



**Department
of Health**

KATHY HOCHUL
Governor

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

MEGAN E. BALDWIN
Acting Executive Deputy Commissioner

March 30, 2023

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 #23-0031
Inpatient Rehabilitation Services
Residential Rehabilitation Services for Youth

Dear Mr. McMillion:

The State requests approval of the enclosed amendment #23-0031 to the Title XIX (Medicaid) State Plan for inpatient rehabilitation services to be effective January 1, 2023 (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 inpatient rehabilitation services was given in the New York State Register on October 26, 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
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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)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

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED March 30, 2023

15. RETURN TO

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
2023 Title XIX State Plan
First Quarter Amendment
Amended SPA Pages

New York
12

1905(a)(16): IMD under age 21

Statewide RRSY Fees:

Bed Size	RRSY Fees	Bed Size	RRSY Fees	Bed Size	RRSY Fees	Bed Size	RRSY Fees	Bed Size	RRSY Fees	Bed Size	RRSY Fees
14	\$418.43	22	\$374.90	30	\$347.69	38	\$328.28	46	\$313.39	54	\$301.41
15	\$411.47	23	\$370.88	31	\$344.93	39	\$326.21	47	\$311.75	55	\$300.07
16	\$405.07	24	\$367.06	32	\$342.28	40	\$324.21	48	\$310.16	56	\$298.76
17	\$399.14	25	\$363.44	33	\$339.73	41	\$322.27	49	\$308.61	57	\$297.48
18	\$393.64	26	\$359.99	34	\$337.27	42	\$320.39	50	\$307.10	58	\$296.22
19	\$388.50	27	\$356.70	35	\$334.90	43	\$318.56	51	\$305.63	59	\$294.99
20	\$383.69	28	\$353.57	36	\$332.62	44	\$316.79	52	\$304.19	60+	\$293.79
21	\$379.17	29	\$350.56	37	\$330.41	45	\$315.06	53	\$302.78		

The geographic regions and regional cost factors applicable to the statewide RRSY fees from the first table are as follows:

Region	Factor	Counties
1	1.2267	Bronx, Kings, New York, Richmond, Queens
2	1.2001	Westchester
3	1.1825	Nassau, Suffolk, Rockland, Orange
4	1.1009	Dutchess, Putnam
5	1.0317	Erie, Niagara
6	0.9710	Madison, Onondaga, Oswego, Tompkins, Jefferson, Herkimer, Oneida
7	0.9192	Rest of State

Effective April 1, 2022, the January 1, 2019, rates in the table above will receive a cost-of-living adjustment of 5.4%, followed on January 1, 2023, by a 5.0% rate increase. All rates ~~and will~~ are ~~be~~ published at the following link:

<https://oasas.ny.gov/reimbursement/non-ambulatory>

TN #23-0031

Approval Date _____

Supersedes TN #22-0064

Effective Date January 1, 2023

Appendix II
2023 Title XIX State Plan
First Quarter Amendment
Summary

SUMMARY
SPA #23-0031

This State Plan Amendment proposes to provide a 5.0% rate adjustment for the single OASAS freestanding service in the institutional state plan, specifically: residential rehabilitation services for youth (this program is subject to UPL requirements).

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

SPA 23-0031

Sections 43.01 and 43.02 of the Mental Hygiene Law grant the Commissioner the power and responsibility to adopt regulations that are necessary and proper to implement matters under his/her jurisdiction and to establish standards and methods of payment made by government agencies pursuant to title 11 of article 5 of the Social Services Law for eligible addiction services certified by the Office.

Additionally, the NYS SFY 22/23 Budget (Chapter 53 of the Laws of 2022) establishes the following (full text attached):

For services and expenses of the medical assistance program including reinvestment in behavioral health services of general fund savings directly related to savings realized through the transition of populations from the Medicaid fee-for-service system to a managed care model, including savings resulting from the reduction of inpatient and outpatient behavioral health services provided under the Medicaid program 37,000,000

DEPARTMENT OF MENTAL HYGIENE
OFFICE OF ADDICTION SERVICES AND SUPPORTS
AID TO LOCALITIES 2022-23

1 March 31, 2023 the commissioner shall not
2 apply any other cost of living adjustment
3 for the purpose of establishing rates of
4 payments, contracts or any other form of
5 reimbursement.

6 Notwithstanding any other provision of law,
7 the money hereby appropriated may be
8 transferred to state operations and/or any
9 appropriation of the office of addiction
10 services and supports, with the approval
11 of the director of the budget.

12 The state comptroller is hereby authorized
13 to receive funds from the office of
14 addiction services and supports that were
15 returned from providers in the current
16 fiscal year in respect of a settlement of
17 local assistance funds from prior fiscal
18 years and is authorized to refund such
19 moneys to the credit of the local assist-
20 ance account of the general fund for the
21 purpose of reimbursing the 2022-23 appro-
22 priation.

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

37 Funds appropriated herein shall be available
38 in accordance with the following:

39 For services and expenses related to the	
40 administration of chemical dependency	
41 services by local governmental units	
42 (11834)	3,696,000
43 For the state share of medical assistance	
44 payments for outpatient services (11816)..	21,325,000
45 For services and expenses of the medical	
46 assistance program including reinvestment	
47 in behavioral health services of general	
48 fund savings directly related to savings	
49 realized through the transition of	
50 populations from the medicaid fee-for	
51 service system to a managed care model,	
52 including savings resulting from the	
53 reduction of inpatient and outpatient	
54 behavioral health services provided under	
55 the medicaid program	37,000,000
56 For services and expenses related to resi-	
57 dential services (11822)	124,902,000
58 For services and expenses related to crisis	
59 services (11823)	10,688,000
60	

DEPARTMENT OF MENTAL HYGIENE

OFFICE OF MENTAL HEALTH

AID TO LOCALITIES 2022-23

1 office of mental health or by transfer or
2 suballocation to any department, agency or
3 public authority for expenditures incurred
4 in the operation of such programs with the
5 approval of the director of the budget:

6 For transfer to the department of health to
7 reimburse the department for the state
8 share of medical assistance payments for
9 various mental health services.

10 For the period April 1, 2022 through March
11 31, 2023, the office of mental health is
12 authorized to recover from community resi-
13 dences and family-based treatment provid-
14 ers licensed by the office of mental
15 health, consistent with contractual obli-
16 gations of such providers and notwith-
17 standing any other inconsistent provision
18 of law to the contrary, for the period
19 January 1, 2003 through December 31, 2009
20 and January 1, 2011 through June 30, 2019
21 for programs located outside of the city
22 of New York and for the period July 1,
23 2003 through June 30, 2010 and July 1,
24 2011 through June 30, 2019 for programs
25 located in the city of New York, in an
26 amount equal to 50 percent of the income
27 received by such providers which exceed
28 the fixed amount of annual medicaid reven-
29 ue limitations, as established by the
30 commissioner of mental health.

31 Notwithstanding sections 112 and 163 of the
32 state finance law and section 142 of the
33 economic development law, or any other
34 inconsistent provision of law, funds
35 appropriated to the department of health
36 in accordance with a schedule based upon
37 approved Medicaid claims for eligible home
38 and community-based services, or other
39 approved services as defined in section
40 nine thousand eight hundred and seventeen
41 of the American rescue plan act of 2021,
42 from April 1, 2022 through March 31, 2023
43 and made available by the department of
44 health via sub-allocation or transfer of
45 up to \$160,000,000 may be allocated and
46 distributed by the commissioner of the
47 office of mental health, subject to
48 approval of the director of the budget,
49 without a competitive bid or request for
50 proposal process for the services and
51 expenses of qualified applicants. All
52 awards will be granted utilizing criteria
53 established by the commissioner of the
54 office of mental health to strengthen and
55 enhance home and community-based services
56 consistent with the American rescue plan
57 act of 2021 (36942)

297,247,000

58 For services and expenses of **the** medical
59 assistance program including reinvestment
60 in behavioral health services of general

DEPARTMENT OF MENTAL HYGIENE

OFFICE OF MENTAL HEALTH

AID TO LOCALITIES 2022-23

1 fund savings directly related to savings
 2 realized through the transition of
 3 populations from the medicaid fee-for
 4 service system to a managed care model,
 5 including savings resulting from the
 6 reduction of inpatient and outpatient
 7 behavioral health services provided under
 8 the medicaid program 74,000,000

9 Notwithstanding any other provision of law,
 10 and except for transfers to the department
 11 of health to reimburse the department for
 12 the state share of medical assistance
 13 payments and as modified below, this
 14 appropriation shall be available for obli-
 15 gations for the period commencing July 1,
 16 2022 and ending June 30, 2023 and shall be
 17 available for expenditure from July 1,
 18 2022 through September 15, 2023.

19 For services and expenses of various commu-
 20 nity mental health non-residential
 21 programs, pursuant to article 41 of the
 22 mental hygiene law, including but not
 23 limited to sections 41.13, 41.18, and
 24 41.47. Notwithstanding any other provision
 25 of law to the contrary, up to \$7,000,000
 26 of this appropriation may be made avail-
 27 able to the Research Foundation for Mental
 28 Hygiene, Inc. pursuant to a contract with
 29 the office of mental health for two mental
 30 health demonstration programs. One program
 31 shall be a behavioral health care manage-
 32 ment program for persons with serious
 33 mental illness, and the other program
 34 shall be a mental health and health care
 35 coordination demonstration program for
 36 persons with mental illness who are
 37 discharged from impacted adult homes in
 38 the city of New York. An amount from this
 39 appropriation when combined with the
 40 appropriation for the miscellaneous
 41 special revenue fund medication reimburse-
 42 ment account shall provide up to
 43 \$15,000,000 for grants to the counties and
 44 city of New York to provide medication,
 45 and other services necessary to prescribe
 46 and administer medication pursuant to a
 47 plan approved by the commissioner of
 48 mental health, as authorized under chapter
 49 408 of the laws of 1999 as amended (36940) 405,926,000

50 Notwithstanding any inconsistent provision
 51 of law, funds appropriated herein shall be
 52 made available for the payment of costs as
 53 determined by the commissioner of the
 54 office of mental health in consultation
 55 with the commissioner of the office of
 56 addiction services and supports associated
 57 with the administration, design,
 58 installation, construction, operation, or
 59 maintenance of a 9-8-8 suicide prevention
 60 and behavioral health crisis hotline

**Appendix IV
2023 Title XIX State Plan
First Quarter Amendment
Public Notice**

mgd (peak day), and renewal with modification to increase consumptive use (peak day) by an additional 0.480 mgd, for a total consumptive use of up to 0.750 mgd (Docket No. 20021010).

10. Project Sponsor and Facility: SWN Production Company, LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.500 mgd (peak day) (Docket No. 20171208).

11. Project Sponsor and Facility: SWN Production Company, LLC (Lycoming Creek), McIntyre Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.500 mgd (peak day) (Docket No. 20171209).

12. Project Sponsor: The United States Department of Veterans Affairs. Project Facility: Indiantown Gap National Cemetery, East Hanover and Union Townships, Lebanon County, Pa. Application for consumptive use of up to 0.099 mgd (30-day average).

13. Project Sponsor: Veolia Water Pennsylvania, Inc. Project Facility: Grantham Operation, Upper Allen Township, Cumberland County, Pa. Application for renewal of groundwater withdrawal of up to 0.395 mgd (30-day average) from Well 2 (Docket No. 19901104).

Project Scheduled for Action Involving a Diversion:

14. Project Sponsor and Facility: BlueTriton Brands, Inc. (Valley View Springs), Hegins Township, Schuylkill County, Pa. Application for approval of an out-of-basin diversion of up to 0.200 mgd (peak day).

Opportunity to Appear and Comment:

Interested parties may call into the hearing to offer comments to the Commission on any business listed above, including the fee schedule, required to be the subject of a public hearing. Given the nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by e-mailing Jason Oyler at joyler@srbc.net prior to the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Access to the hearing via telephone will begin at 2:15 p.m. Guidelines for the public hearing are posted on the Commission's website, www.srbc.net, prior to the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be the subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through <https://www.srbc.net/regulatory/public-comment/>. Comments mailed or electronically submitted must be received by the Commission on or before November 14, 2021, to be considered.

Authority: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: October 7, 2022

Jason E. Oyler,

General Counsel and Secretary to the Commission

PUBLIC NOTICE

Department of Civil Service

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

Please take notice that the regular monthly meeting of the State Civil Service Commission for November 2022 will be conducted on November 16 and November 17 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at <https://www.cs.ny.gov/commission/>.

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

PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for Institutional and Non-Institutional Services. The following changes are proposed:

Non-Institutional

Effective on or after November 1, 2022, the Department of Health will adjust rates statewide to reflect a 5.0% percent rate adjustment for the following Office of Addiction Services and Supports (OASAS) State Plan Services: OASAS outpatient addiction services (hospital and non-hospital), OASAS freestanding (non-hospital) inpatient rehabilitation services, OASAS freestanding inpatient detox services, and OASAS Part 820 residential services. OASAS will also further enhance freestanding outpatient addiction services in-community rates by 40%.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this change for State Fiscal Year 2023 is \$1.83 million.

Institutional Services

Effective on or after November 1, 2022, the Department of Health will adjust rates statewide to reflect a 5.0% percent rate adjustment for Office of Addiction Services and Supports Residential Rehabilitation Services for Youth.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this change for State Fiscal Year 2023 is \$220,000.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

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

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

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

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

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

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, spa_inquiries@health.ny.gov

PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional for coverage and reimbursement for Medicaid services. The following changes are proposed:

Non-Institutional Services

Effective at the end of the Public Health Emergency, the Medicaid State Plan will be amended to authorize payment for services provided in an article 29-I Health Facility by formerly license-exempt staff

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

INSTITUTIONAL SERVICES
State Plan Amendment #23-0031

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 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 or is funded by an IGT transferred from the counties.

Payment Type	Non-Federal Share Funding	4/1/22 – 3/31/23	
		Non-Federal	Gross
Hospital Inpatient Normal Per Diem	General Fund; Special Revenue Funds; County Contribution	\$2.199B	\$4.398B
Residential Treatment Facilities Normal Per Diem	General Fund; County Contribution	\$40M	\$80M
Hospital Inpatient Supplemental	General Fund	\$39M	\$77M
Indigent Care Pool	General Fund; Special Revenue Funds	\$342M	\$685M
Voluntary UPL	General Fund	\$184M	\$367M
Indigent Care Pool Adjustment	General Fund; IGT	\$206M	\$412M
Disproportionate Share Program	General Fund; IGT	\$1.377B	\$2.754B
State Public Inpatient UPL	General Fund	\$8M	\$16M
Non-State Government Inpatient UPL	IGT	\$254M	\$507M
Totals		\$4.648B	\$9.297B

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. Special Revenue Funds:

- 1) 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 and 2807-s (surcharges), 2807-c (1 percent), and 2807-d-1 (1.6 percent). HCRA resources include:
 - Surcharge on net patient service revenues for Inpatient Hospital Services.
 - The rate for commercial payors is 9.63 percent.
 - The rate for governmental payors, including Medicaid, is 7.04 percent.
 - Federal payors, including Medicare, are exempt from the surcharge.
 - 1 percent assessment on General Hospital Inpatient Revenue.
 - 1.6 percent Quality Contribution on Maternity and Newborn (IP) Services.
- 2) Health Facility Cash Assessment Program (HFCAP) Fund: Pursuant to New York State Public Health Law 2807-d, the total state assessment on each hospital's gross receipts received from all patient care services and other operating income, excluding gross receipts attributable to payments received pursuant to Title XVIII of the federal Social Security Act (Medicare), is 0.35 percent.

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.

C. 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. Each deposit received is reviewed and compared to the amount each county is responsible to contribute to the Medicaid program to verify the county funds received are eligible for Medicaid expenses.

D. IGT Funding:

New York State requests the transfer of the IGT amounts from entities prior to the release of payments to the providers. The entities transferring IGT amounts are all units of government, and the nonfederal share is derived from state or local tax revenue funded accounts only. The providers keep and retain Medicaid payments. Please note that entities have taxing authority, and the State does not provide appropriations to the entities for IGTs.

Provider	Entity Transferring IGT Funds	4/1/22-3/31/23 IGT Amount
Bellevue Hospital Center	New York City	\$171M
Coney Island Hospital	New York City	\$9M
City Hospital Center at Elmhurst	New York City	\$17M
Harlem Hospital Center	New York City	\$91M
Henry J Carter Spec Hospital	New York City	(\$8M)
Jacobi Medical Center	New York City	\$106M
Kings County Hospital Center	New York City	\$136M
Lincoln Medical & Mental Health Center	New York City	\$88M
Metropolitan Hospital Center	New York City	\$67M
North Central Bronx Hospital	New York City	\$12M
Queens Hospital Center	New York City	\$18M
Woodhull Medical and Mental Health Center	New York City	\$37M
Erie County Medical Center	Erie County	\$49M

Lewis County General Hospital	Lewis County	\$1M
Nassau County Medical Center	Nassau County	\$66M
Westchester County Medical Center	Westchester County	\$143M
Wyoming County Community Hospital	Wyoming County	\$1M
NYC Health + Hospitals	New York City	\$254M
Total		\$1.258B

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: Please see list of supplemental payments below:

Payment Type	Private	State Government	Non-State Government	4/1/22-3/31/23 Gross Total
Indigent Care Pool/Voluntary UPL \$339M Guarantee	\$912M	\$8M	\$133M	\$1.052B
Indigent Care Pool Adjustment	\$0	\$86M	\$326M	\$412M
Disproportionate Share Program	\$0	\$1.071B	\$1.684B	\$2.754B
Vital Access Program	\$77M	\$0	\$0	\$77M
State Public Inpatient UPL	\$0	\$16M	\$0	\$16M
Non-State Government Inpatient UPL	\$0	\$0	\$507M	\$507M
Total	\$989M	\$1.181B	\$2.649B	\$4.819B

The Medicaid payments under this State Plan Amendment are not supplemental payments.

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 Medicaid payments under this State Plan Amendment will be included in the 2023 inpatient UPL when it is submitted 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.