



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

MEGAN E. BALDWIN
Acting Executive Deputy Commissioner

June 30, 2023

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 #23-0062
Non-Institutional Services

Dear Mr. Scott:

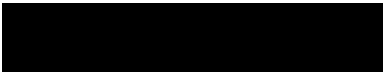
The State requests approval of the enclosed amendment #23-0062 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective April 1, 2023 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

The State of New York reimburses these services through the use of rates that are consistent with 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 March 29, 2023, and clarified on July 12, 2023, 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,


Amir Bassiri
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 <u>2 3</u> — <u>0 0 6 2</u>	2. STATE <u>NY</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
April 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION
§ 1945 of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 04/01/23-09/30/23 \$ 4,753,464
b. FFY 10/01/23-09/30/24 \$ 9,506,927

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
MACPro Portal SPA

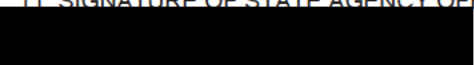
8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
MACPro Portal SPA

9. SUBJECT OF AMENDMENT
CCO/HEALTH HOME 4% COST OF LIVING INCREASE

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL


12. TYPED NAME
Amir Bassiri

13. TITLE
Medicaid Director

14. DATE SUBMITTED
June 30, 2023

15. 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 CMS USE ONLY

16. DATE RECEIVED	17. DATE APPROVED
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL	19. SIGNATURE OF APPROVING OFFICIAL
20. TYPED NAME OF APPROVING OFFICIAL	21. TITLE OF APPROVING OFFICIAL

22. REMARKS

Appendix I
2023 Title XIX State Plan
Second Quarter Amendment
Amended SPA Pages

[Records](#) / [Submission Packages - Your State](#)

NY Submission Package NY2023MS00030 (NY 23 0062) Health Homes

[Summary](#) [Reviewable Units](#) [News](#) [Related Actions](#)

CMS-10434 OMB 0938-1188

Package Information

Package ID	NY2023MS00030	Submission Type	Official
Program Name	NYS CCO/HHs Serving Individuals with I/DD	State	NY
SPA ID	NY-23-0062	Region	New York NY
Version Number	1	Package Status	Submitted
Submitted By	Michelle Levesque	Submission Date	6/30/2023
		Regulatory Clock	90 days remain
		Review tatus	Review 1

Submission - Summary

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID	NY 02 M 000 O	PA ID	NY 006
Submission Type	Official	Initial Submission Date	6/30/2023
Approval Date	N/A	Effective Date	N/A
Superseded SPA ID	N/A		

Reviewable Unit Instructions

State Information

State/Territory Name:	New York	Medicaid Agency Name:	Department of Health
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Submission Component

- State Plan Amendment
- Medicaid
- CHIP

Submission - Summary

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID NY2023MS00030	SPA ID NY-23-0062
Submission Type Official	Initial Submission Date 6/ 0/20
Approval Date N/A	Effective Date N/A
Superseded SPA ID N/A	

Reviewable Unit Instructions

SPA ID and Effective Date

SPA ID NY-23-0062

Reviewable Unit	Proposed Effective Date	Superseded PA ID
Health Homes Intro	4/1/2023	NY-22-0073
Health Homes Payment Methodologies	4/1/2023	NY-22-0073

Submission - Summary

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID	NY2023MS00030	SPA ID	NY-23-0062
Submission Type	Official	Initial Submission Date	6/30/2023
Approval Date	N/A	Effective Date	N/A
Superseded SPA ID	N/A		

Reviewable Unit Instructions

Executive Summary

Summary Description Including Goals and Objectives This State Plan Amendment proposes to adjust rates statewide to reflect a 4.0% Cost Of Living Adjustment for Care Coordination Organization/Health Homes for individuals with intellectual and developmental disabilities.

Federal Budget Impact and Statute/Regulation Citation


Federal Budget Impact

	Federal Fiscal Year	Amount
First	2023	\$4753464
Second	2024	\$9506927

Federal Statute / Regulation Citation

Part DD of Chapter 57 of the Laws of 2023

Supporting documentation of budget impact is uploaded (optional).

Name	Date Created	
Fiscal Calculations (23-0062) CCO-HH 4% COLA - 5-12-23	5/12/2023 4:12 PM EDT	

Submission - Summary

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID	NY2023MS00030	SPA ID	NY-23-0062
Submission Type	Official	Initial Submission Date	6/30/2023
Approval Date	N/A	Effective Date	N/A
Superseded SPA ID	N/A		

Reviewable Unit Instructions

Governor's Office Review

- No comment
- Comments received
- No response within 45 days
- Other

Submission - Medicaid State Plan

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

CMS-10434 OMB 0938-1188

The submission includes the following:

- Administration
- Eligibility
- Benefits and Payments
- Health Homes Program

Do not use "Create New Health Homes Program" to amend an existing Health Homes program. Instead, use "Amend existing Health Homes program," below.

- Create new Health Homes program
- Amend existing Health Homes program
- Terminate existing Health Homes program

NYS CCO/HHs Serving Individuals with I/DD

Health Homes SPA - Reviewable Units

Only select Reviewable Units to include in the package which you intend to change.

*

	Reviewable Unit Name	Included in Another Submission Package
<input type="checkbox"/>	Health Homes Intro	APPROVED
<input type="checkbox"/>	Health Homes Geographic Limitations	APPROVED
<input type="checkbox"/>	Health Homes Population and Enrollment Criteria	APPROVED
<input type="checkbox"/>	Health Homes Providers	APPROVED
<input type="checkbox"/>	Health Homes Service Delivery Systems	APPROVED
<input type="checkbox"/>	Health Homes Payment Methodologies	APPROVED
<input type="checkbox"/>	Health Homes Services	APPROVED
<input type="checkbox"/>	Health Homes Monitoring, Quality Measurement and Evaluation	APPROVED

1 - 8 of 8

1945A Health Home Program

Submission - Public Notice/Process

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID	NY2023MS00030	SPA ID	NY-23-0062
Submission Type	Official	Initial Submission Date	6/30/2023
Approval Date	N/A	Effective Date	N/A
Superseded SPA ID	N/A		



Reviewable Unit Instructions

Name of Health Homes Program

NYS CCO/HHs Serving Individuals with I/DD

Public notice was provided due to proposed changes in methods and standards for setting payment rates for services, pursuant to 42 CFR 447.205.

Upload copies of public notices and other documents used

Name	Date Created	
FPN-NYS Register (3-29-23)	5/11/2023 2:12 PM EDT	
FPN Clarification 2023-2024 Federal Budget (06-27-23) (DOS)	6/27/2023 9:46 PM EDT	

Submission - Tribal Input

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID NY2023MS00030	SPA ID NY-23-0062
Submission Type Official	Initial Submission Date 6/30/2023
Approval Date N/A	Effective Date N/A
Superseded SPA ID N/A	

Reviewable Unit Instructions

Name of Health Homes Program:

NYS CCO/HHs Serving Individuals with I/DD

One or more Indian Health Programs or Urban Indian Organizations furnish health care services in this state

- Yes
- No

This state plan amendment is likely to have a direct effect on Indians, Indian Health Programs or Urban Indian Organizations, as described in the state consultation plan.

- Yes
- No

The state has solicited advice from Indian Health Programs and/or Urban Indian Organizations, as required by section 1902(a)(73) of the Social Security Act, and in accordance with the state consultation plan, prior to submission of this SPA.

Complete the following information regarding any solicitation of advice and/or tribal consultation conducted with respect to this submission:

Solicitation of advice and/or Tribal consultation was conducted in the following manner:

- All Indian Health Programs

Date of solicitation/consultation:	Method of solicitation/consultation:
6/14/2023	paper mailing/electronic mail


- All Urban Indian Organizations

States are not required to consult with Indian tribal governments, but if such consultation was conducted voluntarily, provide information about such consultation below:

- All Indian Tribes

Date of consultation:	Method of consultation:
6/14/2023	paper mailing/electronic mail

The state must upload copies of documents that support the solicitation of advice in accordance with statutory requirements, including any notices sent to Indian Health Programs and/or Urban Indian Organizations, as well as attendee lists if face-to-face meetings were held. Also upload documents with comments received from Indian Health Programs or Urban Indian Organizations and the state's responses to any issues raised. Alternatively indicate the key issues and summarize any comments received below and describe how the state incorporated them into the design of its program.

Name	Date Created	
Tribal Consultation (23-0062) (Summary) (6-14-23)	6/14/2023 1:34 PM EDT	

Indicate the key issues raised (optional)

- Access
- Quality
- Cost
- Payment methodology
- Eligibility

- Benefits
- Service delivery
- Other issue

Submission - Other Comment

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID	NY2023MS00030	SPA ID	NY-23-0062
Submission Type	Official	Initial Submission Date	6/30/2023
Approval Date	N/A	Effective Date	N/A
Superseded SPA ID	N/A		

Reviewable Unit Instructions

SAMHSA Consultation

Name of Health Homes Program

NYS CCO/HHs Serving Individuals with I/DD

The State provides assurance that it has consulted and coordinated with the Substance Abuse and Mental Health Services Administration (SAMHSA) in addressing issues regarding the prevention and treatment of mental illness and substance abuse among eligible individuals with chronic conditions.

Date of consultation
4/1/2022

Health Homes Intro

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID	NY2023MS00030	SPA ID	NY-23-0062
Submission Type	Official	Initial Submission Date	6/30/2023
Approval Date	N/A	Effective Date	4/1/2023
Superseded SPA ID	NY-22-0073		
	User-Entered		

Reviewable Unit Instructions

Program Authority

1945 of the Social Security Act

The state elects to implement the Health Homes state plan option under Section 1945 of the Social Security Act.

Name of Health Homes Program

NYS CCO/HHs Serving Individuals with I/DD

Executive Summary

Provide an executive summary of this Health Homes program including the goals and objectives of the program, the population, providers, services and service delivery model used

This State Plan Amendment proposes to adjust rates statewide to reflect a 4% Cost of Living Adjustment for Care Coordination Organization/Health Homes for individuals with intellectual and developmental disabilities per Part DD of Chapter 57 of the Laws of 2023.

The New York State Department of Health (DOH), in collaboration with the New York State Office for People With Developmental Disabilities (OPWDD), is seeking a new Health Home State Plan, effective July 1, 2018, to create and authorize Health Home care management for individuals with intellectual and/or developmental disabilities (I/DD). The goal of establishing Health Homes to serve the I/DD population is to provide a strong, stable, person-centered approach to holistic service planning and coordination required to ensure the delivery of quality care that is integrated and supports the needs of individuals with I/DD chronic conditions. The Health Home program authorized under this State Plan shall be known as the NYS Care Coordination Organizations/Health Homes (CCO/HHs) Serving Individuals with Intellectual and Developmental Disabilities (I/DD) Program (NYS CCO/HHs Serving I/DD) and Health Homes authorized under this State Plan shall be known as Care Coordination Organizations/Health Homes (CCO/HHs). As described in more detail, this SPA will establish requirements for the NYS CCO/HHs Serving I/DD Program, including establishing eligible I/DD Health Home chronic conditions; transitioning Medicaid Service Coordination (MSC) and Plan of Care Support Services (PCSS) to Health Homes; establishing per member per month rates for Health Homes designated to serve members with I/DD; defining CCO/HHs core requirements, including Health Information Technology (HIT) requirements; establishing the processes for referring Medicaid members to CCO/HHs; and defining the requirements for providers to be eligible to be designated as CCO/HHs. The State Plan authorizes the statewide enrollment of individuals with eligible Developmental Disability conditions in designated CCO/HHs.

General Assurances

- The state provides assurance that eligible individuals will be given a free choice of Health Homes providers.
- The states provides assurance that it will not prevent individuals who are dually eligible for Medicare and Medicaid from receiving Health Homes services.
- The state provides assurance that hospitals participating under the state plan or a waiver of such plan will be instructed to establish procedures for referring eligible individuals with chronic conditions who seek or need treatment in a hospital emergency department to designated Health Homes providers.
- The state provides assurance that FMAP for Health Homes services shall be 90% for the first eight fiscal quarters from the effective date of the SPA. After the first eight quarters, expenditures will be claimed at the regular matching rate.
- The state provides assurance that it will have the systems in place so that only one 8-quarter period of enhanced FMAP for each health homes enrollee will be claimed.
- The state provides assurance that there will be no duplication of services and payment for similar services provided under other Medicaid authorities.

Health Homes Payment Methodologies

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID	NY2023MS00030	SPA ID	NY-23-0062
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Approval Date	N/A	Effective Date	4/1/2023
Superseded SPA ID	NY-22-0073		
	User-Entered		

Reviewable Unit Instructions

Payment Methodology

The State's Health Homes payment methodology will contain the following features

- Fee for Service
 - Individual Rates Per Service
 - Per Member, Per Month Rates
 - Fee for Service Rates based on
 - Severity of each individual's chronic conditions
 - Capabilities of the team of health care professionals, designated provider, or health team
 - Other
- Comprehensive Methodology Included in the Plan
- Incentive Payment Reimbursement

Describe below
see text box below regarding rates.

Describe any variations in payment based on provider qualifications, individual care needs, or the intensity of the services provided see text below

- PCCM (description included in Service Delivery section)
- Risk Based Managed Care (description included in Service Delivery section)
- Alternative models of payment, other than Fee for Service or PMPM payments (describe below)

Health Homes Payment Methodologies

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

Package ID	NY2023MS00030	SPA ID	NY-23-0062
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Approval Date	N/A	Effective Date	4/1/2023
Superseded SPA ID	NY-22-0073		
	User-Entered		

Reviewable Unit Instructions

Agency Rates

Describe the rates used

- FFS Rates included in plan
- Comprehensive methodology included in plan
- The agency rates are set as of the following date and are effective for services provided on or after that date

Effective Date

4/1/2023

Website where rates are displayed

https://www.health.ny.gov/health_care/medicaid/rates/mental_hygiene/

Health Homes Payment Methodologies

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header

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Superseded SPA ID	NY-22-0073		
	User-Entered		

Reviewable Unit Instructions

Rate Development

Provide a comprehensive description in the SPA of the manner in which rates were set

1. In the SPA please provide the cost data and assumptions that were used to develop each of the rates;
2. Please identify the reimbursable unit(s) of service;
3. Please describe the minimum level of activities that the state agency requires for providers to receive payment per the defined unit;
4. Please describe the state's standards and process required for service documentation, and;
5. Please describe in the SPA the procedures for reviewing and rebasing the rates, including:
 - the frequency with which the state will review the rates, and
 - the factors that will be reviewed by the state in order to understand if the rates are economic and efficient and sufficient to ensure quality services.

Comprehensive Description Provide a comprehensive description of the rate-setting policies the State will use to establish Health Homes provider reimbursement fee for service or PMPM rates. Explain how the methodology is consistent with the goals of efficiency, economy and quality of care within your description please explain the reimbursable unit(s) of service, the cost assumptions and other relevant factors used to determine the payment amounts, the minimum level of activities that the State agency requires for providers to receive payment per the defined unit, and the State's standards and process required for service documentation.

Care Coordination Organization/Health Home (CCO/HH) Program Improvements and Efficiencies
Effective July 1, 2020, certain rate setting provisions in the approved 2020-2021 New York State Budget are being changed to reflect historical utilization and efficiencies related to the transition to CCO/HHs.

Care Management Fee

CCO/HH providers that meet State and federal standards will be paid a per member per month care management fee that is based on region, assessment data, residential status and other functional indicators. A unit of service will be defined as a billable unit per service month. To be reimbursed for a billable unit of service per month, CCO/HH providers must, at a minimum, provide active care management by providing at least one of the core health home services per month. Once an individual has been assigned a care manager and is enrolled in the CCO/HHs program, the active care management per member per month (PMPM) may be billed. Care managers must maintain the CCO/HHs consent forms and document all services provided to the member in the member's life plan. Upon enrollment in the program, Care Managers will attest in the State system the individual's consent to enroll in Health Homes. The CCO will maintain the consent form electronically within the individual's record in the Care Coordination system.

As described in the attachment CCO/HH Rate Setting Methodology, the care management PMPM will include four rate tiers. The rate tier of an individual is determined by region, the intensity of care coordination required to serve the individual and the residential/living setting of the individual. For enrollees who are new to the OPWDD service delivery system, there will be a separate tiered CCO/HH care management PMPM that may be billed for the first month of enrollment in CCO/HH for individuals who have never received a Medicaid-funded long-term service. The separate tiered rate includes costs related to preparing an initial life plan; an initial Medicaid application, if needed; and gathering documentation and records to support the I/DD diagnosis, that such I/DD condition results in substantial handicap and the individual's ability to function normally in society and level of care determination. The PMPM rate tiers are calculated based on total costs relating to the care manager (salary, fringe benefits, non-personal services, capital and administration costs) and, for each tier, caseload assumptions. The State will periodically review the CCO/HH payments in conjunction with Department of Labor salary data to ensure that the Health Home rates are sufficient to ensure quality services. In addition, based on operating experience, the State will make adjustments, as appropriate, to the PMPM.

Medicaid Service Coordinators (MSC) and Plan of Care Support Services (PCSS)

CCO/HH MSC and PCSS agencies that provide care management to individuals with developmental disabilities under the State Plan that convert to a CCO/HH or become part of a CCO/HHs will be paid the care management PMPMs described above.

All payment policies have been developed to assure that there is no duplication of payment for CCO/HH services.

Health Homes Payment Methodologies

MEDICAID | Medicaid State Plan | Health Homes | NY2023MS00030 | NY-23-0062 | NYS CCO/HHs Serving Individuals with I/DD

Package Header






Package ID	NY2023MS00030	SPA ID	NY-23-0062
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	User-Entered		

Reviewable Unit Instructions

Assurances

- The State provides assurance that it will ensure non-duplication of payment for services similar to Health Homes services that are offered/covered under a different statutory authority, such as 1915(c) waivers or targeted case management.
 - Describe below how non-duplication of payment will be achieved** All rates are published on the DOH website. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers. All of the above payment policies have been developed to assure that there is no duplication of payment for health home services.
- The state has developed payment methodologies and rates that are consistent with section 1902(a)(30)(A).
- The State provides assurance that all governmental and private providers are reimbursed according to the same rate schedule, unless otherwise described above.
- The State provides assurance that it shall reimburse providers directly, except when there are employment or contractual arrangements consistent with section 1902(a)(32).

Optional Supporting Material Upload

Name	Date Created	
2023 NI Rate SFQs (23-0062) (5-31-23)	6/14/2023 1:37 PM EDT	
Part DD 2023-24 Budget	6/22/2023 9:31 AM EDT	
Summary (23-0062)	6/22/2023 10:09 AM EDT	
HCFA (23-0062)(CMS 6-30-23)	6/30/2023 11:10 AM EDT	
Original Submission Letter (23-0062)(CMS 6-30-23)	6/30/2023 11:10 AM EDT	

1 - 5 of 5

PRA Disclosure Statement: Centers for Medicare & Medicaid Services (CMS) collects this mandatory information in accordance with (42 U.S.C. 1396a) and (42 CFR 430.12); which sets forth the authority for the submittal and collection of state plans and plan amendment information in a format defined by CMS for the purpose of improving the state application and federal review processes, improve federal program management of Medicaid programs and Children's Health Insurance Program, and to standardize Medicaid program data which covers basic requirements, and individualized content that reflects the characteristics of the particular state's program. The information will be used to monitor and analyze performance metrics related to the Medicaid and Children's Health Insurance Program in efforts to boost program integrity efforts, improve performance and accountability across the programs. Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1188. The time required to complete this information collection is estimated to range from 1 hour to 80 hours per response (see below), including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

This view was generated on 6/30/2023 4:55 PM EDT

Appendix II
2023 Title XIX State Plan
Second Quarter Amendment
Summary

SUMMARY
SPA #23-0062

This State Plan Amendment proposes to adjust rates statewide to reflect a 4% Cost of Living Adjustment for health home services provided by Care Coordination Organizations for individuals with intellectual and developmental disabilities.

Appendix III
2023 Title XIX State Plan
Second Quarter Amendment
Authorizing Provisions

Part DD of Chapter 57 of the Laws of 2023

PART DD

3 Section 1. 1. Subject to available appropriations and approval of the
4 director of the budget, the commissioners of the office of mental
5 health, office for people with developmental disabilities, office of
6 addiction services and supports, office of temporary and disability
7 assistance, office of children and family services, and the state office
8 for the aging shall establish a state fiscal year 2023-24 cost of living
9 adjustment (COLA), effective April 1, 2023, for projecting for the
10 effects of inflation upon rates of payments, contracts, or any other
11 form of reimbursement for the programs and services listed in paragraphs
12 (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this
13 section. The COLA established herein shall be applied to the appropriate
14 portion of reimbursable costs or contract amounts. Where appropriate,
15 transfers to the department of health (DOH) shall be made as
16 reimbursement for the state share of medical assistance.

17 2. Notwithstanding any inconsistent provision of law, subject to the
18 approval of the director of the budget and available appropriations
19 therefore, for the period of April 1, 2023 through March 31, 2024, the
20 commissioners shall provide funding to support a four percent (4.0%)
21 cost of living adjustment under this section for all eligible programs
22 and services as determined pursuant to subdivision four of this section.

23 3. Notwithstanding any inconsistent provision of law, and as approved
24 by the director of the budget, the 4.0 percent cost of living adjustment
25 (COLA) established herein shall be inclusive of all other cost of living
26 type increases, inflation factors, or trend factors that are newly
27 applied effective April 1, 2023. Except for the 4.0 percent cost of
28 living adjustment (COLA) established herein, for the period commencing
29 on April 1, 2023 and ending March 31, 2024 the commissioners shall not
30 apply any other new cost of living adjustments for the purpose of estab-
31 lishing rates of payments, contracts or any other form of reimbursement.
32 The phrase "all other cost of living type increases, inflation factors,
33 or trend factors" as defined in this subdivision shall not include
34 payments made pursuant to the American Rescue Plan Act or other federal
35 relief programs related to the Coronavirus Disease 2019 (COVID-19)
36 pandemic Public Health Emergency. This subdivision shall not prevent
37 the office of children and family services from applying additional
38 trend factors or staff retention factors to eligible programs and
39 services under paragraph (v) of subdivision four of this section.

40 4. Eligible programs and services. (i) Programs and services funded,
41 licensed, or certified by the office of mental health (OMH) eligible for
42 the cost of living adjustment established herein, pending federal
43 approval where applicable, include: office of mental health licensed
44 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of
45 the office of mental health regulations including clinic, continuing day
46 treatment, day treatment, intensive outpatient programs and partial
47 hospitalization; outreach; crisis residence; crisis stabilization,
48 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric
49 emergency program services; crisis intervention; home based crisis
50 intervention; family care; supported single room occupancy; supported
51 housing; supported housing community services; treatment congregate;
52 supported congregate; community residence - children and youth;
53 treatment/apartment; supported apartment; community residence single
S. 4007--C 150 A. 3007--C

1 room occupancy; on-site rehabilitation; employment programs; recreation;
2 respite care; transportation; psychosocial club; assertive community
3 treatment; case management; care coordination, including health home

4 plus services; local government unit administration; monitoring and
5 evaluation; children and youth vocational services; single point of
6 access; school-based mental health program; family support children and
7 youth; advocacy/support services; drop in centers; recovery centers;
8 transition management services; bridger; home and community based waiver
9 services; behavioral health waiver services authorized pursuant to the
10 section 1115 MRT waiver; self-help programs; consumer service dollars;
11 conference of local mental hygiene directors; multicultural initiative;
12 ongoing integrated supported employment services; supported education;
13 mentally ill/chemical abuse (MICA) network; personalized recovery
14 oriented services; children and family treatment and support services;
15 residential treatment facilities operating pursuant to part 584 of title
16 14-NYCRR; geriatric demonstration programs; community-based mental
17 health family treatment and support; coordinated children's service
18 initiative; homeless services; and promises zone.

19 (ii) Programs and services funded, licensed, or certified by the
20 office for people with developmental disabilities (OPWDD) eligible for
21 the cost of living adjustment established herein, pending federal
22 approval where applicable, include: local/unified services; chapter 620
23 services; voluntary operated community residential services; article 16
24 clinics; day treatment services; family support services; 100% day
25 training; epilepsy services; traumatic brain injury services; hepatitis
26 B services; independent practitioner services for individuals with
27 intellectual and/or developmental disabilities; crisis services for
28 individuals with intellectual and/or developmental disabilities; family
29 care residential habilitation; supervised residential habilitation;
30 supportive residential habilitation; respite; day habilitation; prevoca-
31 tional services; supported employment; community habilitation; interme-
32 diate care facility day and residential services; specialty hospital;
33 pathways to employment; intensive behavioral services; basic home and
34 community based services (HCBS) plan support; health home services
35 provided by care coordination organizations; community transition
36 services; family education and training; fiscal intermediary; support
37 broker; and personal resource accounts.

38 (iii) Programs and services funded, licensed, or certified by the
39 office of addiction services and supports (OASAS) eligible for the cost
40 of living adjustment established herein, pending federal approval where
41 applicable, include: medically supervised withdrawal services - residen-
42 tial; medically supervised withdrawal services - outpatient; medically
43 managed detoxification; medically monitored withdrawal; inpatient reha-
44 bilitation services; outpatient opioid treatment; residential opioid
45 treatment; KEEP units outpatient; residential opioid treatment to absti-
46 nence; problem gambling treatment; medically supervised outpatient;
47 outpatient rehabilitation; specialized services substance abuse
48 programs; home and community based waiver services pursuant to subdivi-
49 sion 9 of section 366 of the social services law; children and family
50 treatment and support services; continuum of care rental assistance case
51 management; NY/NY III post-treatment housing; NY/NY III housing for
52 persons at risk for homelessness; permanent supported housing; youth
53 clubhouse; recovery community centers; recovery community organizing
54 initiative; residential rehabilitation services for youth (RRSY); inten-
55 sive residential; community residential; supportive living; residential
56 services; job placement initiative; case management; family support
S. 4007--C 151 A. 3007--C

1 navigator; local government unit administration; peer engagement; voca-
2 tional rehabilitation; support services; HIV early intervention
3 services; dual diagnosis coordinator; problem gambling resource centers;
4 problem gambling prevention; prevention resource centers; primary
5 prevention services; other prevention services; and community services.

6 (iv) Programs and services funded, licensed, or certified by the
7 office of temporary and disability assistance (OTDA) eligible for the
8 cost of living adjustment established herein, pending federal approval

9 where applicable, include: nutrition outreach and education program
10 (NOEP).

11 (v) Programs and services funded, licensed, or certified by the office
12 of children and family services (OCFS) eligible for the cost of living
13 adjustment established herein, pending federal approval where applica-
14 ble, include: programs for which the office of children and family
15 services establishes maximum state aid rates pursuant to section 398-a
16 of the social services law and section 4003 of the education law; emer-
17 gency foster homes; foster family boarding homes and therapeutic foster
18 homes; supervised settings as defined by subdivision twenty-two of
19 section 371 of the social services law; adoptive parents receiving
20 adoption subsidy pursuant to section 453 of the social services law; and
21 congregate and scattered supportive housing programs and supportive
22 services provided under the NY/NY III supportive housing agreement to
23 young adults leaving or having recently left foster care.

24 (vi) Programs and services funded, licensed, or certified by the state
25 office for the aging (SOFA) eligible for the cost of living adjustment
26 established herein, pending federal approval where applicable, include:
27 community services for the elderly; expanded in-home services for the
28 elderly; and supplemental nutrition assistance program.

29 5. Each local government unit or direct contract provider receiving
30 funding for the cost of living adjustment established herein shall
31 submit a written certification, in such form and at such time as each
32 commissioner shall prescribe, attesting how such funding will be or was
33 used to first promote the recruitment and retention of non-executive
34 direct care staff, non-executive direct support professionals, non-exe-
35 cutive clinical staff, or respond to other critical non-personal service
36 costs prior to supporting any salary increases or other compensation for
37 executive level job titles.

38 6. Notwithstanding any inconsistent provision of law to the contrary,
39 agency commissioners shall be authorized to recoup funding from a local
40 governmental unit or direct contract provider for the cost of living
41 adjustment established herein determined to have been used in a manner
42 inconsistent with the appropriation, or any other provision of this
43 section. Such agency commissioners shall be authorized to employ any
44 legal mechanism to recoup such funds, including an offset of other funds
45 that are owed to such local governmental unit or direct contract provid-
46 er.

47 § 2. This act shall take effect immediately and shall be deemed to
48 have been in full force and effect on and after April 1, 2023.

Appendix IV
2023 Title XIX State Plan
Second 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 Department of Health

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

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

All Services

Effective on or after April 1, 2023, the Department of Health will adjust rates statewide to reflect a 2.5% percent Cost of Living Adjustment for the following Office of Mental Health (OMH), Office of Addiction Services and Supports (OASAS), and Office for People With Developmental Disabilities (OPWDD) State Plan Services: OMH Outpatient Services, OMH Clinic Services, OMH Rehabilitative Services, Children Family Treatment Support Services, Health Home Plus, Psychiatric Residential Treatment Facilities for Children and Youth, OASAS Outpatient Addiction Services, OASAS Freestanding (non-hospital) Inpatient Rehabilitation Services, OASAS Freestanding Inpatient Detox Services, OASAS Addiction Treatment Centers, OASAS Part 820 Residential Services, OASAS Residential Rehabilitation Services for Youth, Intermediate Care Facility (ICF/IDD), Day Treatment, Article 16 Clinic Services, Specialty Hospital, Health Home Services Provided by Care Coordination Organizations, Independent Practitioner Services for Individual with Developmental Disabilities (IPSIDD), and OPWDD Crisis Services.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$53.6 million.

Non-Institutional Services

Effective on and after April 1, 2023, the New York State Department of Health proposes to amend the State Plan to allow for reimbursement of Medicaid covered services provided by pharmacists within their lawful scope of practice, including pharmacist prescribing oral contraceptives and smoking cessation products.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$1.6 million. In the out years the net aggregate in gross Medicaid expenditure for smoking cessation products will be a savings.

Effective on or after April 1, 2024, this proposal would eliminate Prescriber Prevals which applies to the Medicaid fee-for-service pharmacy program. Doing so would reduce inappropriate prescribing, remove barriers that limit the State's ability to manage pharmacy programs, and minimize the inappropriate influence of pharmaceutical manufacturers in the prior authorization process.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is (\$99 million).

Effective on or after April 1, 2023, the Department will remove copayments for over the counter (OTC) products and limit OTC products to those that are medically necessary. Clinically critical products such as aspirin and vitamins and minerals used for deficiencies will continue to be covered, as will less expensive OTC products that are in Preferred Drug Program (PDP) drug classes.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is (\$17.4 million).

Effective on and after April 1, 2023, the New York State Department of Health proposes to amend the State Plan to modify the specific drug class language for excluded drugs, to alternatively use current publicly available Department resources for coverage transparency.

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

Effective on or after April 1, 2023, this proposal continues the supplemental upper payment limit payments made to general hospitals, other than major public general hospitals under non-institutional services of \$339 million annually.

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

For state fiscal year beginning April 1, 2023, through March 31, 2024, this proposal continues hospital outpatient payment adjustments that increase the operating cost components of rates of payment for hospital outpatient and emergency departments on and after April 1, 2011, for public general hospitals other than those operated by the State of New York or the State University of New York, which are located in a city with a population of over one million. The amount to be paid will be up to \$287 million annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Such adjustments shall be paid by means of one or more estimated payments. Payments may be added to rates of payment or made as aggregate payments.

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

For state fiscal year beginning April 1, 2023, through March 31, 2024, this proposal continues payment of up to \$5.4 million in additional annual Medicaid payments to county operated free-standing clinics, not including facilities operated by the New York City Health

and Hospitals Corporation, for services provided by such DTC and those provided by a county operated freestanding mental health or substance abuse DTC. Distributions shall be based on each eligible facility's proportionate share of the sum of all DTC and clinic visits for all eligible facilities receiving payments for the base year two years prior to the rate year. The proportionate share payments may be added to rates of payment or made as aggregate payments to eligible facilities.

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

Effective April 1, 2023, and each state fiscal year thereafter, this amendment proposes to revise the calculation to extract data later on in the calendar year for the applicable dates of service. The current authority to make supplemental payments for services provided by physicians, nurse practitioners and physician assistants will continue.

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

Effective on or after April 1, 2023, the Department of Health will adjust rates for Assisted Living Program (ALP) providers by a 5% across the board increase to the most recently active Operating rate in effect on March 31, 2023, for each provider.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$18 million.

Effective on or after April 1, 2023, the Department of Health will adjust rates for Adult Day Health Care providers by a 5% across the board increase to the most recently active Operating rate in effect on March 31, 2023, for each provider.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$838,000.

Effective on and after April 1, 2023, this notice provides for a temporary rate adjustment with an aggregate payment totaling no less than \$7.5 million annually for Critical Access Hospitals (CAHs), for the periods April 1, 2023, through March 31, 2024, and April 1, 2024, through March 31, 2025. Funding will be allocated to financially distressed hospitals with plans to reconfigure operations by improving financial management, improving quality of care and service delivery and/or improving operational efficiency and cost effectiveness.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$7.5 million and contained in the budget for state fiscal year 2024-2025 is \$7.5 million.

Effective on and after April 1, 2023, this notice provides for a temporary rate adjustment with an aggregate payment amount totaling no less than \$10 million annually, for Essential Community Providers (ECPs) for the periods April 1, 2023, through March 31, 2024, and April 1, 2024, through March 31, 2025. Funding will be allocated to financially distressed hospitals with plans to reconfigure operations by improving financial management, improving quality of care and service delivery and/or improving operational efficiency and cost effectiveness.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$10 million and contained in the budget for state fiscal year 2024-2025 \$10 million.

Effective on or after April 1, 2023, this notice proposes to establish Medical Assistance coverage and rates of payment for rehabilitative services for individuals residing in OMH-licensed residential settings who have been diagnosed with an eating disorder, in order to provide appropriate care and treatment to adults and children with eating disorders.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$4 million.

Effective on or after May 1, 2023, the NYS Medicaid Program proposes to reimburse enrolled ambulance services for administration of vaccinations performed by Emergency Medical Technicians (EMT) / Paramedics employed by the ambulance service. This proposal is

intended to ensure ongoing access to vaccinations after the end of the federal COVID-19 Public Health Emergency.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-24 is \$35,000.

Effective March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act, the Medicaid program assures coverage of COVID-19 vaccines and administration of the vaccines, COVID-19 treatment, including specialized equipment and therapies (including preventive therapies), and COVID-19 testing consistent with the Centers for Disease Control and Prevention (CDC) recommendations.

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

Effective December 1, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act, the Medicaid program proposes to reimburse providers for medically necessary COVID-19 vaccine counseling for children under 21 at a fee of \$25.00 per session.

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

Effective on or after April 1, 2023, the Department of Health will adjust rates statewide to reflect up to a twenty-five percent rate increase for all services provided by School-based Mental Health Outpatient Treatment and Rehabilitative Service (SBMH MHOTRS) programs licensed by the Office of Mental Health.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$9.2 million.

Effective on or after April 1, 2023, Medicaid will increase the APG Base Rates by ten percent for School Based Health Centers (SBHC).

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$2.8 million.

Effective on or after April 1, 2023, a Supplemental Payment Program will be established to reimburse eligible Federally Qualified Health Centers (FQHCs), Rural Health Clinics (RHCs) and Diagnostic and Treatment Centers (DTCs) for potential loss of funding associated with the 340B Drug Pricing Program due to State policy change. Additionally, this Amendment clarifies the reimbursement methodology for the Supplemental Payment Wrap Program for FQHCs and RHCs which provides supplemental payments that are equal to 100% of the difference between the facility's reasonable cost per visit rate and the amount per visit reimbursed by the Medicaid managed care health plan.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$250 million.

Institutional Services

Effective on or after April 1, 2023, this proposal continues the supplemental upper payment limit payments made to general hospitals, other than major public general hospitals under institutional services of \$339 million annually.

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

For state fiscal year beginning April 1, 2023 through March 31, 2024, this proposal continues adjustments for hospital inpatient services provided on and after April 1, 2012, to public general hospitals, other than those operated by the State of New York or the State University of New York, located in a city with a population of over one million and receiving reimbursement of up to \$1.08 billion annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Such adjustments will be paid by means of one or more estimated payments. Payments to eligible public general hospitals may be added to rates of payment or made as aggregate payments.

Public Notice
NYS Department of Health

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

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

All Services

The following is a clarification to the March 29, 2023, noticed provision to adjust rates statewide to reflect a 2.5% Cost of Living Adjustment for the following Office of Mental Health (OMH), Office of Addiction Services and Supports (OASAS), and Office for People With Developmental Disabilities (OPWDD) State Plan Services: OMH Outpatient Services, OMH Clinic Services, OMH Rehabilitative Services, Children Family Treatment Support Services, Health Home Plus, Psychiatric Residential Treatment Facilities for Children and Youth, OASAS Outpatient Addiction Services, OASAS Freestanding (non-hospital) Inpatient Rehabilitation Services, OASAS Freestanding Inpatient Detox Services, OASAS Addiction Treatment Centers, OASAS Part 820 Residential Services, OASAS Residential Rehabilitation Services for Youth, Intermediate Care Facility (ICF/IDD), Day Treatment, Article 16 Clinic Services, Specialty Hospital, Health Home Services Provided by Care Coordination Organizations, Independent Practitioner Services for Individual with Developmental Disabilities (IPSIDD), and OPWDD Crisis Services. **With clarification,** the Cost of Living Adjustment will be four percent (4%) and includes the following services:

OMH Outpatient Services, OMH Inpatient Services, OMH Clinic Services, OMH Rehabilitative Services, Children Family Treatment Support Services, Health Home Plus, Psychiatric Residential Treatment Facilities for Children and Youth, OASAS Outpatient Addiction Services, OASAS Freestanding (non-hospital) Inpatient Rehabilitation Services, OASAS Freestanding Inpatient Detox Services, OASAS Addiction Treatment Centers, OASAS Part 820 Residential Services, OASAS Residential Rehabilitation Services for Youth, Intermediate Care Facility (ICF/IDD), Day Treatment, Article 16 Clinic Services, Specialty Hospital, Health Home Services Provided by Care Coordination Organizations, Independent Practitioner Services for Individual with Developmental Disabilities (IPSIDD), and OPWDD Crisis Services.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$89.8 million.

Institutional Services and Non-Institutional

The following is a clarification to the March 29, 2023, noticed provision to adjust inpatient rates for hospital providers, certified under Article 28 of the Public Health Law, by an additional five percent (5%) across the board increase to the operating portion of the rates. **With clarification**, the across the board increase to the operating portion of the rates will now be seven and one-half percent (7.5%) and includes a non-institutional additional six and one-half percent (6.5%) across the board increase to the operating portion of outpatient rates for hospital providers, for services certified under Article 28 of the Public Health Law.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$244.4 million.

Non-Institutional

The following is a clarification to the March 29, 2023, noticed provision for the Assisted Living Program (ALP) and Adult Day Health Care (ADHC) which stated the Department of Health will adjust rates for these providers by a five percent (5%) across the board increase to the most recently active Operating rate in effect on 3/31/23. **With clarification**, the Department of Health will provide a seven and one-half percent (7.5%) across the board increase for Adult Day Health Care rates (ADHC) and a six and one-half percent (6.5%) across the board increase for Assisted Living Program rates (ALP), to the most recently active operating rate in effect on 3/31/23, for each provider.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$24.7 million.

Long Term Care Services

The following is a clarification to the March 29, 2023, noticed provision to adjust rates for Nursing Home (NH) providers by a five percent (5%) across the board increase to the most recently active Operating rate in effect on March 31, 2023, for each provider. **With clarification**, the across the board increase to the most recently active operating base rates will now be seven and one-half percent (7.5%).

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$403 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. 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:

New York State Department of Health
Division of Finance and Rate Setting
99 Washington Ave
One Commerce Plaza
Suite 1432
Albany, New York 12210
spa_inquiries@health.ny.gov

Appendix V
2023 Title XIX State Plan
Second Quarter Amendment
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #23-0062

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.

- 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 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 receive and retain 100 percent of total Medicaid expenditures claimed by the State and the State does not require any provider to return any portion of such payments to the State, local government entities, or any other intermediary organization.

- 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 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 government 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: The Non-Federal share Medicaid provider payment is funded by a combination of the following funds/funding sources through enacted appropriations authority to the Department of Health (DOH) for the New York State Medicaid program.

Payment Type	Non-Federal Share Funding	4/1/22 – 3/31/23	
		Non-Federal	Gross
Normal Per Diem	General Fund; County Contribution	\$4,753,464.00	\$9,506,927.00

A. **General Fund:** Revenue resources for the State’s General Fund includes taxes (e.g., income, sales, etc.), and miscellaneous fees (including audit recoveries). Medicaid expenditures from the State’s General Fund are authorized from Department of Health Medicaid.

- 1) New York State Audit Recoveries: The Department of Health collaborates with the Office of the Medical Inspector General (OMIG) and the Office of the Attorney General (AG) in recovering improperly expended Medicaid funds. OMIG conducts and coordinates the investigation, detection, audit, and review of Medicaid providers and recipients to ensure they are complying with all applicable laws and regulation. OMIG recovers any improper payments through cash collections and voided claim recoveries. Cash collections are deposited into the State’s General Fund to offset Medicaid costs.

In addition to cash collections, OMIG finds inappropriately billed claims within provider claims. To correct an error, OMIG and DOH process the current accurate claim, and reduce this claim by the inappropriate claim value to recoup the previous overclaim and decrease state spending.

B. Additional Resources for Non-Federal Share Funding:

County Contribution: In State Fiscal Year 2006, through enacted State legislation (Part C of Chapter 58 of the laws of 2005), New York State “capped” the amount localities contributed to the non-Federal share of providers claims. This was designed to relieve pressure on county property taxes and the NYC budget by limiting local contributions having New York State absorb all local program costs above this fixed statutory inflation rate (3% at the time).

However, in State Fiscal Year 2013 New York State provided additional relief to Localities by reducing local contributions annual growth from three percent to zero over

a three-year period. Beginning in State Fiscal Year 2016, counties began paying a fixed cost in perpetuity as follows:

Entity	Annual Amount
New York City	\$4.882B
Suffolk County	\$216M
Nassau County	\$213M
Westchester County	\$199M
Erie County	\$185M
Rest of State (53 Counties)	\$979M
Total	\$6.835B

By eliminating the growth in localities Medicaid costs, the State has statutorily capped total Statewide County Medicaid expenditures at 2015 levels. All additional county Medicaid costs are funded by the State through State funding as described above. DOH provides annual letters to counties providing weekly contributions. Contributions are deposited directly into State escrow account and used to offset 'total' State share Medicaid funding.

NOTE: The Local Contribution is not tied to a specific claim or service category and instead is a capped amount based on 2015 county spending levels as stated above.

- 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 Medicaid payments under this State Plan Amendment are not supplemental 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. Under regulations at 42 CFR 447.272, States are prohibited from setting payment rates for Medicaid inpatient services that exceed a reasonable estimate of the amount that would be paid under Medicare payment principals.**

Response: The Medicaid payments authorized under this State Plan Amendment do not impact the UPL demonstrations.

- 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: Providers do not receive payments that in the aggregate exceed their reasonable costs of providing services. If any providers received payments that in the aggregate exceeded their reasonable costs of providing services, the State would recoup the excess and return the Federal share of the excess to CMS on the 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 complies 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.