment methodology, payments are determined by multiplying a dollar base rate, varying by peer group, by the weight for each procedure. The weight is a numeric value that reflects the relative expected resource utilization for each procedure as compared to the expected resource utilization for all other procedures. Procedure weights are the same for all OMH outpatient community-based mental health rehabilitative services providers. Where permitted by the APG reimbursement methodology, multiple services in a single visit will be discounted by 10%.

For providers operated by hospitals, excluding state-operated hospitals, reimbursement will include a per-visit payment for the cost of capital, which will be determined by dividing the provider’s total allowable capital costs, as reported on the Institutional Cost Report (ICR) for its OMH licensed outpatient programs, by the sum of the total annual number of visits for all of such services. The per-visit capital payment will be updated annually and will be developed using the costs and visits based on an ICR that is 2-years prior to the rate year. The allowable capital, as reported on the ICR, will also be adjusted prior to the rate add-on development to exclude costs related to statutory exclusions as follows: (1) forty-four percent of the costs of major moveable equipment and (2) staff housing.

TN #21-0007 Approval Date _____

Supersedes TN #10-0018 Effective Date March 1, 2021

New York
8a

[RESERVED]

Reimbursement Methodology continued

APG is an alternative reimbursement methodology to the Prospective Payment System (PPS) methodology and is subject to the minimum payment annual reconciliation for Federally Qualified Health Centers as described in the Federally Qualified Health Centers (FQHCs) and Rural Health Clinics section of this Attachment.

I. **Definitions:** The list of definitions in the APG System freestanding clinic section of this attachment will also apply to the methodology for OMH outpatient community-based mental health rehabilitative services except as follows:

- After hours means outside the time period 8:00 am – 6:00 pm on weekdays or any time during weekends.

II. **Reimbursement Rates:** APG peer group base rates for all OMH outpatient community-based mental health rehabilitative services providers are published on the State’s website at:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/apg-peer-group-base-rate.xlsx

TN #21-0007

Approval Date _____

Supersedes TN #10-0018

Effective Date March 1, 2021

New York
9

[RESERVED]

Quality Improvement (QI) Program

An enhanced APG peer group base rate is available for providers participating in the OMH quality improvement program. To become eligible for this enhancement, providers must complete a Memorandum of Agreement agreeing to the terms and conditions under which the enhanced APG peer group base rate will be paid, develop and submit a quality improvement plan that is subsequently approved by the OMH, identify the process or outcome indicators that will be monitored, and submit the QI finding and results to the OMH.

Providers that discontinue their involvement in the QI program will revert to the APG peer group base rate for their region that does not include the enhancement.

Minimum Wage Increases

The minimum wage methodology described in the Minimum Wage Rate Increases for Non-State-operated Freestanding OMH-Licensed Mental Health Clinics section of this attachment will also apply to the minimum wage methodology for OMH outpatient community-based mental health rehabilitative services.

Behavioral Health Utilization Controls – OMH-Licensed Outpatient Community-based Mental Health Rehabilitative Services

Effective March 1, 2021, the Office of Mental Health (OMH) will establish utilization thresholds for their outpatient community-based mental health rehabilitative services providers. These thresholds will target unusually high utilization with payment reductions and will be established by the licensing state agency as follows:

For outpatient community-based mental health rehabilitative services providers licensed by OMH, Medicaid payments shall be subject to the following reductions:

1. For persons 21 years of age or older at the start of the state fiscal year, payment for the 31st through 50th visits in a state fiscal year by one or more providers operated by the same agency will be subject to a 25% reduction in the otherwise applicable payment amount.
2. For persons 21 years of age or older at the start of the state fiscal year, payment for visits in excess of 50 in a state fiscal year by one or more providers operated by the same agency will be subject to a 50% reduction in the otherwise applicable payment amount.
3. For persons less than 21 years of age at the start of the state fiscal year, payment for visits in excess of 50 in that state fiscal year by one or more providers operated by the same agency will be subject to a 50% reduction in the otherwise applicable payment amount.
4. Off-site visits, medical visits and crisis visits, when billed under their applicable rate codes, will be disregarded in computing the number of visits pursuant to the preceding paragraphs.

TN #21-0007

Approval Date _____

Supersedes TN #10-0018

Effective Date March 1, 2021

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –
OTHER TYPES OF CARE
Payment of Medicare Part A and Part B Deductible/Coinsurance**

Explanation of Medicare Part B Coinsurance Payment for Medicaid Recipients

This Medicare coinsurance policy applies to:

- Qualified Medicare Beneficiaries (QMBs)
- Qualified Medicare Beneficiaries Plus (QMBs+)
- Any other persons who have both full Medicaid and Medicare

For all recipients noted above New York State Medicaid will pay as follows:

1. If the Medicare payment amount is greater than the amount that Medicaid would have paid for that service, then Medicaid will pay \$0.
2. If the Medicare payment is less than the amount that Medicaid would have paid for that service, then Medicaid will pay the lower of the difference between the Medicaid rate and the Medicare payment, or the Medicare coinsurance amount.
3. If a procedure is designated "inactive" on the procedure code file, i.e., procedures that are not covered by Medicaid and have been assigned a \$0 amount, Medicaid will not reimburse any portion of the Medicare Part B coinsurance amount for these procedures.
4. If the service is an outpatient service certified under Articles 16, 31, or 32 of the Mental Hygiene Law, an Independent Practitioner Service for Individuals with Developmental Disabilities (IPSIDD), or is an ambulance or psychologist service, Medicaid will pay the full Medicare coinsurance liability.
5. If the service is an Independent Practitioner Service for Individuals with Developmental Disabilities (IPSIDD), Medicaid will pay up to the regular Medicaid fee, even if that fee is higher than the Medicare approved amount.
6. If the service is an outpatient service certified under Article 28 of the Public Health Law, Medicaid will pay as follows:
 - a. If the Medicare payment is greater than the amount that Medicaid would have paid for that service, then Medicaid will pay \$0.
 - b. If the Medicare payment is less than the amount that Medicaid would have paid for that service, then Medicaid will pay the lower of the difference between the Medicaid rate and the Medicare payment, or the Medicare coinsurance amount.
 - c. If the Medicare payment is equal to the amount that Medicaid would have paid for that service, Medicaid will pay \$0.
7. If the service is a Products of Ambulatory Care Clinic, a clinic primarily serving the developmentally disabled, a Mental Health comprehensive outpatient program services (COPS) program¹, provided by a free standing clinic service certified under Article 28 of the Public Health Law to Traumatic Brain Injury waiver member, or provided by clinic or hospital outpatient department certified under Article 28 of the Public Health Law to an individual with a developmental disability, Medicaid will pay up to the regular Medicaid fee, even if that fee is higher than the Medicare approved amount.

¹Effective 10/1/2010, COPS program means [Freestanding Clinic and Outpatient Hospital] Services licensed pursuant to the Mental Hygiene Law reimbursed pursuant to the APG reimbursement methodology and Partial Hospitalization, Continuing Day Treatment, and Day Treatment for Children [and Intensive Psychiatric Rehabilitation and Treatment] Services.

Appendix II
2021 Title XIX State Plan
First Quarter Amendment
Summary

SUMMARY
SPA #21-0007

This State Plan Amendment proposes to establish outpatient community-based mental health services under the rehabilitative option. This will allow Medicaid to reimburse outpatient mental health services when provided in a community setting or in the individual's place of residence when permitted under State practice laws. Rehabilitative outpatient community-based mental health services will also include peer support services provided by certified peers.

Appendix III
2021 Title XIX State Plan
First Quarter Amendment
Authorizing Provisions

**McKinney's Consolidated Laws of New York
Annotated Mental Hygiene Law (Refs &
Annos)
Chapter 27. Of the Consolidated Laws**

McKinney's Mental Hygiene Law § 7.15

§ 7.15 Programs of the office of mental

health Effective: April 1, 2013

Currentness

(a) The commissioner shall plan, promote, establish, develop, coordinate, evaluate, and conduct programs and services of prevention, diagnosis, examination, care, treatment, rehabilitation, training, and research for the benefit of the mentally ill. Such programs shall include but not be limited to in-patient, out-patient, partial hospitalization, day care, emergency, rehabilitative, and other appropriate treatments and services. He or she shall take all actions that are necessary, desirable, or proper to implement the purposes of this chapter and to carry out the purposes and objectives of the department within the amounts made available therefor by appropriation, grant, gift, devise, bequest, or allocation from the mental health services fund established under [section ninety-seven-f of the state finance law](#).

(b) The activities described in subdivision (a) of this section may be undertaken in cooperation and agreement with other offices of the department and with other departments or agencies of the state, local or federal government, or with other organizations and individuals.

(c) *Repealed by L.2013, c. 56, pt. M, § 2, eff. April 1, 2013.*

Credits

(Added L.1977, c. 978, § 4. Amended L.1978, c. 552, § 1; L.1993, c. 723, § 6; L.1995, c. 83, §§ 219, 220; L.2003, c. 62, pt. Z3, § 6, eff. May 15, 2003; L.2003, c. 63, Pt. Y, § 2, eff. May 15, 2003; L.2005, c. 58, pt. I, § 3, eff. April 12, 2005; L.2013, c. 56, pt. M, § 2, eff. April 1, 2013.)

McKinney's Mental Hygiene Law § 7.15, NY MENT HYG § 7.15

Current through L.2019, chapter 758 and L.2020, chapters 1 to 56, 58 to 168. Some statute sections may be more current, see credits for details.

End of Document © 2020 Thomson Reuters. No claim to original U.S. Government Works.

WESTLAW

© 2020 Thomson Reuters. No claim to original U.S. Government Works. 1

§ 43.02 Rates or methods of payment for services at..., NY MENT HYG § 43.02

McKinney's Consolidated Laws of New York
Annotated Mental Hygiene Law (Refs & Annos)
Chapter 27. Of the Consolidated Laws

McKinney's Mental Hygiene Law § 43.02

§ 43.02 Rates or methods of payment for services at facilities subject to licensure or certification by the office of mental health, the office for people with developmental disabilities or the office of alcoholism and substance abuse services

Effective: April 13,
2015 [Currentness](#)

(d) Notwithstanding any inconsistent provision of law, payment made by government agencies pursuant to title eleven of article five of the social services law for services provided by any facility licensed by the office of mental health pursuant to article thirty-one of this chapter or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services, as defined in [section 1.03](#) of this chapter, shall be at rates or fees certified by the commissioner of the respective office and approved by the director of the division of the budget, provided, however, the commissioner of mental health shall annually certify such rates or fees which may vary for distinct geographical areas of the state and, provided, further, that rates or fees for service for inpatient psychiatric services or inpatient chemical dependence services, at hospitals otherwise licensed pursuant to article twenty-eight of the public health law shall be established in accordance with [section two thousand eight hundred seven of the public health law](#) and, provided, further, that rates or fees for services provided by any facility or program licensed, operated or approved by the office for people with developmental disabilities, shall be certified by the commissioner of health; provided, however, that such methodologies shall be subject to approval by the office for people with developmental disabilities and shall take into account the policies and goals of such office.

(e) Operators of facilities licensed by the office of mental health pursuant to article thirty-one of this chapter, licensed by the office for people with developmental disabilities pursuant to article sixteen of this chapter or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services shall provide to the commissioner of the respective office such financial, statistical and program information as the commissioner may determine to be necessary. The commissioner of the appropriate office shall have the power to conduct on-site audits of books and records of such facilities.

(f) The commissioner of the office of mental health, the commissioner of the office for people with developmental disabilities and the commissioner of the office of alcoholism and substance abuse services shall adopt rules and regulations to effectuate the provisions of this section. Such rules and regulations shall include, but not be limited to, provisions relating to:

(i) the establishment of a uniform statewide system of reports and audits relating to the quality of care provided, facility utilization and costs of providing services; such a uniform statewide system may provide for appropriate variation in the application of the system to different classes or subclasses of facilities licensed by the office of mental health pursuant to article thirty-one of this chapter or licensed or operated by the office for people with developmental disabilities pursuant to article sixteen of this chapter, or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services; and

§ 43.02 Rates or methods of payment for services at..., NY MENT HYG § 43.02

(ii) methodologies used in the establishment of the schedules of rates or fees pursuant to this section provided, however, that the commissioner of health shall adopt rules and regulations including methodologies developed by him or her for services provided by any facility or program licensed, operated or approved by the office for people with developmental disabilities; provided, however, that such rules and regulations shall be subject to the approval of the office for people with developmental disabilities and shall take into account the policies and goals of such office.

Credits

(Added L.1981, c. 947, § 10. Amended L.1985, c. 524, § 1; L.1986, c. 743, § 2; L.1986, c. 746, § 11; L.1986, c. 915, § 1; L.1992, c. 223, § 60; L.1999, c. 558, § 21, eff. Oct. 5, 1999; L.2010, c. 168, § 45, eff. July 13, 2010; L.2015, c. 58, pt. OO, § 3, eff. April 13, 2015.)

McKinney's Mental Hygiene Law § 43.02, NY MENT HYG § 43.02

Current through L.2019, chapter 758 and L.2020, chapters 1 to 56, 58 to 168. Some statute sections may be more current, see credits for details.

**Appendix IV
2021 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.

PUBLIC NOTICE

Civil Service

PURSUANT to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for March 2021 will be conducted on March 10 and March 11 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at <https://www.cs.ny.gov/commission/>.

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. One, Albany, NY 12239, (518) 473-6598

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 February 24, 2021, the Department of Health will establish outpatient mental health services under the Medicaid State Plan rehabilitative option, including services currently authorized under the Medicaid State Plan clinic option. This will allow Medicaid to reimburse outpatient mental health services when provided in a site-based clinic, community setting or in the individual's place of residence when permitted under State practice laws. Rehabilitative outpatient mental health services will also include peer support services provided by certified peers.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for

State Fiscal Year 2020/2021 is \$1.1 million and \$4.2 million for State Fiscal Year 2021/2022.

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. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

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

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

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

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

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

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

PUBLIC NOTICE

Department of State

A virtual board meeting of the NYS Board of Real Estate will be held on Thursday, March 11, 2021, at 100 p.m. For WebEx conferencing information, please visit the Department of State's website at www.dos.ny.gov.

Should you require further information, please contact: Denise Tidings at Denise.Tidings@dos.ny.gov or (518) 402-4921

PUBLIC NOTICE

Department of State

F-2020-0849

Date of Issuance – February 24, 2021

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 (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent 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-2020-0849, Mary Jane Dreher proposes to install a 8' x 100' steel pile dock with T shape at waters end that makes the dock flare out to 15' wide. The last 30' waters end of the dock will be steel constructed frame, concrete top with two ShoreStation hydraulic lifts (one 6k and one 10k) installed. The site is currently a residentially maintained property with a stone shoreline. This project is located at 6676 Greenwood Parkway, Hamlin, Monroe County, on Lake Ontario.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0849.pdf>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Town of Hamlin, Local Waterfront Revitalization Program Communities

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 on March 11, 2021.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, ATTN: Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. 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-2020-0984

Date of Issuance – February 24, 2021

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 (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent 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-2020-0984 the applicant, Daniel Kunstenaar, is proposing to replace the wooden bulkhead with vinyl bulkhead; relocate the existing 12'x12' boat lift; and install a pile supported 10'x10' overhang deck, a new 3'x12' ramp, and a new 8'x30' float with a 5'x12' finger float to form an L. This project is located at 3116 Ann Street, Town of Hempstead, Nassau County, Parsonage Creek.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0984.pdf>

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 March 26, 2021.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. 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-2021-0052

Date of Issuance – February 24, 2021

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-2021-0052, The Town of Webster is proposing to realign 2000 feet of Lake Road to run through the Sandbar Park Right-of-Way and in tandem with Sandbar Park Floodwall Protection project REDI 59 & 78. Install Sidewalks and drainage improvements to provide attractive space to the public.

Lake Road, Town of Webster, Monroe County

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2021-0052ConsistencyCert.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., 15 days from the date of publication of this notice, or, March 11, 2021.

Comments should be addressed to: 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-2021-0053

Date of Issuance – February 24, 2021

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-2021-0053, The Town of Webster is proposing to replace aging dock, restaurant and install ±481 LF of new concrete flood wall & living shoreline protection to protect the area. Install new parking lot and concrete sidewalks for public use. Project being done in conjunction with F-2021-0053-Realignment of Lake Road.

279 Lake Road, Town of Webster, Monroe County

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2021-0053ConsistencyCert.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., 15 days from the date of publication of this notice, or, March 11, 2021.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development & Community

Appendix V
2021 Title XIX State Plan
First Quarter Amendment
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES State Plan Amendment #21-0007

CMS Standard Funding Questions

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-B of 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 General Fund and Special Revenue Federal Funds appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Local Assistance Account under the General Fund/Aid to Localities.

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

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

4. **For clinic or outpatient hospital services please provide a detailed description of the methodology used by the state to estimate the upper**

payment limit (UPL) for each class of providers (State owned or operated, non-state government owned or operated, and privately owned or operated). Please provide a current (i.e., applicable to the current rate year) UPL demonstration.

Response: These services are covered as rehabilitation services and are, therefore, not held to UPL requirements.

- 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:

Reimbursement to local governmental providers under this amendment does not exceed the reasonable cost of providing services.

ACA Assurances:

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

MOE Period.

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

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

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

Prior to January 1, 2014 States may potentially require contributions by local political subdivisions toward the non-Federal share of the States'

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

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

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

Response: 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 17-0065, 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.