



KATHY HOCHUL  
Governor

Department  
of Health

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

KRISTIN M. PROUD  
Acting Executive Deputy Commissioner

September 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 #21-0049  
Non-Institutional Services

Dear Mr. Scott:

The State requests approval of the enclosed amendment #21-0049 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective July 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). Copies of the public notice of this plan amendment, which were given in the New York State Register on April 1, 2020 and June 30, 2021, are also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

If you have any questions regarding this State Plan Amendment submission, please do not hesitate to contact Regina Deyette, Medicaid State Plan Coordinator, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 473-3658.

Sincerely,

Brett Friedman  
Acting 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. STATE

3. PROGRAM IDENTIFICATION: 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

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

7. FEDERAL BUDGET IMPACT

a. FFY \_\_\_\_\_ \$ \_\_\_\_\_

b. FFY \_\_\_\_\_ \$ \_\_\_\_\_

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

10. SUBJECT OF AMENDMENT

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

16. RETURN TO

13. TYPED NAME

14. TITLE

15. DATE SUBMITTED

September 30, 2021

**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**  
**Third Quarter Amendment**  
**Amended SPA Pages**

New York  
2(xiv)(a)

**6d. Other Practitioner Services (Continued)**

**Pharmacists and Pharmacy Interns as Immunizers**

1. Reimbursement will be provided to pharmacies for vaccines and anaphylaxis agents administered by certified pharmacists and effective on or after July 1, 2021, certified pharmacy interns within the scope of their practice.
2. Service setting.  
Services will be provided by a certified pharmacist or a certified pharmacy intern under the supervision of a certified pharmacist in a pharmacy or in other locations where mass immunization may take place, such as retail stores/outlets, assisted living centers, and health fairs.
3. Provider qualifications.  
Pharmacists must be currently licensed, registered and certified by the NYS Education Department [of Education Board of Pharmacy] to administer immunizations. Pharmacy interns must currently possess an active limited permit and a certification to administer immunizations, both of which must be issued by the NYS Education Department.

**Diabetes Self-Management Training by Pharmacists**

1. Reimbursement will be provided to pharmacies for Diabetes Self-Management Training (DSMT) when provided by licensed pharmacists within the scope of their practice.
2. Service setting: Services will be provided by a licensed pharmacist in a pharmacy that is accredited by a CMS approved national accreditation organization (NAO), such as the American Diabetes Association (ADA), the American Association of Diabetes Educators (AADE), or Indian Health Services (IHS).
3. Provider qualifications: Pharmacists must be currently licensed and registered by the NYS Department of Education Board of Pharmacy. Pharmacies must be accredited by a CMS approved national accreditation organization.
4. Coverage parameters: A beneficiary with newly diagnosed diabetes or a beneficiary with diabetes who has a medically complex condition will be allowed up to 10 hours of Diabetes Self-Management Training (DSMT) during a continuous 6-month period. A beneficiary with diabetes who is medically stable may receive up to 1 hour of DSMT in a continuous 6-month period.

**Diabetes Self-Management Training (DSMT)**

Effective on or after October 1, 2021, Medicaid will reimburse DSMT services for persons diagnosed with diabetes when such services are ordered by a physician, registered physician assistant, registered nurse practitioner, or licensed midwife, and provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health who is affiliated with a DSMT program that has been accredited, or recognized, by a CMS-approved National Accreditation Organization (NAO). Currently, CMS recognizes the American Diabetes Association (ADA), the Association of Diabetes Care & Education Specialists (ADCES) (formerly known as the American Association of Diabetes Educators), and Indian Health Services as approved NAOs. The ADCES uses the term "accreditation," while ADA uses the term "recognition."

TN #21-0049 Approval Date \_\_\_\_\_

Supersedes TN #11-73 Effective Date July 1, 2021

**New York  
2(xiv)(a)**

**6d. Other Practitioner Services (Continued)**

**Pharmacists and Pharmacy Interns as Immunizers**

1. Reimbursement will be provided to pharmacies for vaccines and anaphylaxis agents administered by certified pharmacists and effective on or after July 1, 2021, certified pharmacy interns within the scope of their practice.
2. Service setting.  
Services will be provided by a certified pharmacist or a certified pharmacy intern under the supervision of a certified pharmacist in a pharmacy or in other locations where mass immunization may take place, such as retail stores/outlets, assisted living centers, and health fairs.
3. Provider qualifications.  
Pharmacists must be currently licensed, registered and certified by the NYS Education Department [of Education Board of Pharmacy] to administer immunizations. Pharmacy interns must currently possess an active limited permit and a certification to administer immunizations, both of which must be issued by the NYS Education Department.

**Diabetes Self-Management Training by Pharmacists**

1. Reimbursement will be provided to pharmacies for Diabetes Self-Management Training (DSMT) when provided by licensed pharmacists within the scope of their practice.
2. Service setting: Services will be provided by a licensed pharmacist in a pharmacy that is accredited by a CMS approved national accreditation organization (NAO), such as the American Diabetes Association (ADA), the American Association of Diabetes Educators (AADE), or Indian Health Services (IHS).
3. Provider qualifications: Pharmacists must be currently licensed and registered by the NYS Department of Education Board of Pharmacy. Pharmacies must be accredited by a CMS approved national accreditation organization.
4. Coverage parameters: A beneficiary with newly diagnosed diabetes or a beneficiary with diabetes who has a medically complex condition will be allowed up to 10 hours of Diabetes Self-Management Training (DSMT) during a continuous 6-month period. A beneficiary with diabetes who is medically stable may receive up to 1 hour of DSMT in a continuous 6-month period.

**Diabetes Self-Management Training (DSMT)**

Effective on or after October 1, 2021, Medicaid will reimburse DSMT services for persons diagnosed with diabetes when such services are ordered by a physician, registered physician assistant, registered nurse practitioner, or licensed midwife, and provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health who is affiliated with a DSMT program that has been accredited, or recognized, by a CMS-approved National Accreditation Organization (NAO). Currently, CMS recognizes the American Diabetes Association (ADA), the Association of Diabetes Care & Education Specialists (ADCES) (formerly known as the American Association of Diabetes Educators), and Indian Health Services as approved NAOs. The ADCES uses the term "accreditation," while ADA uses the term "recognition."

**TN #21-0049** Approval Date \_\_\_\_\_

**Supersedes TN #11-73** Effective Date **July 1, 2021**

New York  
Page 4(f)(1)

**Pharmacists and Pharmacy Interns as Immunizers**

The fee schedule is developed by the Department of Health and approved by the Division of Budget. State developed fee schedules are the same as the fee schedule established for Physicians. Pharmacies participating in the New York State Medicaid program are reimbursed a vaccine administration fee established at the same rate paid to physicians. The reimbursement to the pharmacy is on behalf of the [employed pharmacist, who as the licensed practitioner is the vaccine administrator] employee who is certified, either the licensed pharmacist or effective on or after July 1, 2021, permitted pharmacy intern, who administers the vaccine. Except as otherwise noted in the plan, state developed fee schedules are the same for both governmental and private providers. The fee schedule and any annual/periodic adjustments to the fee schedule are published in the official New York State pharmacy provider manual, which can be found at:

[[http://nyhealth.gov/health\\_care/medicaid/program/pharmacists\\_as\\_immunizers/fact\\_sheet\\_10-14-10.htm](http://nyhealth.gov/health_care/medicaid/program/pharmacists_as_immunizers/fact_sheet_10-14-10.htm)]

[https://www.health.ny.gov/health\\_care/medicaid/program/phar\\_immun\\_fact.htm](https://www.health.ny.gov/health_care/medicaid/program/phar_immun_fact.htm)

The agency's fee schedule is effective for services provided on or after October 15, 2009.

**Diabetes Self-Management Training (DSMT)**

The fee schedule is developed by the Department of Health and approved by the Division of Budget. State-developed fee schedules are the same as the fee schedule established for physicians. The fee schedule and any annual/periodic adjustments to the fee schedule are published in the official New York State physician provider manual, which can be found at:

[https://www.emedny.org/ProviderManuals/Physician/PDFS/Physician\\_Manual\\_Fee\\_Schedule\\_Sept2.xls](https://www.emedny.org/ProviderManuals/Physician/PDFS/Physician_Manual_Fee_Schedule_Sept2.xls)

The agency's fee schedule is effective for services provided on or after July 1, 2011.

Pharmacies participating in the New York State Medicaid program are reimbursed for Diabetes Self-Management Training (DSMT) at the same rate paid to physicians. The reimbursement to the pharmacy, which is accredited by a CMS approved national accreditation organization (NAO) such as the American Diabetes Association (ADA), American Association of Diabetes Educators (AADE) or Indian Health Services (IHS) is on behalf of the employed pharmacist who, as the licensed practitioner, is the DSMT Educator.

TN #21-0049

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

Supersedes TN #11-73

Effective Date July 1, 2021

New York  
Page 4(f)(1)(i)

**Diabetes Self-Management Training (DSMT) (continued)**

Effective on or after October 1, 2021, DSMT services are reimbursable in an office-based setting to physicians, nurse practitioners, licensed midwives, clinical psychologists, optometrists, and podiatrists when provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health who is affiliated with the office-based practice that has been accredited, or recognized, by a CMS-approved NAO.

Physicians, nurse practitioners, licensed midwives, clinical psychologists, optometrists, and podiatrists are reimbursed for DSMT services via their professional fee schedules. The professional fee schedules are developed by the Department of Health and approved by the Division of Budget. The fee schedules and any annual/periodic adjustments to the fee schedules can be found at:

- [https://www.emedny.org/ProviderManuals/Physician/PDFS/Physician\\_Manual\\_Fee\\_Schedule\\_Sect2.xls](https://www.emedny.org/ProviderManuals/Physician/PDFS/Physician_Manual_Fee_Schedule_Sect2.xls);
- [https://www.emedny.org/ProviderManuals/NursePractitioner/PDFS/Nurse\\_Practitioner\\_Fee\\_Schedule.xls](https://www.emedny.org/ProviderManuals/NursePractitioner/PDFS/Nurse_Practitioner_Fee_Schedule.xls);
- [https://www.emedny.org/ProviderManuals/Midwife/PDFS/Midwife\\_Fee\\_Schedule.xls](https://www.emedny.org/ProviderManuals/Midwife/PDFS/Midwife_Fee_Schedule.xls);
- [https://www.emedny.org/ProviderManuals/ClinicalPsych/PDFS/Clinical\\_Psychology\\_Fee\\_Schedule.pdf](https://www.emedny.org/ProviderManuals/ClinicalPsych/PDFS/Clinical_Psychology_Fee_Schedule.pdf);
- [https://www.emedny.org/ProviderManuals/Podiatry/PDFS/Podiatry\\_Fee\\_Schedule.xls](https://www.emedny.org/ProviderManuals/Podiatry/PDFS/Podiatry_Fee_Schedule.xls); and
- [https://www.emedny.org/ProviderManuals/VisionCare/PDFS/VisionCare\\_Fee\\_Schedule.xls](https://www.emedny.org/ProviderManuals/VisionCare/PDFS/VisionCare_Fee_Schedule.xls)

DSMT services are also reimbursable to Article 28 clinics that have been accredited or recognized by a CMS-approved NAO when services are provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health who is affiliated with the clinic.

TN #21-0049

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

Supersedes TN #NEW

Effective Date July 1, 2021

**Appendix II**  
**2021 Title XIX State Plan**  
**Third Quarter Amendment**  
**Summary**



**SUMMARY**  
**SPA #21-0049**

This State Plan Amendment (SPA) proposes to add pharmacy interns to Other Practitioner Services, under section Pharmacists and Pharmacy Interns as Immunizers with July 1, 2021 effective date, to align with state statute. Also, effective on or after October 1, 2021, the SPA proposes to reimburse for Diabetes Self-Management Training (DSMT) services for persons diagnosed with diabetes when such services are ordered by a physician, registered physician assistant, registered nurse practitioner, or licensed midwife and provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health who is affiliated with a DSMT program that has been certified by the American Diabetes Association, the Association of Diabetes Care & Education Specialists, the Indian Health Services, or any other National Accreditation Organization approved by the federal centers for Medicare and Medicaid services.

**Appendix III**  
**2021 Title XIX State Plan**  
**Third Quarter Amendment**  
**Authorizing Provisions**

As of 05/06/2021 11:10AM, the Laws database is current through  
2021 Chapters 1-105

## Education

§ 6806. Limited permits. 1. The department may issue a limited permit for employment as a "pharmacy intern" to:

a. A student enrolled in the last two years of a registered program in pharmacy, or

b. A graduate of a program in pharmacy which meets standards established by the commissioner's regulations who is engaged in meeting the experience requirements or whose application for initial licensure is pending with the department.

2. A pharmacy intern may, as determined by the commissioner's regulations, practice as a pharmacist under the immediate personal supervision of a licensed pharmacist. A pharmacy intern may also receive a certificate of administration if he or she provides satisfactory evidence to the commissioner that he or she meets the requirements of subdivision three of this section.

3. No pharmacy intern shall administer immunizing agents without receiving training satisfactory to the commissioner and the commissioner of health, as prescribed in regulations of the commissioner, which shall include, but not be limited to: techniques for screening individuals and obtaining informed consent; techniques of administration; indications, precautions and contraindications in the use of an agent or agents; recordkeeping of immunization and information; and handling emergencies, including anaphylaxis and needlestick injuries. To receive a certification to administer immunizations, the pharmacy intern shall provide documentation, on a form prescribed by the department, from the dean or other appropriate official of the registered program that the intern has completed the required training, pursuant to regulations of the commissioner.

4. A limited permit issued to a pharmacy intern shall have an expiration date of five years from the date of issue. Limited permits may be renewed once for a period not to exceed two years.

5. Fees. The fee for each limited permit issued to a pharmacy intern shall be seventy dollars.

6. In the case of a pharmacy intern, certified to administer immunizations, administration must be conducted under the immediate personal supervision of a licensed pharmacist certified to administer vaccines. A person receiving a vaccine must be informed that a pharmacy intern, certified to administer immunizations, will be administering the vaccine and of the option to receive the vaccination from a certified pharmacist.

SPA 21-0049 (DSMT)

Chapter 58 of the Laws of 2010

§ 35. Paragraph (q) of subdivision 2 of section 365-a of the social services law, as added by section 32 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(q) diabetes self-management training services for persons diagnosed with diabetes when such services are ordered by a physician, registered ~~physician's~~ physician assistant, registered nurse practitioner, or licensed midwife and provided by a licensed, registered, or certified health care professional, as determined by the commissioner of health, who is certified as a diabetes educator by the National Certification Board for Diabetes Educators, or a successor national certification board, or provided by such a professional who is affiliated with a program certified by the American Diabetes Association, the American Association of Diabetes Educators, the Indian Health Services, or any other national accreditation organization approved by the federal centers for medicare and medicaid services; provided, however, that the provisions of this paragraph shall not take effect unless all necessary approvals under federal law and regulation have been obtained to receive federal financial participation in the costs of health care services provided pursuant to this paragraph. Nothing in this paragraph shall be construed to modify any licensure, certification or scope of practice provision under title eight of the education law.

**Appendix IV  
2021 Title XIX State Plan  
Third Quarter Amendment  
Public Notice**

ated or owned governmental hospitals;

- Certain managed care payments pursuant to section 3-d of Part B of the Chapter 58 of the Laws of 2010; and
- Services provided to inmates of local correctional facilities.
- Other Payments that are not subject to the reduction include:
  - Payments pursuant to Article 32, Article 31 and Article 16 of the Mental Hygiene Law;
  - Required payments related to the School Supportive Health Services Program and Preschool Supportive Health Services Program;
  - Early Intervention;
  - Payments for services provided by Other State Agencies including Office of Children and Family Services, State Education Department, and the Department of Corrections and Community Supervision;
  - Vital Access Providers and Vital Access Provider Assurance Program;
  - Physician Administered Drugs;
  - Children and Family Treatment and Support Services (CFTSS);
  - Court orders and judgments; and
  - Family Planning services.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for SFY 2020-21 is (\$438 million).

#### Non-Institutional Services

##### Care Management

Effective on or after April 1, 2020 and SFY thereafter, these proposals will:

- Implement Health Home Improvement, Efficiency, Consolidation and Standardization: These efficiencies include eliminating outreach payments, reducing unnecessary documentation, revising the criteria for admission, and re-evaluating the benchmarks for stepping patients down to lower levels of care management or graduation from a Health Home. Finally, placing the most seriously mentally ill clients in care management arrangements with appropriate caseload sizes – overseen by the Office of Mental Health – while moving lower acuity members into less intensive care management arrangements will both improve program quality and achieve efficiencies.
- Promote Further Adoption of Patient-Centered Medical Homes (PCMH): Continues incentive payments at current levels for lower cost, higher value PCMH programs while incorporating a tiered quality component into the incentive payments to align with other State initiatives such as the Prevention Agenda.
- Comprehensive Prevention and Management of Chronic Disease: Advances the use of evidence-based prevention strategies to manage highly prevalent chronic diseases, including diabetes, hypertension, asthma, smoking, osteoarthritis, chronic kidney disease, HIV/AIDS, and sickle cell disease. Specifically, the proposal will: (1) promote the use of evidence-based, self-care education, and prevention strategies; (2) implement an awareness campaign to educate Medicaid Managed Care (MMC) Plans, providers, and Medicaid members on the various resources and programs that are available; (3) educate the provider community relative to adherence to established evidence-based practice guidelines; (4) optimize services that are already covered by Medicaid, including expanding who can provide services; (5) optimize pharmacist services and leverage the frequency of patient visits to the pharmacy by expanding Collaborative Drug Therapy Management (CDTM) to the community setting, enable pharmacists to administer point-of-care testing for designated CLIA-waived tests and to initiate prescriptions for certain medications; (6) focus on chronic condition management within Patient-Centered Medical Homes (PCMHs) and Health Homes; initially, focus treatment and care management resources on adults with diabetes and hypertension, and children with asthma.
- Children's Preventive Care and Care Transitions: Promotes behavioral health integration in pediatrics by continuing ongoing pilot work focused on pregnancy and early childhood (e.g., preschool screening and universal, light-touch home visits) and leverages participation in CMMI's Integrated Care for Kids (InCK) model of

integration of medical and behavioral health care, using resources already available in the community. In addition, this proposal improves care transitions for children with chronic medical and behavioral conditions, with a special focus on children with sickle cell disease (SCD) moving from pediatric to adult care settings.

- Children and Family Treatment and Support Services (CFTSS) - Restores specialized transition rates for CFTSS.
    - Invest in Medically Fragile Children: Invests Medicaid resources to improve access to private duty nursing (PDN) for medically fragile children in order to prevent hospitalization and emergency visits, by leveraging additional utilization of telehealth, commercial insurance coverage for PDN, further PDN network development and enhanced rates. Specifically, the proposal would increase fee-for-service PDN rates over a three year period to benchmark to the current Medicaid Managed Care rates; create a PDN Network whereby PDN providers would receive a negotiated enhanced rate of payment for PDN services.
    - Preventive Dentistry: Promotes evidence-based preventative dentistry using fluoride varnish and silver diamine fluoride. Specifically, the proposal increases the application of fluoride varnish by primary care providers, including Registered Nurses, which will decrease early childhood decay and associated restorative costs. In addition, the proposal expands Medicaid dental coverage to include silver diamine fluoride which stops tooth decay and prevents additional oral complications.
    - Emergency Room Avoidance and Cost Reductions: this proposal reduces unnecessary Emergency Department (ED) utilization and/or cost by redesigning care pathways for high ED utilizing patients and transitions navigation to community services by: allowing sharing of individualized patient treatment plans for chronic conditions (through Qualified Entity (QEs)); expanding access to Urgent Care Centers by increasing co-location with Emergency Rooms; requiring Urgent Care Centers to accept Medicaid; and exploring a lower ED triage fee for non-emergency conditions.
    - Addressing Barriers to Opioid Care: Implements a series of Opioid related interventions to address certain barriers to care for Medicaid members, including but not limited to, better bundled payments that support opiate treatment through the adjustment of Ambulatory Patient Groups (APG) payments to eliminate unnecessary volume incentive and to promote more appropriate access including take home medication, when clinically appropriate; reduced Medicaid Coverage Limits for Rehabilitation Services as pathway to nonpharmacologic treatment alternative for pain management, and increased utilization of the Opioid Medical Maintenance (OMM) Model.
    - Promote Maternal Health to Reduce Maternal Mortality: Focuses on optimizing the health of individuals of reproductive age, including discussions on comprehensive family planning and patient centered primary and preventive care. The proposal aims to improve access to quality prenatal care, free from implicit bias, and ensuring postpartum home visits are available to all individuals who agree have a home visit after giving birth, by working with Medicaid Managed Care plans to identify and address the barriers to achieving these goals. The proposal also includes ensuring all pregnant individuals have access to childbirth education and supports the participation of birthing centers in the Perinatal Quality Collaborative.
- The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to these initiatives contained in the budget for SFY 2020-2021 is \$86 million and for SFY 2021-2022 is \$140 million.

##### Pharmacy

Effective on or after April 1, 2020 and SFY thereafter, these proposals would:

- Reduce Drug Cap Growth by Enhancing Purchasing Power to Lower Drug Costs by providing the ability to negotiate supplemental rebates for new blockbuster drugs and gene therapies that do not yet have utilization; and the authority to negotiate value-based agreements with manufacturers.
- Reducing coverage of certain OTC products and increasing copayments (with exceptions for the most vulnerable populations).

# 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](http://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 Columbia County

Columbia County, New York is soliciting proposals from Administrative Service Agencies, Trustees, and Financial Organizations for services in connection with a Deferred Compensation Plan that will meet the requirements of Section 457 of the Internal Revenue Code and Section 5 of the State Finance Law, including all rules and regulations issued pursuant thereto.

*A copy of the proposal questionnaire may be obtained from:* Michael Williams-Riordon, Director of Human Resources, Columbia County, 401 State Street, Hudson, NY 12534, [mwr@columbiacountyny.com](mailto:mwr@columbiacountyny.com)

All proposals must be submitted not later than 30 days from the date of publication in the New York State Register.

## 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:

### Non-Institutional Services

Effective on or after July 1, 2021, the Ambulatory Patient Group (APG) reimbursement methodology is revised to include recalculated weight and component updates to reflect the APG policy updates.

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

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

## PUBLIC NOTICE Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to comply with NYS Education Law Article 137 § 6806. The following changes are proposed:

### Non-Institutional Services

Effective on or after July 1, 2021, pharmacy interns will be included in the New York State Plan in order to comply with state statute. The legislation enacted, December 7, 2018, allows pharmacy interns under the direct supervision of a licensed pharmacist and upon receipt of a certificate of administration to administer vaccinations. Medicaid-enrolled pharmacies that employ or contract with pharmacists and/or interns certified by the New York State Board of Pharmacy to administer vaccines will receive reimbursement for immunization services and products.

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

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status). 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 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 all services to comply with enacted statutory provisions. The following changes are proposed:

### All Services

Effective on or after July 1, 2021, the Department of Health will adjust rates statewide to reflect a one percent Cost of Living Adjustment for the following Office of Mental Health (OMH) and Office for People With Developmental Disabilities (OPWDD) services: OMH Licensed Mental Health Outpatient Hospital, Freestanding Clinic and Other Rehabilitative Services, Residential Treatment Facilities for Children and Youth, Intermediate Care Facility (ICF/IDD), Day Treatment, Article 16 Clinic services, Specialty Hospital, and Independent Practitioner Services for Individual with Developmental Disabilities (IPSIDD).

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to the July 1, 2021 one percent Cost of Living Adjustment contained in the budget for State Fiscal Year 2022 is \$16.4 million.

### Long Term Care Services

Effective on or after July 1, 2021, a demonstration program for young adults with medical fragility shall be established.

The young adult demonstration will certify two young adult facilities for the purpose of improving the quality of care for young adults with medical fragility. These facilities shall support the continuing needs for youth with medical fragility residing in pediatric facilities as they age beyond 21 years old, pending the establishment of a young adult unit. The State intends to utilize its current pediatric nursing home reimbursement rates for those patients between the ages of 18 and 35 years old in the newly certified young adult facility.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to the establishment of a young adult program contained in the budget for state fiscal year 2021/2022 is \$17.5 million.

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

F-2021-0161

Date of Issuance – June 31, 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. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <https://dos.ny.gov/system/files/documents/2021/06/f-2021-0161.pdf>

In F-2021-0161, or the "Pultneyville Yacht Club Jetty Construction", the applicant – Pultneyville Yacht Club proposes to place large (4-5 ton) limestone rocks to restore jetty structure, resulting in an approximate height of 251 feet, 12 feet of width at top, and a 1:2 slope on the north side of the E-W structure that suffers from wave and ice damage. The planned work will not exceed either width or length of the structure. Existing degraded jetty is about 200' long.

The purpose of the proposed work is "repair and reinforce the existing jetty as required by sustained Lake Ontario high water levels and seasonal ice damage". The proposed project is located at 7852 Hamilton Street Extension in the Town of Williamson, Wayne County on Lake Ontario.

Any interested parties and/or agencies desiring to express their views concerning 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, July 15, 2021.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Planning, Development and 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.



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

**NON-INSTITUTIONAL SERVICES**  
**State Plan Amendment #21-0049**

**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 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 have been no new provider taxes 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:** Diabetes Self-Management Training (DSMT) and Pharmacy payments are not subject 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:** There are various state agencies that perform audits each year to determine the appropriateness of Medicaid payments. In the event that inappropriate payments are determined, recoupments would be initiated and the Federal share would be returned to CMS within the associated quarterly expenditure report.

#### **ACA Assurances:**

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

#### **MOE Period.**

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

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

2. **Section 1905(y) and (z) of the Act provides for increased FMAPs for expenditures made on or after January 1, 2014 for individuals determined eligible under section 1902(a)(10)(A)(i)(VIII) of the Act. Under section**

**1905(cc) of the Act, the increased FMAP under sections 1905(y) and (z) would not be available for States that require local political subdivisions to contribute amounts toward the non-Federal share of the State's expenditures at a greater percentage than would have been required on December 31, 2009.**

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

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

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

**Response:** 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.