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**State/Territory Name: New York** 

State Plan Amendment (SPA) NY: 22-0022

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

#### DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services Center for Medicaid & CHIP Services 233 North Michigan Ave., Suite 600 Chicago, Illinois 60601



### **Financial Management Group**

June 6, 2022

Mr. Brett Friedman Acting Medical Director New York State Department of Health Division of Finance and Rate Setting 99 Washington Avenue One Commerce Plaza, Suite 1432 Albany, NY 12210

RE: TN 22-0022

Dear Mr. Friedman:

We have reviewed the proposed New York State Plan Amendment (SPA) to Attachment 4.19-B NY 22-0022, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on March 31, 2022. This plan amendment updates the minimum wage value for the Certified Home Health Agency (CHHA) minimum wage index.

Based upon the information provided by the State, we have approved the amendment with an effective date of January 1, 2022. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Robert Bromwell at (410)-786-5914 or Robert.bromwell@cms.hss.gov.

Sincerely,

Todd McMillion Director Division of Reimbursement Review

**Enclosures** 

CENTERS FOR MEDICARE & MEDICAID SERVICES	OMB No. 0938-0193				
TRANSMITTAL AND NOTICE OF APPROVAL OF	1. TRANSMITTAL NUMBER 2. STATE				
STATE PLAN MATERIAL	$\frac{2}{2} = \frac{2}{2} = \frac{0}{0} = \frac{0}{2} = \frac{0}$				
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL				
TON. GENTEROTOR MEDICARE & MEDICALD GERVICES	SECURITY ACT O XIX O XXI				
TO: CENTER DIRECTOR	4. PROPOSED EFFECTIVE DATE				
CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	January 1, 2022				
5. FEDERAL STATUTE/REGULATION CITATION	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)				
§ 1902(a) of the Social Security Act and 42 CFR 447	a. FFY 01/01/22-09/30/22 \$ 1,390,000 b. FFY 10/01/22-09/30/23 \$ 1,853,000				
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)				
Attachment 4.19-B: Pages 4(8)(1)	Attachment 4.19-B: Pages 4(8)(1)				
9. SUBJECT OF AMENDMENT					
Minimum Wage-CHHA					
10. GOVERNOR'S REVIEW (Check One)					
GOVERNOR'S OFFICE REPORTED NO COMMENT	OTHER, AS SPECIFIED:				
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED					
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL					
11. SIGNATURE OF STATE AGENCY OFFICIAL	. RETURN TO				
	New York State Department of Health				
12. TYPED NAME	Division of Finance and Rate Setting 99 Washington Ave – One Commerce Plaza				
	Suite 1432				
Acting Medicaid Director	Albany, NY 12210				
14. DATE SUBMITTED March 31, 2022					
FOR CMS U	ISE ONLY				
	17. DATE APPROVED				
March 31, 2022	June 6, 2022				
PLAN APPROVED - ON					
18. EFFECTIVE DATE OF APPROVED MATERIAL January 1, 2022	19 SIGNATURE OF APPROVING OFFICIAL				
20. TYPED NAME OF APPROVING OFFICIAL	TITLE OF APPROVING OFFICIAL				
Todd McMillion	Director, Division of Reimbursement Review				
22. REMARKS					
*Pen and ink change authorized via email 6/2/2022. Updated Fed	loral Budget Impact to whole dellars. Changed from EEV				
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01/01/22-09/30/22, \$1,390 to \$1,390,000; FFY 10/01/22-09/30/23					

## New York 4(8)(1)

#### 1905(a)(7): Home Health Care Services

**Adjustment for Minimum Wage Increases.** Effective January 1, 2017, and every January 1, thereafter until the minimum wage reaches the state statutorily described per hour wage as shown below, a minimum wage add-on will be developed and applied to Certified Home Health Agency (CHHA) Rate.

Minimum Wage (MW) Region	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021
New York City (Large Employers)	\$11.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00
New York City (Small employers)	\$10.50	\$12.00	\$13.50	\$15.00	\$15.00	\$15.00
Nassau, Suffolk, & Westchester counties	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00
Remainder of the State	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	\$13.20 *

<sup>\*</sup>Effective January 1, 2022, the minimum wage value for the Remainder of the State will be \$13.20.

The minimum wage adjustment will be developed and implemented as follows:

- 1. Minimum wage costs will mean the additional costs incurred beginning January 1, 2017 and thereafter, as a result of New York State statutory increases to minimum wages until all regions of the State reach \$15.00 per hour.
- 2. The 2017 facility specific minimum wage add-on will be developed based on collected survey data received and attested to by CHHA providers. If a provider does not submit a survey, the minimum wage add-on will be calculated based on the Provider's cost report wage data from two years prior to the period being calculated. If a facility fails to submit both the attested survey and the cost report, the facility's minimum wage add-on will not be calculated.
  - i. Minimum wage cost development based on survey data collected.
    - 1. Survey data will be collected for facility specific wage data.
    - 2. Facilities will report by wage bands, the total count of FTEs and total hours paid to all employees (contracted and non-contracted staff) earning less than the statutory minimum wage applicable for each region.
    - 3. Facilities will report an average fringe benefit percentage for the employees directly affected by the minimum wage increase.
    - 4. The minimum wage costs are calculated by multiplying the total hours paid by the difference between the statutory minimum wage and the midpoint of each wage band where the facility has reported total hours paid. To this result, the facility's average fringe benefit percentage is applied and added to the costs.
  - ii. Minimum wage cost development based on the cost report data.
    - a. The average hourly wages of employees where the reported average hourly wage is below the regional statutory minimum wage are identified.
    - b. The total payroll hours of the employees identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the cost report is then subtracted from the projected payroll resulting in the expected wage costs increase.
    - c. The facility's fringe benefit costs directly affected by the wage increase are identified, and the average fringe benefit percentage is calculated.
    - d. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.

TN #22-0022	Approval Date June 6, 2022
Supersedes TN #17-0009	Effective Date January 1, 2022