



# Department of Health

KATHY HOCHUL  
Governor

MARY T. BASSETT, M.D., M.P.H.  
Commissioner

KRISTIN M. PROUD  
Acting Executive Deputy Commissioner

June 30, 2022

Todd McMillion  
Director  
Department of Health and Human Services  
Centers for Medicare and Medicaid Services  
233 North Michigan Ave, Suite 600  
Chicago, IL 60601

Re: SPA #22-0040  
Inpatient Hospital Services

Dear Mr. McMillion:

The State requests approval of the enclosed amendment #22-0040 to the Title XIX (Medicaid) State Plan for inpatient hospital services to be effective April 1, 2022 (Appendix I). This amendment is being submitted based upon enacted legislation. A summary of the proposed amendment is contained in Appendix II.

This amendment is submitted pursuant to §1902(a) of the Social Security Act (42 USC 1396a(a)) and Title 42 of the Code of Federal Regulations (CFR), Part 447, Subpart C.

Notice of the changes in the methods and standards for setting payment rates for general hospital inpatient services were given in the New York State Register on March 30, 2022. A copy of pertinent sections of enacted legislation is enclosed for your information (Appendix III). 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  
Acting Medicaid Director  
Office of Health Insurance Programs

Enclosures

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

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX

XXI

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

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

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

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

9. SUBJECT OF AMENDMENT

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

15. RETURN TO

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED June 30, 2022

**FOR CMS USE ONLY**

16. DATE RECEIVED

17. DATE APPROVED

**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**  
**2022 Title XIX State Plan**  
**Second Quarter Amendment**  
**Amended SPA Pages**

**New York  
5(b)**

**1905(a)(1) Inpatient Hospital Services**

**VII. ADDITIONAL INPATIENT STATE PUBLIC HOSPITAL UPPER PAYMENT LIMIT  
(UPL) ADJUSTMENTS**

1. Effective for State UPL demonstrations for calendar year 2020 and after, if CMS determines that payments for inpatient hospital services provided by State government-owned hospitals exceed the UPL, the State will remit such amount in excess of the UPL as follows: The State will process a lump sum reduction equivalent to the value of the UPL excess upon approval of the UPL.
2. For the period beginning January 1, 2020, and each calendar year thereafter, the State will provide a supplemental payment for all inpatient services provided by State government-owned hospitals. The amount of the supplemental payment, when aggregated with other [M]medical assistance payments, will not exceed 100% of a reasonable estimate of the amount that would be paid for such services under Medicare payment principles for State government-owned hospitals. Such a supplemental payment will be allocated and paid to OMH-operated hospitals based on the proportionate share of total base year Medicaid days used for the inpatient rate calculation and will be factored into facility-specific Disproportionate Share (DSH) limit calculations.

For the period January 1, [2021] 2022, through December 31, [2021] 2022, the supplemental payment will be [~~\$8,561,531~~] \$10,000,000 and will be payable as a one-time lump sum.

TN #22-0040

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

Supersedes TN #21-0042

Effective Date April 01, 2022

**Appendix II**  
**2022 Title XIX State Plan**  
**Second Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #22-0040**

This State Plan Amendment proposes to extend supplemental payments made for inpatient hospital services in State government owned hospitals. These payments reflect adjustments to qualifying hospitals.

**Appendix III**  
**2022 Title XIX State Plan**  
**Second Quarter Amendment**  
**Authorizing Provisions**

## STATE OF NEW YORK

S. 8003

A. 9003

## SENATE - ASSEMBLY

January 18, 2022

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT making appropriations for the support of government

## AID TO LOCALITIES BUDGET

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. a) The several amounts specified in this chapter for aid to  
2 localities, or so much thereof as shall be sufficient to accomplish the  
3 purposes designated by the appropriations, are hereby appropriated and  
4 authorized to be paid as hereinafter provided, to the respective public  
5 officers and for the several purposes specified.

6 b) Where applicable, appropriations made by this chapter for expendi-  
7 tures from federal grants for aid to localities may be allocated for  
8 spending from federal grants for any grant period beginning, during, or  
9 prior to, the state fiscal year beginning on April 1, 2022 except as  
10 otherwise noted.

11 c) The several amounts named herein, or so much thereof as shall be  
12 sufficient to accomplish the purpose designated, being the undisbursed  
13 and/or unexpended balances of the prior year's appropriations, are here-  
14 by reappropriated from the same funds and made available for the same  
15 purposes as the prior year's appropriations, unless herein amended, for  
16 the fiscal year beginning April 1, 2022. Certain reappropriations in  
17 this chapter are shown using abbreviated text, with three leader dots  
18 (an ellipsis) followed by three spaces (... ) used to indicate where  
19 existing law that is being continued is not shown. However, unless a  
20 change is clearly indicated by the use of brackets [ ] for deletions and  
21 underscores for additions, the purposes, amounts, funding source and all  
22 other aspects pertinent to each item of appropriation shall be as last  
23 appropriated.

24 For the purpose of complying with the state finance law, the year,  
25 chapter and section of the last act reappropriating a former original  
26 appropriation or any part thereof is, unless otherwise indicated, chap-  
27 ter 53, section 1, of the laws of 2021.

28 d) No moneys appropriated by this chapter shall be available for  
29 payment until a certificate of approval has been issued by the director  
30 of the budget, who shall file such certificate with the department of  
31 audit and control, the chairperson of the senate finance committee and  
32 the chairperson of the assembly ways and means committee.

33 e) Notwithstanding any provision of law to the contrary, for purposes  
34 of any appropriation made by this chapter which authorizes spending in  
35 an amount net of refunds, rebates, reimbursements, credits, repayments,  
36 and/or disallowances, "refunds" shall mean funds received to the state  
37 resulting from the overpayment of monies, "rebates" shall mean funds

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[ ] is old law to be omitted.



1 received to the state resulting from a return of a full or partial  
2 amount previously paid, as for goods or services, serving as a  
3 reduction, discount or rebate to the original payment amount,  
4 "reimbursements" shall mean funds received to the state as repayment in  
5 an equivalent amount for goods or services, including but not limited to  
6 personal service costs, incurred by the state in the first instance  
7 being provided to a third party for their benefit and partially or in  
8 full financed by such third party, "credit" shall mean monies made  
9 available to the state that reduce the amount owed to a third party,  
10 including but not limited to billing errors, rebates, and prior overpay-  
11 ments, "repayment" shall mean the return of monies as pay back for  
12 expenses incurred, and "disallowance" shall mean monies made available  
13 to the state that were not allowed or accepted officially by the  
14 intended recipient, based on a determination the payment is not accepta-  
15 ble and/or valid. When the office of the state comptroller receives any  
16 such refunds, rebates, reimbursements, credits, repayments, and/or  
17 disallowances, he or she shall credit the refunded, rebated, reimbursed,  
18 credited, repaid, and disallowed amount back to the original appropri-  
19 ation and reduce expenditures in the year which such credit is received  
20 regardless of the timing of the initial expenditure.

21 f) Notwithstanding any other provision of law to the contrary, if the  
22 state or any agency thereof incurs any costs associated with administer-  
23 ing the rent regulation program in accordance with subdivision (c) of  
24 section 8 of chapter 576 of the laws of 1974, as amended, for a city  
25 having a population of one million or more, the director of the budget  
26 may direct any other state agency or agencies making payments to such  
27 city, or any department, agency, or instrumentality thereof, to perma-  
28 nently reduce the amount of any other payment or payments owed to such  
29 city or any department, agency, or instrumentality thereof pursuant to  
30 any appropriation set forth in this chapter. Provided however, that such  
31 reduction shall be in an amount equal to the costs incurred by the state  
32 or agency thereof in accordance with subdivision (c) of section 8 of  
33 chapter 576 of the laws of 1974 and provided further that such direction  
34 shall be made in writing by the director of the budget. If the director  
35 of the budget makes such direction pursuant to the authority set forth  
36 herein, the impacted city shall not make the payments required by subdivi-  
37 sion (c) of section 8 of chapter 576 of the laws of 1974, as amended,  
38 and the division of housing and community renewal shall notify such city  
39 in writing of what payment or payments will be reduced and the amount of  
40 such reduction. To the extent a city of one million or more or any  
41 department, agency, or instrumentality thereof is entitled to any cash  
42 disbursement authorized by any appropriation contained in this chapter,  
43 such entitlement shall be reduced commensurate with reductions in  
44 payments made in accordance with this part.

45 g) Notwithstanding any provision of law to the contrary, upon enact-  
46 ment of this chapter of the laws of 2022 containing the aid to locali-  
47 ties budget bill for the state fiscal year 2022-2023, all appropriations  
48 and reappropriations contained in chapter 53 of the laws of 2021, which  
49 would otherwise lapse by operation of law on March 31, 2023 are hereby  
50 repealed.

51 h) The appropriations contained in this chapter shall be available for  
52 the fiscal year beginning on April 1, 2022 except as otherwise noted.

53

DEPARTMENT OF HEALTH

AID TO LOCALITIES 2022-23

1 ation covering fiscal year 2022-23 shall  
2 supersede and replace any duplicative (i)  
3 reappropriation for this item covering  
4 fiscal year 2022-23, and (ii) appropri-  
5 ation for this item covering fiscal year  
6 2022-23 set forth in chapter 53 of the  
7 laws of 2021 (29807) ..... 11,000,000

8 For services and expenses for nursing homes  
9 to increase resident facing staffing  
10 services provided by registered nurses,  
11 licensed practical nurses and certified  
12 nursing assistants sufficient to attain  
13 the highest practicable physical, mental  
14 and psychological well-being of each resi-  
15 dent of such facilities as further speci-  
16 fied in a chapter of the laws of 2021.  
17 Provided however, that nursing homes which  
18 spend less than 70 percent of revenues on  
19 direct resident care or less than 40  
20 percent of revenues on resident-facing-  
21 staffing shall not be eligible for monies  
22 authorized herein. Provided further howev-  
23 er, that no monies shall be available for  
24 expenditure from this appropriation unless  
25 submitted in a plan by the commissioner of  
26 the department of health and approved by  
27 the director of the budget (59025) ..... 187,000,000

28 For services and expenses related to  
29 providing healthcare and mental hygiene  
30 worker bonuses; provided, however, that  
31 funds shall not be made available pursuant  
32 to this appropriation for services and  
33 expenses related to providing healthcare  
34 and mental hygiene worker bonuses unless  
35 the legislature shall pass the appropriate  
36 chapter law of 2022 which adds section  
37 367-w to the social services law in a form  
38 identical to that submitted by the  
39 executive in budget bill S8007/A9007 as  
40 part of the fiscal year 2022-2023 budget  
41 submission ..... 861,248,000

42 For the state share of medical assistance  
43 services expenses incurred by the depart-  
44 ment of health for the provision of  
45 medical assistance including services to  
46 people with developmental disabilities for  
47 mental hygiene stabilization.

48 Notwithstanding any provision of law to the  
49 contrary, the portion of this appropri-  
50 ation covering fiscal year 2022-23 shall  
51 supersede and replace any duplicative (i)  
52 reappropriation for this item covering  
53 fiscal year 2022-23, and (ii) appropri-  
54 ation for this item covering fiscal year  
55 2022-23 set forth in chapter 53 of the  
56 laws of 2021 (29561) ..... 466,794,000

57 For services and expenses of the medical  
58 assistance program including medical  
59 services provided at state facilities  
60 operated by the office of mental health,  
61

DEPARTMENT OF HEALTH

AID TO LOCALITIES 2022-23

1 the office for people with developmental  
 2 disabilities and the office of addiction  
 3 services and supports.  
 4 Notwithstanding any provision of law to the  
 5 contrary, the portion of this appropri-  
 6 ation covering fiscal year 2022-23 shall  
 7 supersede and replace any duplicative (i)  
 8 reappropriation for this item covering  
 9 fiscal year 2022-23, and (ii) appropri-  
 10 ation for this item covering fiscal year  
 11 2021-22 set forth in chapter 53 of the  
 12 laws of 2020 (26961) .....10,000,000,000  
 13  
 14 Program account subtotal .....49,987,336,000  
 15 -----

16  
 17 Special Revenue Funds - Federal  
 18 Federal Health and Human Services Fund  
 19 Medicaid Direct Account - 25106  
 20

21 For services and expenses for the medical  
 22 assistance program, including administra-  
 23 tive expenses for local social services  
 24 districts, pursuant to title XIX of the  
 25 federal social security act or its succes-  
 26 sor program.

27 Notwithstanding section 40 of the state  
 28 finance law or any other law to the  
 29 contrary, all medical assistance appropri-  
 30 ations made from this account shall remain  
 31 in full force and effect in accordance, in  
 32 the aggregate, with the following sched-  
 33 ule: not more than 52 percent for the  
 34 period April 1, 2022 to March 31, 2023;  
 35 and the remaining amount for the period  
 36 April 1, 2023 to March 31, 2024.

37 The moneys hereby appropriated are to be  
 38 available for payment of aid heretofore  
 39 accrued or hereafter accrued to munic-  
 40 ipalities, and to providers of medical  
 41 services pursuant to section 367-b of the  
 42 social services law, and for payment of  
 43 state aid to municipalities and to provid-  
 44 ers of family care where payment systems  
 45 through the fiscal intermediaries are not  
 46 operational.

47 Notwithstanding any inconsistent provision  
 48 of law, funding made available by these  
 49 appropriations shall support direct salary  
 50 costs and related fringe benefits within  
 51 the medical assistance program associated  
 52 with any minimum wage increase that takes  
 53 effect during the timeframe of these  
 54 appropriations, pursuant to section 652 of  
 55 the labor law. Each eligible organization  
 56 in receipt of funding made available by  
 57 these appropriations may be required to  
 58 submit written certification, in such form  
 59 and at such time the commissioner may  
 60 prescribe, attesting to the total amount  
 61 of funds used by the eligible organiza-  
 62 tion, how such funding will be or was used

**Appendix IV**  
**2022 Title XIX State Plan**  
**Second Quarter Amendment**  
**Public Notice**

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2022/2023 is \$9.8 million.

Effective on or after April 1, 2022, the Medicaid fee-for-service Schedule will be adjusted to increase the reimbursement rate for midwifery services such that midwives will be reimbursed at 95% of the physician fee-for-service schedule.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this action contained in the budget for state fiscal year 2022/2023 is \$2.8 million.

Effective on or after April 1, 2022, this notice proposes to enhance (increase) state established reimbursement rates as follows:

Contingent upon approval of the Fiscal Year 2023 State Budget, established rates will be enhanced for the top twenty (20) state-plan approved orthotics and prosthetics (O & P) for Fee-for Service (FFS) and managed care members from the current Medicaid rate to 80% of the Medicare reimbursement rate.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023 is \$8 million.

#### Institutional Services

Effective on or after April 1, 2022, 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 change to the annual gross Medicaid expenditures as a result of this proposed amendment.

For state fiscal year beginning April 1, 2022 through March 31, 2023, 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 shall 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.

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

For state fiscal year beginning April 1, 2022, through March 31, 2023, this proposal continues supplemental payments to State government owned hospitals. These payments will not exceed the upper payment limit for inpatient services provided by state government-owned hospitals when aggregated with other Medicaid payments.

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

Effective on or after April 1, 2022, this proposal would extend the requirement to rebase and update the Service Intensity Weights (SIWs) for the acute Diagnostic Related Group (DRG) hospital rates no less frequently than every four years from July 1, 2022, to on or after January 1, 2024. It also revises the requirement for the base year used for rebasing. The new base year may be more than four years prior to the first applicable rate period that utilizes such new base year.

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

Effective on or after April 1, 2022, additional medical assistance, known as, Intergovernmental Transfer (IGT) payments, for inpatient hospital services may be made to public general hospitals operated by the State of New York or the State University of New York, or by a county which shall not include a city with a population over one million, and those public general hospitals located in the counties of Westchester, Erie, or Nassau, up to one hundred percent (100%) of each such public hospital's medical assistance, and uninsured patient losses after all other medical assistance, including disproportionate share hospital (DSH) payments to such public general hospitals. Payments will be made by means of one or more estimated distributions

initially based on the latest DSH audit results, which shall later be reconciled to such payment year's actual DSH audit uncompensated care costs. Payments may be added to rates of payment or made as aggregate payments. Such payments will continue April 1, 2022, through March 31, 2025.

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

Effective on and after April 1, 2022, through March 31, 2024, this notice provides for funding to distressed hospitals.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 2023 is \$200 million.

Effective for days of service on or after April 1, 2022, The Department of Health will adjust inpatient psychiatric fee-for-service per diem rates of reimbursement for distinct exempt units specializing in inpatient psychiatric services, in Article 28 hospitals, by increasing the case mix neutral psychiatric statewide per diem base price to produce a full annual net aggregate increase in gross Medicaid expenditures of \$55 million. This State Plan Amendment is necessary to more adequately reimburse hospitals for providing these services and to better meet the community's mental health needs.

#### Long Term Care Services

Effective on or after April 1, 2022, this proposal continues additional payments to non-state government operated public residential health care facilities, including public residential health care facilities located in Nassau, Westchester, and Erie Counties, but excluding public residential health care facilities operated by a town or city within a county, in aggregate amounts of up to \$500 million. The amount allocated to each eligible public RHCf will be in accordance with the previously approved methodology, provided, however that patient days shall be utilized for such computation reflecting actual reported data. Payments to eligible RHCf's may be added to rates of payment or made as aggregate payments.

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

Effective on and after April 1, 2022, this notice provides for \$30 million annually in temporary rate adjustments to long term care providers that are undergoing closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are authorized by current State statutory and regulatory provisions. The temporary rate adjustments will be reviewed and approved by the CINERGY Collaborative.

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

Effective on and after April 1, 2022, through March 31, 2024, this notice provides for temporary rate adjustments to long term care providers that are undergoing closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are authorized by current State statutory and regulatory provisions.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 2023 is \$200 million.

#### Eligibility

Effective January 1, 2023, the Medicaid program will eliminate the resource test for aged, blind and disabled applicants and recipients and raise the income eligibility level to 138% of the federal poverty level for aged, blind, disabled and other medically needy applicants and recipients.

The estimated net aggregate increase in gross Medicaid expenditures as a result of the proposed amendment for State Fiscal Year 2023 is \$10 million.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status). In addition, approved SPA's beginning in 2011 are also available for viewing on this website.

Copies of the proposed State Plan Amendments will be on file in

**Appendix V**  
**2022 Title XIX State Plan**  
**Second Quarter Amendment**  
**Responses to Standard Funding Questions**

**INSTITUTIONAL SERVICES**  
**State Plan Amendment #22-0040**

**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-A 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 do receive and retain the 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.

|                     |                                     | <b>4/1/22 – 3/31/23</b> |              |
|---------------------|-------------------------------------|-------------------------|--------------|
| <b>Payment Type</b> | <b>Non-Federal Share Funding</b>    | <b>Non-Federal</b>      | <b>Gross</b> |
| Supplemental        | General Fund; Special Revenue Funds | \$5,000,000             | \$10,000,000 |

1) **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.

- a. 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.

**2) Special Revenue Funds:**

- a. Health Care Reform Act (HCRA) Resource Fund: as authorized in section 92-dd of New York State Finance Law and was established in 1996, pursuant to New York State Public Health Law 2807-j. HCRA resources include health care related surcharges, assessments on hospital revenues, and a “covered lives” assessment paid by insurance carriers pursuant to chapter 820 of the laws of 2021.



- b. Health Facility Cash Assessment Program (HFCAP) Fund: HFCAP requires New York State designated providers to pay an assessment on cash operating receipts on a monthly basis. The assessment includes Article 28 Residential Health Care Facilities, Article 28 General Hospitals, Article 36 Long Term Home Health Care Programs, Article 36 Certified Home Health Agencies and Personal Care Providers that possess a Title XIX (i.e. Medicaid) contract with a Local Social Services District for the delivery of personal care services pursuant to Section 367-i of the New York State Social Services Law.

NOTE: New York's Health Care taxes are either broad based and uniform (as in all HFCAP assessments except for the Personal Care Provider Cash Assessment) or have a specific exemption known as the "D'Amato provision (Federal PHL section 105-33 4722 (c))" which allows the HCRA surcharges to exist in their current format. The single tax which has been determined by the State to be an impermissible provider tax is the HFCAP charge on Personal Care Providers. The State does not claim any Federal dollars for the surcharge collected in this manner in order to comply with all Federal provider tax rules.

- 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 authorized under this State Plan Amendment are supplemental payments and total \$10 million for State Fiscal Year 2022-23. Please note that the dollar amount currently listed in the plan page is a placeholder and will be updated once the calculation is completed.

- 4. 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 inpatient UPL demonstration utilizes cost-to-payment and payment-to-payment methodologies to estimate the upper payment limit for each class of providers. The State is in the process of completing the 2022 inpatient UPL as well as the Procedural Manual which describes the methodology for eligible providers and will be submitting both documents to CMS.

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.