



Department of Health

ANDREW M. CUOMO
Governor

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

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

March 28, 2018

Mr. Michael Melendez
Associate Regional Administrator
Department of Health & Human Services
Centers for Medicare & Medicaid Services
New York Regional Office
Division of Medicaid and Children's Health Operations
26 Federal Plaza - Room 37-100 North
New York, New York 10278

RE: SPA #18-0011

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #18-0011 to the Title XIX (Medicaid) State Plan effective January 1, 2018 (Appendix I).

A summary of the plan amendment is provided in Appendix II. Copies of pertinent sections of federal regulation are enclosed for your information (Appendix III).

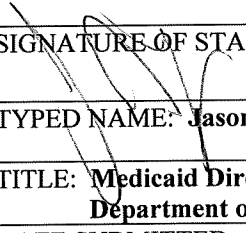
In keeping with our continued agreement, this amendment is being sent to you prior to the end of the first quarter.

If you or your staff have any questions or need further assistance, please do not hesitate to contact Regina Deyette of my staff at (518) 473-3658.

Sincerely,

Jason A. Helgeson
Medicaid Director
Office of Health Insurance Programs

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 18-0011	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE January 1, 2018	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 435.403		7. FEDERAL BUDGET IMPACT: (<i>in thousands</i>) a. FFY 01/01/18-09/30/18 \$4,200.00 b. FFY 10/01/18-09/30/19 \$ 0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: MacPro Portal SPA		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): MacPro Portal SPA	
10. SUBJECT OF AMENDMENT: PR/VI Evacuees Temporary Residency (FMAP = 89.60%)			
11. GOVERNOR'S REVIEW (<i>Check One</i>): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: New York State Department of Health Division of Finance & Rate Setting 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: March 28, 2018			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED:	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

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

CMS-10434 OMB 0938-1188

Package Information

Package ID NY2018MS0004O
Program Name N/A
SPA ID NY-18-0011
Version Number 1
Submitted By Regina Deyette

Submission Type Official
State NY
Region New York, NY
Package Status Review
Submission Date 3/28/2018
Regulatory Clock 89 days remain
Review Status Review 1

Submission - Summary

MEDICAID | Medicaid State Plan | Eligibility | NY2018MS0004O | NY-18-0011

Not Started

In Progress

Complete

Package Header

Package ID NY2018MS0004O
Submission Type Official
Approval Date N/A
Superseded SPA ID N/A

SPA ID NY-18-0011
Initial Submission Date 3/28/2018
Effective Date N/A

Reviewable Unit Instructions

State Information

State/Territory Name: New York

Medicaid Agency Name: Department of Health

Submission Component

State Plan Amendment

Medicaid

CHIP

Submission Type

Official Submission Package

Draft Submission Package

Allow this official package to be viewable by other states?

Yes

No

Key Contacts

Name	Title	Phone Number	Email Address
Deyette, Regina	NYS Medicaid State Plan Coordinatro	(518)473-3658	regina.deyette@health.ny.gov

SPA ID and Effective Date

SPA ID NY-18-0011

Reviewable Unit	Proposed Effective Date	Superseded SPA ID
State Residency	1/1/2018	13-0057

Executive Summary

Summary Description Including Goals and Objectives Evacuees who have been displaced from their homes due to Hurricane Maria will be provided the opportunity to apply to receive services under the Medicaid program.

Dependency Description

Description of any dependencies between this submission package and any other submission package undergoing review none

Disaster-Related Submission

This submission is related to a disaster

- Yes
- No

Disaster Description 2017 Hurricane Maria which devastated Puerto Rico and US Virgin Islands

Federal Budget Impact and Statute/Regulation Citation

Federal Budget Impact

	Federal Fiscal Year	Amount
First	2018	\$4200000
Second	2019	\$0

Federal Statute / Regulation Citation

435.403

Governor's Office Review

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

Authorized Submitter

The following information will be provided by the system once the package is submitted to CMS.

Name of Authorized Submitter Regina Deyette
Phone number 5184733658
Email address regina.deyette@health.ny.gov

Authorized Submitter's Signature Regina Deyette

I hereby certify that I am authorized to submit this package on behalf of the Medicaid Agency.

Submission - Public Comment

MEDICAID | Medicaid State Plan | Eligibility | NY2018MS00040 | NY-18-0011

Not Started

In Progress

Complete

Package Header

Package ID NY2018MS00040
Submission Type Official
Approval Date N/A

SPA ID NY-18-0011
Initial Submission Date 3/28/2018
Effective Date N/A

Superseded SPA ID N/A

Reviewable Unit Instructions

Indicate whether public comment was solicited with respect to this submission.

- Public notice was not federally required and comment was not solicited
- Public notice was not federally required, but comment was solicited
- Public notice was federally required and comment was solicited

Submission - Tribal Input

MEDICAID | Medicaid State Plan | Eligibility | NY2018MS0004O | NY-18-0011

Not Started	In Progress	Complete
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Package Header

Package ID NY2018MS0004O	SPA ID NY-18-0011
Submission Type Official	Initial Submission Date 3/28/2018
Approval Date N/A	Effective Date N/A
Superseded SPA ID N/A	

Reviewable Unit Instructions

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

- Yes
- No

Explain why this SPA is not likely to have a direct effect on Indians, Indian Health Programs or Urban Indian Organizations

This will provide temporary residency to PR & VI evacuees

- Even though not required, the state has solicited advice from Indian Health Programs and/or Urban Indian Organizations prior to submission of this SPA
- The state has not solicited advice from Indian Health Programs and/or Urban Indian Organizations 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: 2/22/2018	Method of solicitation/consultation: consultation mailed, no response received
--	--

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:
2/22/2018	consultation mailed, no response received

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	Type
Tribal 1 (18-0011) (3-23-18)	3/23/2018 12:42 PM EDT	
Tribal 2 (18-0011) (3-23-18)	3/23/2018 12:42 PM EDT	
Tribal 3 (18-0011) (3-23-18)	3/23/2018 12:42 PM EDT	
Tribal 4 (18-0011) (3-23-18)	3/23/2018 12:42 PM EDT	

Indicate the key issues raised (optional)

- Access
- Quality
- Cost
- Payment methodology
- Eligibility
- Benefits
- Service delivery
- Other issue

Medicaid State Plan Eligibility

Non-Financial Eligibility

State Residency

MEDICAID | Medicaid State Plan | Eligibility | NY2018MS0004O | NY-18-0011

Not Started

In Progress

Complete

Package Header

Package ID	NY2018MS0004O	SPA ID	NY-18-0011
Submission Type	Official	Initial Submission Date	3/28/2018
Approval Date	N/A	Effective Date	1/1/2018
Superseded SPA ID	13-0057		
	System-Derived		

Reviewable Unit Instructions

The state provides Medicaid to otherwise eligible residents of the state, including residents who are absent from the state under certain conditions.

A. Mandatory Residency Requirements

The state considers individuals under the following conditions to be residents of the state:

1. Non-institutionalized individuals age 21 and over, or under age 21, capable of indicating intent and who are emancipated or married, if the individual is living in the state and:
 - a. Intends to reside in the state, including without a fixed address, or
 - b. Entered the state with a job commitment or seeking employment, whether or not currently employed.
2. Individuals age 21 and over, not living in an institution, who are not capable of indicating intent, are residents of the state in which they live.
3. Non-institutionalized individuals under 21 who are not emancipated or married and who are not receiving payments under Title IV-E of the Social Security Act:
 - a. Residing in the state, with or without a fixed address, or
 - b. The state of residency of the parent or caretaker, in accordance with 42 CFR. 435.403(h)(1), with whom the individual resides.
4. Individuals living in institutions, as defined in 42 CFR 435.1010, including foster care homes, who became incapable of indicating intent before age 21 and individuals under age 21 living in institutions who are not emancipated or married:
 - a. Regardless of in which state the individual resides, if the parent or guardian applying for Medicaid on the individual's behalf resides in the state, or
 - b. Regardless of in which state the individual resides, if the parent or guardian resides in the state at the time of the individual's placement, or
 - c. If the individual applying for Medicaid on the individual's behalf resides in the state and the parental rights of the institutionalized individual's parent(s) were terminated and no guardian has been appointed and the individual is institutionalized in the state.
5. Individuals living in institutions who became incapable of indicating intent at or after age 21, if physically present in the state, unless another state made the placement.
6. Individuals who have been placed in an out-of-state institution, including foster care homes, by an agency of the state.
7. Any other institutionalized individual age 21 or over when living in the state with the intent to reside there, and not placed in the institution by another state.
8. Individuals receiving IV-E payments living in the state, or
9. Individuals who otherwise meet the requirements of 42 CFR 435.403.

B. Interstate Agreements

Individuals are considered to be residents of the state if they meet the criteria specified in an interstate agreement.

- Yes
 No

C. Students from Other States

The state has a policy related to individuals in the state only to attend school.

- Yes
 No

D. Temporary Absence from the State

The state considers individuals who are state residents and who are temporarily absent from the state, to be state residents if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined that the individual is a resident there for purposes of Medicaid eligibility, in accordance with 435.403(j)(3).

The state has an additional definition of temporary absence, including treatment of individuals who attend school in another state.

- Yes
 No

E. Additional Information (optional)

New York State will consider individuals who have evacuated from Puerto Rico and the U.S. Virgin Islands to New York due to Hurricane Maria, as residents of New York State for the purposes of Medicaid eligibility. This provision is in effect for the duration of the Public Health Emergency

which was issued, pursuant to section 319 of the Public Health Service Act, on September 19, 2017, for the Commonwealth of Puerto Rico and the Territory of the U.S. Virgin Islands.

PRA Disclosure Statement: 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 average 40 hours per response, 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.

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Appendix II
2018 Title XIX State Plan
First Quarter Amendment
Summary

SUMMARY
SPA #18-0011

This State Plan Amendment proposes to provide temporary residency to evacuees of Puerto Rico and the Virgin Islands due to a natural disaster.

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

§435.403 State residence.

(a) *Requirement.* The agency must provide Medicaid to eligible residents of the State, including residents who are absent from the State. The conditions under which payment for services is provided to out-of-State residents are set forth in §431.52 of this chapter.

(b) *Definition.* For purposes of this section—*Institution* has the same meaning as *Institution* and *Medical institution*, as defined in §435.1010. For purposes of State placement, the term also includes *foster care homes*, licensed as set forth in 45 CFR 1355.20, and providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

(c) *Incapability of indicating intent.* For purposes of this section, an individual is considered incapable of indicating intent if the individual—

(1) Has an I.Q. of 49 or less or has a mental age of 7 or less, based on tests acceptable to the Intellectual Disability agency in the State:

(2) Is judged legally incompetent; or

(3) Is found incapable of indicating intent based on medical documentation obtained from a physician, psychologist, or other person licensed by the State in the field of intellectual disability.

(d) *Who is a State resident.* A resident of a State is any individual who:

(1) Meets the conditions in paragraphs (e) through (i) of this section; or

(2) Meets the criteria specified in an interstate agreement under paragraph (k) of this section.

(e) *Placement by a State in an out-of-State institution—*(1) *General rule.* Any agency of the State, including an entity recognized under State law as being under contract with the State for such purposes, that arranges for an individual to be placed in an institution located in another State, is recognized as acting on behalf of the State in making a placement. The State arranging or actually making the placement is considered as the individual's State of residence.

(2) Any action beyond providing information to the individual and the individual's family would constitute arranging or making a State placement. However, the following actions do not constitute State placement:

(i) Providing basic information to individuals about another State's Medicaid program, and information about the availability of health care services and facilities in another State.

(ii) Assisting an individual in locating an institution in another State, provided the individual is capable of indicating intent and independently decides to move.

(3) When a competent individual leaves the facility in which the individual is placed by a State, that individual's State of residence for Medicaid purposes is the State where the individual is physically located.

(4) Where a placement is initiated by a State because the State lacks a sufficient number of appropriate facilities to provide services to its residents, the State making the placement is the individual's State of residence for Medicaid purposes.

(f) *Individuals receiving a State supplementary payment (SSP).* For individuals of any age who are receiving an SSP, the State of residence is the State paying the SSP.

(g) *Individuals receiving Title IV-E payments.* For individuals of any age who are receiving Federal payments for foster care and adoption assistance under title IV-E of the Social Security Act, the State of residence is the State where the child lives.

(h) *Individuals age 21 and over.* Except as provided in paragraph (f) of this section, with respect to individuals age 21 and over —

(1) For an individual not residing in an institution as defined in paragraph (b) of this section, the State of residence is the State where the individual is living and—

(i) Intends to reside, including without a fixed address; or

(ii) Has entered the State with a job commitment or seeking employment (whether or not currently employed).

(2) For an individual not residing in an institution as defined in paragraph (b) of this section who is not capable of stating intent, the State of residency is the State where the individual is living.

(3) For any institutionalized individual who became incapable of indicating intent before age 21, the State of residence is—

(i) That of the parent applying for Medicaid on the individual's behalf, if the parents reside in separate States (if a legal guardian has been appointed and parental rights are terminated, the State of residence of the guardian is used instead of the parent's);

(ii) The parent's or legal guardian's State of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the State of residence of the guardian is used instead of the parent's); or

(iii) The current State of residence of the parent or legal guardian who files the application if the individual is institutionalized in that State (if a legal guardian has been appointed and parental rights are terminated, the State of residence of the guardian is used instead of the parent's).

(iv) The State of residence of the individual or party who files an application is used if the individual has been abandoned by his or her parent(s), does not have a legal guardian and is institutionalized in that State.

(4) For any institutionalized individual who became incapable of indicating intent at or after age 21, the State of residence is the State in which the individual is physically present, except where another State makes a placement.

(5) For any other institutionalized individual, the State of residence is the State where the individual is living and intends to reside.

(i) *Individuals under age 21.* For an individual under age 21 who is not eligible for Medicaid based on receipt of assistance under title IV-E of the Act, as addressed in paragraph (g) of this section, and is not receiving a State supplementary payment, as addressed in paragraph (f) of this section, the State of residence is as follows:

(1) For an individual who is capable of indicating intent and who is emancipated from his or her parent or who is married, the State of residence is determined in accordance with paragraph (h)(1) of this section.

(2) For an individual not described in paragraph (i)(1) of this section, not living in an institution as defined in paragraph (b) of this section and not eligible for Medicaid based on receipt of assistance under title IV-E of the Act, as addressed in paragraph (g) of this section, and is not receiving a State supplementary payment, as addressed in paragraph (f) of this section, the State of residence is:

(i) The State where the individual resides, including without a fixed address; or

(ii) The State of residency of the parent or caretaker, in accordance with paragraph (h)(1) of this section, with whom the individual resides.

(3) For any institutionalized individual who is neither married nor emancipated, the State of residence is—

(i) The parent's or legal guardian's State of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the State of residence of the guardian is used instead of the parent's); or

(ii) The current State of residence of the parent or legal guardian who files the application if the individual is institutionalized in that State (if a legal guardian has been appointed and parental rights are terminated, the State of residence of the guardian is used instead of the parent's).

(iii) The State of residence of the individual or party who files an application is used if the individual has been abandoned by his or her parent(s), does not have a legal guardian and is institutionalized in that State.

(j) *Specific prohibitions.* (1) The agency may not deny Medicaid eligibility because an individual has not resided in the State for a specified period.

(2) The agency may not deny Medicaid eligibility to an individual in an institution, who satisfies the residency rules set forth in this section, on the grounds that the individual did not establish residence in the State before entering the institution.

(3) The agency may not deny or terminate a resident's Medicaid eligibility because of that person's temporary absence from the State if the person intends to return when the purpose of the absence has been accomplished, unless another State has determined that the person is a resident there for purposes of Medicaid.

(k) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraphs (c) through (i) of this section, but must not include criteria that result in loss of residency in both States or that are prohibited by paragraph (j) of this section. The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case. States may use interstate agreements for purposes other than cases of disputed residency to facilitate administration of the program, and to facilitate the placement and adoption of title IV-E individuals when the child and his or her adoptive parent(s) move into another State.

(l) *Continued Medicaid for institutionalized beneficiaries.* If an agency is providing Medicaid to an institutionalized beneficiary who, as a result of this section, would be considered a resident of a different State—