

**NEW YORK**  
state department of  
**HEALTH**

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

December 30, 2013

National Institutional Reimbursement Team  
Attention: Mark Cooley  
CMS, CMCS  
7500 Security Boulevard, M/S S3-14-28  
Baltimore, MD 21244-1850

RE: SPA #13-67  
Long Term Care Facility Services

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #13-67 to the Title XIX (Medicaid) State Plan for long term care facility services to be effective January 1, 2014 (Appendix I). This amendment is being submitted based on regulation. A summary of the proposed amendment is provided 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, Part 447, Subpart C, (42 CFR §447).

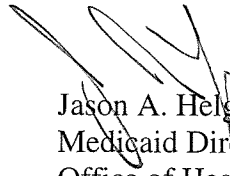
1. The State of New York pays for long-term care services using rates determined in accordance with methods and standards specified in an approved State Plan following a public process which complies with §1902(a)(13)(A) of the Social Security Act.
2. (a) It is estimated that the changes represented by the estimated average payment rates for long-term care facility services will have no noticeable short-term or long-term effect on the availability of services on a statewide and geographic area basis.  
  
(b) It is estimated that the changes represented by the estimated average payment rates for long-term care facility services will have no noticeable short-term or long-term effect on care furnished.  
  
(c) It is estimated that the changes represented by the estimated average payment rates for long-term care facility services will have no noticeable short-term or long-term effect on the extent of provider participation.

In accordance with 42 CFR §447.272, New York assures that the aggregate Medicaid payments for inpatient services provided by nursing facilities for each prescribed category of providers does not exceed the upper payment limit for the particular category of providers.

A copy of the pertinent section of proposed state statute is enclosed for your information (Appendix III). Copies of the public notice of this proposed amendment, which was given in the New York State Register on December 11, 2013, is also enclosed for your information (Appendix IV). In addition responses to the five standard funding questions are also enclosed (Appendix V).

If you have any questions regarding this matter, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting at (518) 474-6350.

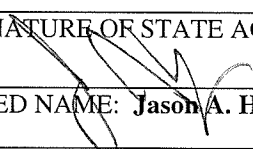
Sincerely,



Jason A. Helgeson  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

cc: Mr. Michael Melendez  
Mr. Tom Brady

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: <b>13-67</b>	2. STATE <b>New York</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>January 1, 2014</b>	
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: <b>Section 1902(a) of the Social Security Act, and 42 CFR 447</b>		7. FEDERAL BUDGET IMPACT: <b>a. FFY 01/01/14-09/30/14 \$ 2,445,021</b> <b>b. FFY 10/01/14-09/30/15 \$ 1,460,980</b>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-D: Pages 47(aa)(4)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  <b>Attachment 4.19-D: Pages 47(aa)(4)</b>	
10. SUBJECT OF AMENDMENT: <b>NH Safety Net Revisions (Northeast)</b> <b>(FMAP = 50%)</b>			
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: <b>New York State Department of Health</b> <b>Bureau of Federal Relations &amp; Provider Assessments</b> <b>99 Washington Ave – One Commerce Plaza</b> <b>Suite 1430</b> <b>Albany, NY 12210</b>	
13. TYPED NAME: <b>Jason A. Helgerson</b>			
14. TITLE: <b>Medicaid Director</b> <b>Department of Health</b>			
15. DATE SUBMITTED: <b>December 30, 2013</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED:	
<b>PLAN APPROVED – ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

**Appendix I**  
**2013 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Long-Term Care Facility Services**  
**Amended SPA Pages**

New York  
47(aa)(4)

**Temporary Rate Adjustments for Mergers, Acquisitions, Consolidations, Restructurings, and Closures**

A temporary rate adjustment will be provided to eligible residential health care providers that are subject to or impacted by the closure, merger, and acquisition, consolidation or restructuring of a health care provider. The rate adjustment is intended to:

- Protect or enhance access to care;
- Protect or enhance quality of care; or
- Improve the cost effectiveness.

Eligible residential health care providers, the annual amount of the temporary rate adjustment, and the duration of the adjustment shall be listed in the table which follows. The total annual adjustment amount will be paid quarterly with the amount of each quarterly payment being equal to one fourth of the total annual amount established for each provider. The quarterly payment made under this section will be an add-on to services payments made under this Attachment to such facilities during the quarter.

To remain eligible, providers must submit benchmarks and goals acceptable to the Commissioner and must submit periodic reports, as requested by the Commissioner, concerning the achievement of such benchmarks and goals. Failure to achieve satisfactory progress in accomplishing such benchmarks and goals will result in termination of the provider’s temporary rate adjustment prior to the end of the specified timeframe. Once a provider’s temporary rate adjustment ends, the provider will be reimbursed in accordance with the otherwise applicable rate-setting methodology as set forth in this Attachment.

Temporary rate adjustments have been approved for the following providers in the amounts and for the effective periods listed.

**Nursing Homes:**

Provider Name	Gross Medicaid Rate Adjustment	Rate Period Effective
Field Home - Holy Comforter	\$534,500	4/1/2012-3/31/2013
	\$534,500	4/1/2013-3/31/2014
Northeast Center for Special Care	\$[5,597,952] <u>5,292,200</u>	4/1/2012-3/31/2013
	\$[5,181,184] <u>9,504,202</u>	4/1/2013-3-31/2014
	<u>\$5,027,984</u>	<u>4/1/2014-3/31/2015</u>
	<u>\$815,934</u>	<u>4/1/2015-3/31/2016</u>

TN     #13-67    

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

Supersedes TN     #11-25    

Effective Date \_\_\_\_\_

**Appendix II**  
**2013 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Long-Term Care Facility Services**  
**Summary**

**SUMMARY**  
**SPA #13-67**

This State Plan Amendment proposes to modify the award for Northeast Center for Special Care, who was previously approved to receive a temporary adjustment under the closure, merger, acquisition, consolidation, or restructuring of a health care provider.

**Appendix III**  
**2013 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Long-Term Care Facility Services**  
**Authorizing Provisions**



SPA #13-67

**CHAPTER 59 OF THE LAWS OF 2011**  
**S.2809-D/A.4009-D – Part H**

§ 34. Subdivision 22-a of section 2808 of the public health law is amended by adding a new paragraph (d) to read as follows:

(d) (i) Notwithstanding any inconsistent provisions of subdivisions two-b or two-c of this section or any other contrary provision of law, and subject to the availability of federal financial participation, for inpatient services provided by residential health care facilities on and after April first, two thousand eleven, the commissioner may, subject to the approval of the director of the budget, grant approval of a temporary adjustment to Medicaid rates for eligible facilities, as determined in accordance with this paragraph.

(ii) Eligible facilities shall be those residential health care facilities which, as determined by the commissioner, require short-term assistance to accommodate additional patient services requirements stemming from the closure of other facilities in the area, including, but not limited to, additional staff, service reconfiguration and enhanced information technology capability.

(iii) Eligible facilities shall submit written proposals demonstrating the need for additional short-term resources and how such additional resources will result in improvements to:

(A) the cost effectiveness of service delivery;

(B) quality of care; and

(C) other factors deemed appropriate by the commissioner.

(iv) Such written proposals shall be submitted to the department at least sixty days prior to the requested effective date of the temporary rate adjustment. The temporary rate adjustment shall be in effect for a specified period of time as determined by the commissioner. At the end of the specified timeframe, the facility will be reimbursed in accordance with otherwise applicable rate-setting methodologies. The commissioner may establish, as a condition of receiving such a temporary rate adjustment, benchmarks and goals to be achieved in accordance with the facility's approved proposals and may also require that the facility submit such periodic reports concerning the achievement of such benchmarks and goals as the commissioner deems necessary. Failure to achieve satisfactory progress, as determined by the commissioner, in accomplishing such benchmarks and goals shall be a basis for ending the facility's temporary rate adjustment prior to the end of the specified timeframe.

tion, published in the New York State Register invited comments and questions from the general public.

#### Job Impact Statement

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is not expected that the proposed rule to accelerate capital reimbursement for costs related to the installation of automatic sprinkler systems will have a material impact on jobs or employment opportunities across the Nursing Home industry.

### NOTICE OF ADOPTION

#### Hospital Temporary Rate Adjustments

**I.D. No.** HLT-14-12-00006-A  
**Filing No.** 569  
**Filing Date:** 2012-06-13  
**Effective Date:** 2012-07-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 86-1.31 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2807-c(35)

**Subject:** Hospital Temporary Rate Adjustments.

**Purpose:** No longer require that a merger, acquisition or consolidation needs to occur on or after the year the rate is based upon.

**Text or summary was published** in the April 4, 2012 issue of the Register, I.D. No. HLT-14-12-00006-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF ADOPTION

#### Temporary Rate Adjustment (TRA) - Residential Health Care Facilities (RHCF) (Nursing Homes)

**I.D. No.** HLT-14-12-00007-A  
**Filing No.** 570  
**Filing Date:** 2012-06-13  
**Effective Date:** 2012-07-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 86-2.39 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2808(2-c)(d)

**Subject:** Temporary Rate Adjustment (TRA) - Residential Health Care Facilities (RHCF) (Nursing Homes).

**Purpose:** To provide a TRA to eligible RHCFs subject to or impacted by closure, merger, acquisition, consolidation, or restructuring.

**Text or summary was published** in the April 4, 2012 issue of the Register, I.D. No. HLT-14-12-00007-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF ADOPTION

#### Temporary Rate Adjustment (TRA) - Licensed Ambulatory Care Facilities (LACF)

**I.D. No.** HLT-14-12-00008-A  
**Filing No.** 571  
**Filing Date:** 2012-06-13  
**Effective Date:** 2012-07-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 86-8.15 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2807(2-a)(e)

**Subject:** Temporary Rate Adjustment (TRA) - Licensed Ambulatory Care Facilities (LACF).

**Purpose:** Expand TRA to include Article 28 LACFs subject to or affected by closure, merger, acquisition, consolidation, or restructuring.

**Text or summary was published** in the April 4, 2012 issue of the Register, I.D. No. HLT-14-12-00008-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

#### Assessment of Public Comment

The agency received no public comment.

## Department of Motor Vehicles

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

#### Genesee County Motor Vehicle Use Tax

**I.D. No.** MTV-27-12-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** This is a consensus rule making to amend Part 29 of Title 15 NYCRR.

**Statutory authority:** Vehicle and Traffic Law, sections 215(a) and 401(6)(d)(ii); and Tax Law, section 1202(c)

**Subject:** Genesee County motor vehicle use tax.

**Purpose:** To impose a Genesee County motor vehicle use tax.

**Text of proposed rule:** Section 29.12 is amended by adding a new subdivision (aj) to read as follows:

(aj) Genesee County. The Genesee County Legislature adopted a local law on November 9, 2011, to establish a Genesee County Motor Vehicle Use Tax. The Chairman of the Genesee County Legislature entered into an agreement with the Commissioner of Motor Vehicles for the collection of the tax in accordance with the provisions of this Part, for the collection of such tax on original registrations made on and after October 1, 2012 and upon the renewal of registrations expiring on and after December 1, 2012. The County Treasurer is the appropriate fiscal officer, except that the County Attorney is the appropriate legal officer of Genesee County referred to in this Part. The tax due on passenger motor vehicles for which the registration fee is established in paragraph (a) of subdivision (6) of Section 401 of the Vehicle and Traffic Law shall be \$5.00 per annum on such motor vehicles weighing 3,500 lbs. or less and \$10.00 per annum for such motor vehicles weighing in excess of 3,500 lbs. The tax due on trucks, buses and other commercial motor vehicles for which the registration fee is established in subdivision (7) of Section 401 of the Vehicle and Traffic Law used principally in connection with a business carried on within Genesee County, except for vehicles used in connection with the operation of a farm by the owner or tenant thereof shall be \$10.00 per annum.

**Text of proposed rule and any required statements and analyses may be obtained from:** Heidi Bazicki, DMV, 6 Empire State Plaza, Albany, NY 12228, (518) 474-0871, email: heidi.bazicki@dmv.ny.gov

**Data, views or arguments may be submitted to:** Ida L. Traschen, DMV, same as above.

**Public comment will be received until:** 45 days after publication of this notice.

#### Consensus Rule Making Determination

This proposed regulation would create a new 15 NYCRR Part 29.12(aj) to provide for the collection of a Genesee County motor vehicle use tax by the Department of Motor Vehicles. Pursuant to the authority contained in Tax Law section 1202(c) and Vehicle and Traffic Law section 401(6)(d)(ii), the Commissioner must collect a motor vehicle use tax if a county has enacted a local law requiring the collection of such tax.

On November 9, 2011, the Genesee County Legislature enacted a local law requiring that a motor vehicle use tax be imposed on passenger and commercial vehicles. Pursuant to this law, the Commissioner is required to collect the tax on behalf of the county and transmit the revenue to the

**Appendix IV  
2013 Title XIX State Plan  
Fourth Quarter Amendment  
Long-Term Care Facility Services  
Public Notice**

# MISCELLANEOUS NOTICES/HEARINGS

---

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE 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 long term care services related to temporary rate adjustments to residential health care facilities (RHCfs) providing inpatient services that are undergoing a closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are currently authorized by current State statutory and regulatory provisions.

The temporary rate adjustment for Northeast Center for Special Care has been reviewed and approved for aggregate payment amounts totaling \$20,640,320. The previously approved aggregate payment amounts for the periods April 1, 2012 through March 31, 2014 have been modified, and additional payments for the periods April 1, 2014 through March 31, 2015 have been approved. Such aggregate payments include: \$5,292,200 for the period April 1, 2012 through March 31, 2013; \$9,504,202 for the period April 1, 2013 through March 31, 2014; \$5,027,984 for the period April 1, 2014 through March 31, 2015; and \$815,934 for the period April 1, 2015 through March 31, 2016.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2013/2014 is \$9,504,200.

The public is invited to review and comment on this proposed State Plan Amendment. Copies 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).

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

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, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave. – One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), or e-mail: [spa\\_inquiries@health.state.ny.us](mailto:spa_inquiries@health.state.ny.us)

**Appendix V**  
**2013 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Long-Term Care Facility Services**  
**Responses to Standard Funding Questions**

**APPENDIX V**  
**LONG TERM CARE SERVICES**  
**State Plan Amendment #13-67**

**CMS Standard Funding Questions (NIRT Standard Funding Questions)**

**The following questions are being asked and should be answered in relation to all payments made to all providers under Attachment 4.19-D of your 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 retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular A-87 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

2. **Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either 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:** Payments made to service providers under the provisions of this SPA are funded through a general appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Local Assistance Account under the General Fund/Aid to Localities.

3. **Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.**

**Response:** The payments authorized for this provision are not supplemental or enhanced payments.

4. **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 4447.272, 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 current nursing home UPL demonstration was submitted to CMS on July 25, 2013, which is currently under CMS review.

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:** Effective January 1, 2012, the rate methodology included in the approved State Plan for non-specialty nursing facility services for the operating component of the rate is a blended statewide/peer group price adjusted for case mix and wage differentials (WEF). Specialty nursing facility and units are paid the operating rate in effect on January 1, 2009. The capital component of the rate for all specialty and non-specialty facilities is based upon a cost based methodology. We are unaware of any requirement under current federal law or regulation that limits individual provider payments to their actual costs.

#### **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:** This SPA does comply with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

**Tribal Assurance:**

**Section 1902(a)(73) of the Social Security Act the Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular ongoing basis from designees of Indian health programs whether operated by the Indian Health Service HIS Tribes or Tribal organizations under the Indian Self Determination and Education Assistance Act ISDEAA or Urban Indian Organizations under the Indian Health Care Improvement Act.**

**IHCIA Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program CHIP. Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.**

**a) Please describe the process the State uses to seek advice on a regular ongoing basis from federally recognized tribes Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan**

**Amendments waiver proposals waiver extensions waiver amendments waiver renewals and proposals for demonstration projects prior to submission to CMS.**

- b) Please include information about the frequency inclusiveness and process for seeking such advice.**
- c) Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment when it occurred and who was involved.**

**Response:** Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 11-06, and documentation of such is included with the original submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.