



Department of Health

ANDREW M. CUOMO
Governor

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

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

December 30, 2016

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

RE: SPA #17-0001
Non-Institutional Services

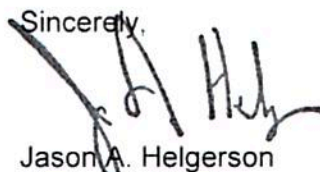
Dear Mr. Melendez:

The State requests approval of the enclosed amendment #17-0001 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective on or after March 1, 2017 (Appendix I). This amendment is being submitted based on State regulations. A summary of the plan amendment is provided in Appendix II.

The State of New York reimburses these services through the use of rates that are consistent with and promote efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area as required by §1902(a)(30) of the Social Security Act and 42 CFR §447.204.


Copies of pertinent sections of proposed State regulations are enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register on April 29, 2015, 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 State Plan Amendment submission, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 474-6350.

Sincerely,


Jason A. Helgerson
Medicaid Director
Office of Health Insurance Programs

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 17-0001	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE March 1, 2017	
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: Section 1905(r)(5) of the Social Security Act and 42 CFR 447		7. FEDERAL BUDGET IMPACT: <i>(in thousands)</i> a. FFY 03/01/17-09/30/17 \$ 2,477.90 b. FFY 10/01/17-09/30/18 \$ 6,708.10	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1A: 2(a); 2(a.1) Attachment 3.1B: 2(a); 2(a.1) Attachment 4.19-B: 1(a)(i); 1(a)(ii)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT <i>(If Applicable)</i> : Attachment 3.1A: 2(a); 2(a.1) Attachment 3.1B: 2(a); 2(a.1)	
10. SUBJECT OF AMENDMENT: EPSDT Expansion for Behavioral Health Kids-Other Licensed Practitioner (FMAP = 50%)			
11. GOVERNOR'S REVIEW <i>(Check One)</i> : <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: New York State Department of Health Division of Finance and Rate Setting 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: December 30, 2016			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED:	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

Appendix I
2017 Title XIX State Plan
First Quarter Amendment
Amended SPA Pages

New York
2(a)

- 6b. Prior approval is required for orthoptic training.
- 6c. **Chiropractor services.** Provision of chiropractic services shall be limited to EPSDT recipients by medical necessity. Services shall be provided to the extent that such services result from the referral of the recipient's physician or primary care clinic.
- 6d. **Clinical psychologists.** Provision of clinical psychology services shall require referral by:
1. The patient's personal physician or medical resource, such as a clinic, acting as the patient's physician;
 2. The medical director in an industrial concern;
 3. An appropriate school official;
 4. An official or voluntary health or social agency.
- 6e. **Other Licensed Practitioners (EPSDT only).** An OLP is a non-physician licensed behavioral health practitioner (NP-LBHP) who is licensed in the State of New York to prescribe, diagnose, and/or treat individuals with a physical, mental illness, substance abuse disorder, or functional limitations at issue, operating within the scope of practice defined in State law and in any setting permissible under State practice law. This includes the implementation of interventions using evidence-based techniques, drawn from cognitive-behavioral therapy and/or other evidence-based psychotherapeutic interventions approved by New York State.

OLP's include individuals licensed and able to practice independently as a:

- Licensed Psychoanalyst
- Licensed Clinical Social Worker (LCSW)
- Licensed Marriage & Family Therapist; or
- Licensed Mental Health Counselor

An OLP also includes the following individuals who are licensed to practice under supervision or direction of a Licensed Clinical Social Worker (LCSW), a Licensed Psychologist, or a Psychiatrist:

- Licensed Master Social Worker (LMSW)

In addition to licensure, service providers that offer addiction services must demonstrate competency as defined by state law and regulations. Any practitioner above must operate within a child serving agency that is licensed, certified, designated and/or approved by OCFS, OMH, OASAS OR DOH or its designee, in settings permissible by that designation.

Inpatient hospital visits by these licensed practitioners are limited to those ordered by the child's physician. Visits to nursing facilities are allowed for licensed professionals other than social workers if a Preadmission Screening and Resident Review (PASRR) indicates it is medically necessary treatment. Social worker visits are included in the Nursing Facility Visit and may not be billed separately. Visits to ICF-MR facilities are non-covered. All OLP services provided while a person is a resident of an (Institution for Mental Diseases) (IMD), such as a free standing psychiatric hospital or psychiatric residential treatment facility, are part of the institutional service and not otherwise reimbursable by Medicaid.

TN #. #17-0001 Approval Date _____
Supersedes TN # #07-0013 Effective Date _____

New York
2(a.1)

Other Licensed Practitioners (OLPs) will assess the child prior to developing a treatment plan for the child. Authorization of the treatment plan is required by the DOH or its designee. Evidence-based practices (EBPs) require approval, designations, and fidelity reviews on an ongoing basis as determined necessary by New York State. Treatment services must be part of a treatment plan including goals and activities necessary to correct or ameliorate conditions discovered during the initial assessment visits.

Assurances:

The State assures that all OLP services are provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual in accordance with section 1902(a)(10)(A)(i) of the Act.

The State assures that OLP services do not include and FFP is not available for any of the following.

- A. educational, vocational and job training services;
- B. room and board;
- C. habilitation services;
- D. services to inmates in public institutions as defined in 42 CFR § 435.1010;
- E. services to individuals residing in institutions for mental diseases as describe in 42 CFR § 435.1009;
- F. recreational and social activities; and
- G. services that must be covered elsewhere in the state Medicaid plan.

- 7a. Home care services are medically necessary services (physician order required) provided by a Certified Home Health Agency (CHHA) to individuals in the home and community. Such services include both part time and intermittent skilled health care and long-term nursing and home health aide services. Home (health) care services include nursing, home health aide, physical therapy, occupational therapy, and speech therapy. Patients must be assessed as being appropriate for intermittent or part-time nursing services ordered by a physician pursuant to a written plan of care provided by a home health agency upon admission to an Assisted Living Program (ALP), no later than 45 days from the date of admission, and at least once during each subsequent six month period. The social services district must review the assessment and prior authorize the service.

Providers of home (health) care services must possess a valid certificate of approval issued pursuant to the provisions of Article 36 of the Public Health Law, be certified in accordance with certified home health agency, long term home health care program and AIDS home care program certification and authorization and provide services in accordance with minimum standards.

Home (health) care services provider qualifications are provided for registered professional nurse, home health aide, physical therapist, occupational therapist and speech pathologist.

Registered professional nurse shall mean a person who is licensed and currently registered as a registered professional nurse pursuant to Article 139 of the New York State Education Law.

TN # #17-0001

Approval Date _____

Supersedes TN # #07-0013

Effective Date _____

New York
2(a)

- 6b. Prior approval is required for orthoptic training.
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TN # #17-0001

Approval Date _____

Supersedes TN # #07-0013

Effective Date _____

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: New York

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

Non-Physician Licensed Behavioral Health Practitioner Services (EPSDT only)

Reimbursement for EPSDT NP-LBHP as outlined per Attachment 3.1-A, Item 6.d, page 2(a) (i) are paid based upon Medicaid rates established by the State of New York.

Except as otherwise noted in the State Plan, the State-developed rates is the same for both governmental and private providers and the rates and any annual/periodic adjustments to the rates are published on the agency’s website. The agency’s rates were set as of January 1, 2017 and are effective for services provided on or after that date. All rates are published on the Department of Health website at: https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/proposed_spa.htm.

TN # #17-0001

Approval Date _____

Supersedes TN # New

Effective Date _____

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: New York

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – OTHER TYPES OF CARE

Non-Physician Licensed Behavioral Health Practitioner Services (EPSDT only - cont.)

The rate development methodology will primarily be composed of provider cost modeling, through New York provider compensation studies and cost data. Rates from similar State Medicaid programs may be considered, as well. The following list outlines the major components of the cost model to be used in rate development.

- Staffing assumptions and staff wages.
- Employee-related expenses — benefits, employer taxes (e.g., Federal Insurance Contributions Act (FICA), unemployment, and workers compensation).
- Program-related expenses (e.g., supplies).
- Provider overhead expenses.
- Program billable units.

The rates will be developed as the ratio of total annual modeled provider costs to the estimated annual billable units.

TN # #17-0001

Approval Date _____

Supersedes TN # New

Effective Date _____

Appendix II
2017 Title XIX State Plan
First Quarter Amendment
Summary

SUMMARY
SPA #17-0001

This State Plan Amendment proposes to revise provisions of Early & Periodic Screening, Diagnostic & Treatment Services (EPSDT) services related to the expansion of Behavioral Health services provided to individuals under age 21 on or after January 1, 2017 by adding the following new services:

- Other Licensed Practitioner

The State is submitting this State Plan Amendment in order to implement the recommendations adopted by the Children’s Medicaid Redesign Team (MRT) Behavioral Health Subcommittee, to develop a children’s managed care model that improves clinical and recovery outcomes for children and youth with Behavioral Health (BH) and Home and Community Based Services (HCBS) needs (e.g., medically fragile children, children with BH needs, and children with developmental disabilities in Foster Care).

This State Plan Amendment package is part of a package of children’s reform and redesign initiatives developed in collaboration with the MRT Subcommittee and stakeholder engagement. The State Plan Amendment as well as State Plan Amendment 17-0004 - EPSDT Expansion for BH Kids – Rehabilitation Services, and accompanying Demonstration Amendment to the 1115 (HCBS) are interdependent and will be concurrently submitted. A seventh State Plan service will be submitted at a later date which is also related. The timely approval of the State Plans and the 1115 Demonstration amendment is necessary to ensure that all children in New York State receive comparable services under the redesign. Because these services permit delivery of community evidence-based practices consistent with CMS guidance¹, the approval of the State Plan Amendments is linked to the approval of the Demonstration Amendment and ensuring that comprehensive coordination of physical health and behavioral health within Health Homes as well as appropriate utilization review over these new services within FFS and managed care occurs.

¹ CMCS-IB dated March 27, 2013, “Prevention and Early Identification of Mental Health and Substance Use Conditions”; Joint CMCS and SAMHSA Informational Bulletin dated May 7, 2013, “Coverage of Behavioral Health Services for Children, Youth, and Young Adults with Significant Mental Health Conditions”; State Medicaid Director Letter, July 11, 2013, “Trauma Informed care for Children”; Joint CMCS and SAMHSA Informational Bulletin dated January 26, 2015, “Coverage of Behavioral Health Services for Youth with Substance Use Disorders”.

Appendix III
2017 Title XIX State Plan
First Quarter Amendment
Authorizing Provisions

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Part 823 is ADDED to read as follows:

14 NYCRR Part 823
Children's services

(Statutory authority: Mental Hygiene Law §§ 19.07(e), 19.09(b), 32.01; 42 U.S.C. § 1396d(r)(5); 18 NYCRR 507)

Section:

- 823.1 Background and intent
- 823.2 Applicability
- 823.3 Legal base
- 823.4 Definitions
- 823.5 Authorized services
- 823.6 Designation Process
- 823.7 Standards of Care
- 823.8 Standards pertaining to Medicaid reimbursement
- 823.9 Severability

§823.1 Background and intent

This regulation contains requirements applicable to rehabilitative health and behavioral health services available to children/youth, up to age twenty-one (21) and their families through the federal Early Periodic Screening, Diagnostic and Treatment (EPSDT) program in New York. The services defined herein focus on preventing the need for more restrictive placement settings and higher intensity services, by increasing culturally and linguistically appropriate, trauma-informed services provided in the most integrated setting possible. Providers must be designated to provide such services when medically necessary and recommended by a practitioner of the healing arts.

§823.2 Applicability

The designation of providers pursuant to this Part is not a substitute for possessing any required state license, certification, authorization or credential. The provisions of this Part are applicable to all programs and providers funded or certified by the Office who seek designation by the Office to offer rehabilitative health and behavioral health services for children/youth as such services are defined in this Part.

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§823.3 Legal base

- (a) Section 19.07(e) of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services (Commissioner) to adopt standards including necessary rules and regulations pertaining to chemical dependence services.
- (b) Section 19.09(b) of the Mental Hygiene Law authorizes the Commissioner to adopt regulations necessary and proper to implement any matter under his or her jurisdiction.
- (c) Section 32.01 of the Mental Hygiene Law authorizes the Commissioner to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by Article 32 of the Mental Hygiene Law.
- (d) 42 U.S.C. § 1396d(r)(5) defines EPSDT services available under Medicaid to correct or ameliorate physical and mental illnesses and conditions that are detected in Medicaid-eligible children/youth.
- (e) 18 NYCRR 507 promotes the expansion of children’s health and behavioral health services.

§823.4 Definitions

For purposes of this Part, the following terms are defined:

- (a) “Certified Recovery Peer Advocate - Family Peer Advocate” (CRPA-FPA) means a parent or caregiver with lived experience who is authorized by the Office.
- (b) “Certified Recovery Peer Advocate - Youth Peer Advocate” (CRPA-YPA) means a self-identified consumer recipient of behavioral health services, aged 18-28, who is authorized by the Office.
- (c) “Child/youth” or “children/youth” means a person or persons aged twenty-one (21) and under for purposes of the services as defined in this Part.
- (d) “*Children’s Behavioral Health and Health Services Transformation Medicaid State Plan Provider Manual*” (*Manual*) means the guide describing six children’s health and behavioral

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health benefits approved pursuant to the Medicaid State Plan (the *Manual* is incorporated by reference pursuant to Part 800 of this Title).

(e) “Children’s services” means health and behavioral health services as defined in 18 NYCRR Part 507 and authorized by the NYS Department of Health to be provided by certified treatment providers pursuant to rules and regulations of the Office.

(f) “Crisis plan” means a plan developed in consultation with the child/youth, their family and their crisis intervention provider; it may also be shared with other providers with the family’s consent. The crisis plan is developed to reduce or manage crisis related symptoms, promote healthy behavior, address safety concerns, and prevent or reduce the risk of harm or diffusion of dangerous situations.

(g) “Early Periodic Screening and Diagnostic Treatment” (EPSDT) means the provision of comprehensive and preventive health and behavioral health services for children/youth under age twenty-one (21) enrolled in Medicaid. EPSDT is intended to ensure that such children/youth receive appropriate preventive, dental, health, behavioral health, developmental and specialty services.

(h) “Evidence based practice” (EBP) means an intervention for which there is rigorous scientific evidence demonstrating their effectiveness or efficacy in improving child/youth outcomes.

(i) “Family” means the primary caregiving unit and is inclusive of the wide diversity of primary caregiving units such as birth, foster and adoptive parents or a self-created unit of people with significant attachment to one another.

(j) “Licensed practitioner of the healing arts” (LPHA) means an individual who is licensed and practicing within the scope of their state license and may recommend rehabilitative services.

A Licensed practitioner of the healing arts includes:

- (1) A Registered Professional Nurse;
- (2) Nurse Practitioner;
- (3) Psychiatrist;
- (4) Licensed Psychologist;

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(5) Licensed Clinical Social Worker (LCSW);

(6) Mental Health Practitioner including: a licensed mental health counselor (LMHC), a marriage and family therapist (LMFT), a creative arts therapist (LCAT), and licensed psychoanalyst; and any mental health practitioner with a Limited Permit, acting under the supervision of a licensed practitioner.

(7) Physician.

(8) A Clinical Nurse Specialist, Licensed Master Social Worker and Physician Assistant who are licensed and practicing within the scope of their state license may recommend rehabilitation services only where noted in the *Manual*.

(k) “State Agencies” means the New York State Department of Health (DOH), the Office of Mental Health (OMH), the Office of Children and Family Services (OCFS) and this Office, for purposes of this part.

823.5 Authorized services

(a) *Authorized services.* Authorized services as further defined in 18 NYCRR 517 and/or the *Manual* include:

(1) Crisis intervention (CI): CI services are provided to a child/youth and his/her family, who is experiencing a behavioral health (psychiatric or substance use) crisis and are designed to:

- (i) Interrupt and/or ameliorate the crisis;
- (ii) Include a culturally and linguistically appropriate assessment;
- (iii) Result in immediate crisis resolution and de-escalation;
- (iv) Develop a crisis plan.

(2) Other licensed practitioner (OLP): OLP is a non-physician licensed behavioral health practitioner (NP-LBHP) licensed to practice in New York State and operating within their scope of practice in a setting permissible by state law. A NP-LBHP includes an individual licensed and able to practice independently as:

(i) a Licensed Mental Health Practitioner including a licensed mental health counselor (LMHC), a marriage and family therapist (LMFT), a creative arts therapist (LCAT), and licensed

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psychoanalyst; and any mental health practitioner with a Limited Permit acting under the supervision of a licensed practitioner;

(ii) Licensed Clinical Social Worker (LCSW)

(iii) Licensed Master Social Worker (LMSW), when practicing under the supervision or direction of a LCSW, Licensed Psychologist or Psychiatrist.

(3) Community Psychiatric Support and Treatment (CPST): CPST are goal-directed supports and solution-focused interventions intended to achieve identified goals or objectives as set forth in a treatment/recovery plan. CPST is designed to provide community-based services to children/youth and families who may have difficulty engaging in formal office settings, but can benefit from community based rehabilitative services. This includes the implementation of EBP with prior authorization from the State Agencies.

(4) Psychosocial Rehabilitation (PSR): PSR services are task-oriented interventions, outlined in the treatment/recovery plan, designed to compensate for or eliminate functional deficits and interpersonal and/or environmental barriers associated with behavioral health needs. The intent of PSR is to restore, rehabilitate, and support a child/youth's functional level as much as possible and as necessary for the integration of the child/youth as an active and productive member of their community and family with minimal ongoing professional interventions.

(5) Family Peer Support Services (FPSS): FPSS includes formal and informal services and supports provided to families of children/youth experiencing social, emotional, developmental, medical, substance use, and/or behavioral challenges in their home, school, placement, and/or community. FPSS provide a structured, strength-based relationship between a CRPA-FPA and the family for the benefit of the child/youth. Activities included must be task-oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's treatment/recovery plan.

(6) Youth Peer Support and Training (YPST): YPST services are formal and informal services and supports provided to children/youth experiencing social, emotional, medical, developmental, substance use and/or behavioral challenges in their home, school, placement and/or community. These services provide the training and support necessary by the CRPA-YPA to ensure engagement and active participation in the treatment/recovery planning and implementation process and to reinforce skills learned throughout the treatment process. Youth

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peer support and training activities must be intended to develop and achieve the identified goals and/or objectives as set forth in the treatment/recovery plan.

(b) *Approved Modality and Setting.* (1) Modality. Unless otherwise authorized, services should include face-to-face interaction with the child/youth and their family, as appropriate. Any such interactions, or the reason(s) such interaction could not be completed, should be documented in the patient treatment/recovery plan and case record.

(2) Setting. Services may be provided in a variety of settings, including an emergency room, health or behavioral health clinic setting, or other community location where the child/youth lives, attends school, works or engages in social activities. Services should be offered in the best setting suited for the desired outcomes and as referenced in the *Manual*.

823.6 Designation Process

(a) Requests for designation to provide EPSDT services shall be made in a form and format established by the Office.

(b) Providers must be designated by the Office to provide any of the services authorized under this Part.

(c) To be eligible for designation, the provider must:

(1) Be a Medicaid enrolled provider prior to commencing service delivery;

(2) Satisfy requisite criteria identified in the New York State Plan Amendment

Designation Application and the Standards of Care, applicable regulations and the *Manual*.

(d) The Office shall provide its designation in writing. The provider of services must retain a copy of the approval document and shall make it available for inspection upon request of the Office.

(e) Providers who fail to comply with laws, regulations and policies may have designation withdrawn by the Office, which will consult with the State Agencies before making such determination. The Office will inform the provider of the action on behalf of the State Agencies. For purposes of this subdivision:

(1) The provider has fourteen (14) days to appeal the decision to the Commissioner or designee of the Office. The appeal must state specific reasons why the provider considers

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revocation of approval incorrect and shall be accompanied by any supporting evidence or arguments.

(2) The Commissioner or designee shall notify the provider, in writing, of the results of the appeal within twenty (20) days of receipt of the request for review. Failure of the Commissioner or designee to respond within that time shall be considered confirmation of the revocation.

(3) The Commissioner’s determination after administrative review shall be final and not subject to further administrative review.

(4) A de-designated provider agency may apply for re-designation after it has been determined by the State Agencies that the provider agency has thoroughly corrected the problem which arose during the evaluation process. An on-site and/or desk evaluation may be conducted prior to approving a re-designation request.

823.7 Standards of Care

(a) Standards of Care are essential for access to and quality of care for persons served by programs authorized to provide behavioral health services. Such Standards of Care must be incorporated into the policies of these programs and be applied consistently throughout the State.

(b) Qualified providers shall provide services in compliance with the Standards of Care as found in the *Manual* and consistent with their scope of practice and approved designation. These Standards of Care are approved by the Commissioner in consultation with the State Agencies.

(c) Each applicant for designation must agree to operate in compliance with the Standards of Care, applicable regulations, and the *Manual*.

(d) Treatment plans shall address the Standards of Care which shall supplement any requirements of treatment plans and case records found in this Title.

823.8 Standards pertaining to Medicaid reimbursement

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Reimbursement for children’s health and behavioral health services must be in accordance with the rates and fees established by the State Agencies and approved by the Director of the Budget.

823.9 Severability

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without the invalid provisions or applications, and to this end the provisions of this Part are declared to be severable.

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PART 511

EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT SERVICES FOR CHILDREN

(Statutory authority: Mental Hygiene Law §§7.07, 7.09; 42 U.S.C. §1396d(r)(5); 18 NYCRR 507.6)

Section:

511.1	Background and Intent
511.2	Legal base
511.3	Applicability
511.4	Standards of Care
511.5	Definitions
511.6	Authorized Services
511.7	Designation Process
511.8	Standards Pertaining to Medicaid reimbursement
511.9	Guidelines

§ 511.1 Background and Intent

This regulation contains requirements applicable to rehabilitative health and behavioral health services available to children up to age twenty-one (21) and their families through the federal Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program in New York. The services defined herein focus on preventing the need for more restrictive placements settings and higher intensity services, by increasing culturally and linguistically appropriate, trauma-informed services provided in the most integrated setting possible. Providers must be designated to provide such services when medically necessary and services must be recommended by licensed practitioner of the healing arts. This Part is intended to establish standards applicable to all providers operated, licensed, or otherwise authorized by the Office of Mental Health (OMH) that wish to be designated to offer EPSDT health and behavioral health services.

§ 511.2 Legal base

DISCLAIMER: This Working Draft Document is being provided as a courtesy. These draft regulations are subject to change, and may change significantly over the course of regulatory development. They DO NOT represent final OMH regulations on this subject.

- (a) Section 7.07(a) of the Mental Hygiene Law charges the Commissioner of Mental Health with the responsibility for assuring the development of comprehensive plans, programs, and services in areas of research, prevention, and care, treatment, rehabilitation, education, and training of persons with mental illness.
- (b) Section 7.07 (c) of the Mental Hygiene Law gives the Commissioner of Mental Health the responsibility for seeing that persons with mental illness are provided with care and treatment, and that such care, treatment, and rehabilitation is of high quality and effectiveness.
- (c) Section 7.09 of the Mental Hygiene Law grants the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.
- (d) Section 31.02 of the Mental Hygiene Law authorize the Commissioner of Mental Health to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for persons diagnosed with mental illness., (e) 42 U.S.C. § 1396d(r)(5) defines EPSDT services available under Medicaid to correct or ameliorate physical and mental illnesses and conditions that are detected in Medicaid-eligible children.
- (e) 18 NYCRR 507.6. This section promotes the expansion of health and behavioral health services for children. The New York State Department of Health (DOH), the New York State Office of Mental Health (OMH), the New York State Office of Alcoholism and Substance Abuse Services (OASAS), and the New York State Office of Children and Family Services (OCFS) (the “State Agencies”) shall designate qualified providers to deliver these EPSTD services under the Medical Assistance Program.

§ 511.3 Applicability

- (a) The designation of providers pursuant to this regulation is not a substitute for possessing any required State licensure, certification, authorization or credential.
- (b) If a provider applies for designation to provide any of these EPSDT services referenced in this regulation and wishes to serve the general population needing mental health services; the organization will need to be licensed or authorized by the Office of Mental Health in addition to obtaining the State interagency designation. Guidance on this process is provided in the *Children’s Health and Behavioral Health Services Transformation, Medicaid State Plan Provider Manual*.

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(c) The provisions of this Part are applicable to all providers of mental health services licensed or otherwise authorized by the Office of Mental Health that are seeking or have obtained designation from the Office to offer EPSDT behavioral health and health services.

§511.4 Standards of Care Standards of Care are essential for access to and quality of care for persons served by programs authorized to provide behavioral health services. Such Standards of Care must be incorporated into the policies of these programs and be applied consistently throughout the State.

b) Qualified providers shall provide services in compliance with the Standards of Care as found in the *Childrens' Health and Behavioral Health Services Transformation, Medicaid State Plan Provider Manual* and consistent with their scope of practice and approved designation. These Standards of Care are approved by the Commissioner of Mental Health in consultation with the State Agencies.

(c) Each applicant for designation must agree to operate in compliance with the Standards of Care, applicable regulations, and the *Childrens' Health and Behavioral Health Services Transformation, Medicaid State Plan Provider Manual*.

(d) Treatment plans shall address the Standards of Care which shall supplement any requirements of treatment plans and case records found in 14 NYCRR 599.

§ 511.5 Definitions.

For purposes of this Part:

(a) *Child* means a person under the age of twenty-one.

(b) *Childrens' Behavioral Health and Health Services Transformation, Medicaid State Plan Provider Manual (Manual)* means the guide describing six children's health and behavioral health benefits approved pursuant to the Medicaid State Plan.

(c) *Children's services* means health and behavioral health services as defined in 18 NYCRR Part 507 and authorized by the New York State Department of Health (DOH) to be provided by designated treatment providers pursuant to rules and regulations of this Office

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- (d) *Early Periodic Screening and Diagnostic Treatment (EPSDT)* means the provision of comprehensive and preventive health and behavioral health services for children under age twenty-one (21) enrolled in Medicaid. EPSTD is intended to ensure that children receive appropriate preventive, dental, health, behavioral health, developmental and specialty services.
- (e) *Evidenced based practice (EBP)* means an intervention for which there is rigorous scientific evidence demonstrating their effectiveness or efficacy in improving child outcomes.
- (f) *Family* means the primary caregiving unit and is inclusive of the wide diversity of primary care giving units in our culture. Family is a birth, foster, adoptive or self-created unit of people residing together, with significant attachment to the individual, consisting of adult(s) and child(ren performing duties of parenthood/caregiving even if the individual is living outside the home.
- (g) *Licensed Practitioner of the Healing Arts (LPHA)* means the following professional staff:
 - (1) Marriage and Family Therapist, which means an individual who is currently licensed as a Marriage and Family Therapist by the New York State Education Department;
 - (2) Mental Health Counselor, which means an individual who is currently licensed as a Mental Health Counselor by the New York State Education Department;
 - (3) Nurse Practitioner, which means an individual who is currently certified as a Nurse Practitioner by the New York State Education Department;
 - (4) Nurse Practitioner in psychiatry, which means an individual who is currently certified as a Psychiatric Nurse Practitioner by the New York State Education Department. For purposes of this Part, nurse practitioner in psychiatry shall have the same meaning as psychiatric nurse practitioner, as defined by the New York State Education Department;
 - (5) Physician, which means an individual who is currently licensed as a Physician by the New York State Education Department or possesses a permit from the New York State Education Department;
 - (6) Physician's Assistant, which means an individual who is currently registered as a Physician Assistant or a Specialist's Assistant by the New York State Education Department;
 - (7) Psychiatrist, which means an individual who is currently licensed as a Physician by the New York State Education Department and who is certified by, or eligible to be certified by, the American Board of Psychiatry and Neurology;

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(8) Psychoanalyst, which means an individual who is currently licensed as a Psychoanalyst by the New York State Education Department;

(9) Psychologist, which means an individual who is currently licensed as a Psychologist by the New York State Education Department;

(10) Registered Professional Nurse, which means an individual who is currently licensed as a Registered Professional Nurse by the New York State Education Department; and

(11) Social Worker, which means an individual who is currently licensed as a Master Social Worker or Clinical Social Worker by the New York State Education Department.

(h) *Office* means the Office of Mental Health.

(i) *State Agencies* means the New York State Department of Health (DOH), the Office of Mental Health (OMH), the New York State Office of Children and Families (OCFS), the New York State Office of Alcoholism and Substance Abuse Services (OASAS) (the State Agencies), for purposes of this Part.

§ 511.5 Authorized Services

(a) The following services shall be available to children who are Medicaid eligible and who meet medical necessity criteria. Providers of these services must receive prior approval by written designation of the Office to provide any or all of the following childrens' services:

(1) *Crisis Intervention* services are available to a child and a member of his/her family who is experiencing a behavioral health crisis, and are designed to:

(i) interrupt and/or ameliorate the crisis experience;

(2) include an assessment that is culturally and linguistically competent;

(3) result in immediate crisis resolution and de-escalation; and

(4) result in the development of a crisis plan.

(2) *Community Psychiatric Support and Treatment (CPST)* services are goal-directed supports and solution-focused interventions intended to address challenges associated with a behavioral health need and to achieve identified goals or objectives as set forth in the child's treatment plan. CPST is designed

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to provide community-based services to children and families who may have difficulty engaging in formal office settings, but can benefit from community based rehabilitative services. CPST allows for delivery of services within a variety of permissible settings including community locations where the beneficiary lives, works, attends school, engages in services (e.g. provider office sites), and/or socializes.

(3) *Family Peer Support Services (FPSS)*, an array of formal and informal activities and supports provided to families who are caring for/raising a child who is experiencing social, emotional, developmental, medical, substance use, and/or behavioral challenges in their home, school, placement, and/or community. FPSS provides a structured, strength based relationship between a credentialed Family Peer with relevant lived experience as determined appropriate by the Office and the parent/family member/caregiver for the benefit of the child/youth. Activities must be task oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's individualized treatment plan.

(4) *Other Licensed Practitioner (OLP)* services, which include services provided by the following professionals if currently licensed by the State of New York to prescribe, diagnose, and/or treat individuals with a physical, mental illness, substance use disorder, or functional limitations at issue, provided such professionals are operating within their respective scope of practice and in a setting permitted under New York State law, including community settings:

- (1). Licensed Psychoanalyst;
- (2). Licensed Clinical Social Worker;
- (3). Licensed Marriage & Family Therapist;
- (4). Licensed Mental Health Counselor; or
- (5). Licensed Master Social Worker under the supervision or direction of a Licensed Clinical Social Worker, a Licensed Psychologist, or a Psychiatrist.

(5) *Psychosocial Rehabilitation Services (PRS)*, are designed to work with children and their families to implement interventions outlined in the treatment plan to compensate for or eliminate functional deficits

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and interpersonal and/or environmental barriers associated with a child/youth's behavioral health needs. The intent of PSR is to restore, rehabilitate, and support a child/youth's functional level as much as possible and as necessary for the integration of the child/youth as an active and productive member of their community and family with minimal ongoing professional interventions. Activities included must be task oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's individualized treatment plan.

(6) *Youth Peer Support and Training Services (YPST)* services are formal and informal services and supports provided to youth who are experiencing social, emotional, medical, developmental, substance use, and/or behavioral challenges in their home, school, placement, and/or community centered services. These services provide the training and support necessary by a credentialed youth peer with relevant lived experience as determined appropriate by the Office to ensure engagement and active participation of the youth in the treatment planning process and with the ongoing implementation and reinforcement of skills learned throughout the treatment processes are the focus of this service. Youth peer support and training activities must be intended to develop and achieve the identified goals and/or objectives as set forth in the youth's individualized treatment plan. The Youth Peer Support and Training services are based on the individualized treatment plan developed by the licensed practitioner working with the child/youth.

(b) Approved Modality and Setting.

(1) Modality. Unless otherwise authorized, services should include face-to-face interaction with the child and their family as appropriate. Any such interactions, or the reasons such interaction could not be completed, shall be documented in the treatment plan and case record.

(2) Setting. Services may be provided in a variety of settings including a health or behavioral health clinic or other community location where the child lives, attends school, works or engages in social activities. Services should be offered in the best setting suited for the desired outcomes as referenced in the Manual.

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511.7 Designation Process

(a) Requests for designation to provide EPSDT childrens' services shall be made in a form and format established by the Office

(b) To be eligible for designation, the applicant must:

(1) be enrolled in the Medicaid program prior to commencing service delivery;

(3) satisfy requisite criteria identified in the Childrens' Provider Designation Application, the Standards of Care, applicable regulations, and the *Children's Health and Behavioral Health Services Transformation, Medicaid State Plan Provider Manual*, available at (need to identify where these documents can be found).

(c) The Office shall provide its designation in writing. The provider of services must retain a copy of the designation letter and shall make it available for inspection upon request of the Office.

(d) Failure to adhere to the requirements set forth in this Part, may be grounds for revocation of designation. In the event that the Office, after consulting with the State Agencies, determines that designation must be revoked, it will notify the provider of its decision in writing. The provider may request an informal administrative review of such decision.

(1) The provider must request such review in writing within 14 days of the date it receives notice of revocation of designation to provide these childrens' services to the Commissioner or designee. The request shall state specific reasons why the provider considers the revocation of approval incorrect and shall be accompanied by any supporting evidence or arguments.

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(2) The Commissioner or designee shall notify the provider, in writing, of the results of the informal administrative review within 20 days of receipt of the request for review. Failure of the Commissioner or designee to respond within that time shall be considered confirmation of the revocation.

(3) The Commissioner's determination after informal administrative review shall be final and not subject to further administrative review.

(4) A de-designated provider agency may apply for re-designation after it has been determined by the State Agencies that the provider agency has thoroughly corrected the problem which arose during the evaluation process. An on-site and/or desk evaluation may be conducted prior to approving a re-designation request.

§511. 8 Standards Pertaining to Medicaid reimbursement

Reimbursement for children's health and behavioral health services must be in accordance with the rates and fees established by the State Agencies and approved by the Director of Budget.

§ 511.9 Guidelines

The Office shall develop guidelines to assist providers in complying with the provisions of this Part and in delivering EPSDT services. The Office shall post such guidelines on its public website.

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PART 511

EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT SERVICES FOR CHILDREN

(Statutory authority: Mental Hygiene Law §§7.07, 7.09; 42 U.S.C. §1396d(r)(5); 18 NYCRR 507.6)

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§ 511.2 Legal base

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- (a) Section 7.07(a) of the Mental Hygiene Law charges the Commissioner of Mental Health with the responsibility for assuring the development of comprehensive plans, programs, and services in areas of research, prevention, and care, treatment, rehabilitation, education, and training of persons with mental illness.
- (b) Section 7.07 (c) of the Mental Hygiene Law gives the Commissioner of Mental Health the responsibility for seeing that persons with mental illness are provided with care and treatment, and that such care, treatment, and rehabilitation is of high quality and effectiveness.
- (c) Section 7.09 of the Mental Hygiene Law grants the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.
- (d) Section 31.02 of the Mental Hygiene Law authorize the Commissioner of Mental Health to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for persons diagnosed with mental illness., (e) 42 U.S.C. § 1396d(r)(5) defines EPSDT services available under Medicaid to correct or ameliorate physical and mental illnesses and conditions that are detected in Medicaid-eligible children.
- (e) 18 NYCRR 507.6. This section promotes the expansion of health and behavioral health services for children. The New York State Department of Health (DOH), the New York State Office of Mental Health (OMH), the New York State Office of Alcoholism and Substance Abuse Services (OASAS), and the New York State Office of Children and Family Services (OCFS) (the “State Agencies”) shall designate qualified providers to deliver these EPSTD services under the Medical Assistance Program.

§ 511.3 Applicability

- (a) The designation of providers pursuant to this regulation is not a substitute for possessing any required State licensure, certification, authorization or credential.
- (b) If a provider applies for designation to provide any of these EPSDT services referenced in this regulation and wishes to serve the general population needing mental health services; the organization will need to be licensed or authorized by the Office of Mental Health in addition to obtaining the State interagency designation. Guidance on this process is provided in the *Children’s Health and Behavioral Health Services Transformation, Medicaid State Plan Provider Manual*.

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- (c) The provisions of this Part are applicable to all providers of mental health services licensed or otherwise authorized by the Office of Mental Health that are seeking or have obtained designation from the Office to offer EPSDT behavioral health and health services.

§511.4 Standards of Care Standards of Care are essential for access to and quality of care for persons served by programs authorized to provide behavioral health services. Such Standards of Care must be incorporated into the policies of these programs and be applied consistently throughout the State.

b) Qualified providers shall provide services in compliance with the Standards of Care as found in the *Childrens' Health and Behavioral Health Services Transformation, Medicaid State Plan Provider Manual* and consistent with their scope of practice and approved designation. These Standards of Care are approved by the Commissioner of Mental Health in consultation with the State Agencies.

(c) Each applicant for designation must agree to operate in compliance with the Standards of Care, applicable regulations, and the *Childrens' Health and Behavioral Health Services Transformation, Medicaid State Plan Provider Manual*.

(d) Treatment plans shall address the Standards of Care which shall supplement any requirements of treatment plans and case records found in 14 NYCRR 599.

§ 511.5 Definitions.

For purposes of this Part:

- (a) *Child* means a person under the age of twenty-one.
- (b) *Childrens' Behavioral Health and Health Services Transformation, Medicaid State Plan Provider Manual (Manual)* means the guide describing six children's health and behavioral health benefits approved pursuant to the Medicaid State Plan.
- (c) *Children's services* means health and behavioral health services as defined in 18 NYCRR Part 507 and authorized by the New York State Department of Health (DOH) to be provided by designated treatment providers pursuant to rules and regulations of this Office

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- (d) *Early Periodic Screening and Diagnostic Treatment (EPSDT)* means the provision of comprehensive and preventive health and behavioral health services for children under age twenty-one (21) enrolled in Medicaid. EPSTD is intended to ensure that children receive appropriate preventive, dental, health, behavioral health, developmental and specialty services.
- (e) *Evidenced based practice (EBP)* means an intervention for which there is rigorous scientific evidence demonstrating their effectiveness or efficacy in improving child outcomes.
- (f) *Family* means the primary caregiving unit and is inclusive of the wide diversity of primary care giving units in our culture. Family is a birth, foster, adoptive or self-created unit of people residing together, with significant attachment to the individual, consisting of adult(s) and child(ren performing duties of parenthood/caregiving even if the individual is living outside the home.
- (g) *Licensed Practitioner of the Healing Arts (LPHA)* means the following professional staff:
 - (1) Marriage and Family Therapist, which means an individual who is currently licensed as a Marriage and Family Therapist by the New York State Education Department;
 - (2) Mental Health Counselor, which means an individual who is currently licensed as a Mental Health Counselor by the New York State Education Department;
 - (3) Nurse Practitioner, which means an individual who is currently certified as a Nurse Practitioner by the New York State Education Department;
 - (4) Nurse Practitioner in psychiatry, which means an individual who is currently certified as a Psychiatric Nurse Practitioner by the New York State Education Department. For purposes of this Part, nurse practitioner in psychiatry shall have the same meaning as psychiatric nurse practitioner, as defined by the New York State Education Department;
 - (5) Physician, which means an individual who is currently licensed as a Physician by the New York State Education Department or possesses a permit from the New York State Education Department;
 - (6) Physician's Assistant, which means an individual who is currently registered as a Physician Assistant or a Specialist's Assistant by the New York State Education Department;
 - (7) Psychiatrist, which means an individual who is currently licensed as a Physician by the New York State Education Department and who is certified by, or eligible to be certified by, the American Board of Psychiatry and Neurology;

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(8) Psychoanalyst, which means an individual who is currently licensed as a Psychoanalyst by the New York State Education Department;

(9) Psychologist, which means an individual who is currently licensed as a Psychologist by the New York State Education Department;

(10) Registered Professional Nurse, which means an individual who is currently licensed as a Registered Professional Nurse by the New York State Education Department; and

(11) Social Worker, which means an individual who is currently licensed as a Master Social Worker or Clinical Social Worker by the New York State Education Department.

(h) *Office* means the Office of Mental Health.

(i) *State Agencies* means the New York State Department of Health (DOH), the Office of Mental Health (OMH), the New York State Office of Children and Families (OCFS), the New York State Office of Alcoholism and Substance Abuse Services (OASAS) (the State Agencies), for purposes of this Part.

§ 511.5 Authorized Services

(a) The following services shall be available to children who are Medicaid eligible and who meet medical necessity criteria. Providers of these services must receive prior approval by written designation of the Office to provide any or all of the following childrens' services:

(1) *Crisis Intervention* services are available to a child and a member of his/her family who is experiencing a behavioral health crisis, and are designed to:

(i) interrupt and/or ameliorate the crisis experience;

(2) include an assessment that is culturally and linguistically competent;

(3) result in immediate crisis resolution and de-escalation; and

(4) result in the development of a crisis plan.

(2) *Community Psychiatric Support and Treatment (CPST)* services are goal-directed supports and solution-focused interventions intended to address challenges associated with a behavioral health need and to achieve identified goals or objectives as set forth in the child's treatment plan. CPST is designed

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to provide community-based services to children and families who may have difficulty engaging in formal office settings, but can benefit from community based rehabilitative services. CPST allows for delivery of services within a variety of permissible settings including community locations where the beneficiary lives, works, attends school, engages in services (e.g. provider office sites), and/or socializes.

(3) *Family Peer Support Services (FPSS)*, an array of formal and informal activities and supports provided to families who are caring for/raising a child who is experiencing social, emotional, developmental, medical, substance use, and/or behavioral challenges in their home, school, placement, and/or community. FPSS provides a structured, strength based relationship between a credentialed Family Peer with relevant lived experience as determined appropriate by the Office and the parent/family member/caregiver for the benefit of the child/youth. Activities must be task oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's individualized treatment plan.

(4) *Other Licensed Practitioner (OLP)* services, which include services provided by the following professionals if currently licensed by the State of New York to prescribe, diagnose, and/or treat individuals with a physical, mental illness, substance use disorder, or functional limitations at issue, provided such professionals are operating within their respective scope of practice and in a setting permitted under New York State law, including community settings:

- (1). Licensed Psychoanalyst;
- (2). Licensed Clinical Social Worker;
- (3). Licensed Marriage & Family Therapist;
- (4). Licensed Mental Health Counselor; or
- (5). Licensed Master Social Worker under the supervision or direction of a Licensed Clinical Social Worker, a Licensed Psychologist, or a Psychiatrist.

(5) *Psychosocial Rehabilitation Services (PRS)*, are designed to work with children and their families to implement interventions outlined in the treatment plan to compensate for or eliminate functional deficits

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and interpersonal and/or environmental barriers associated with a child/youth's behavioral health needs. The intent of PSR is to restore, rehabilitate, and support a child/youth's functional level as much as possible and as necessary for the integration of the child/youth as an active and productive member of their community and family with minimal ongoing professional interventions. Activities included must be task oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's individualized treatment plan.

(6) *Youth Peer Support and Training Services (YPST)* services are formal and informal services and supports provided to youth who are experiencing social, emotional, medical, developmental, substance use, and/or behavioral challenges in their home, school, placement, and/or community centered services. These services provide the training and support necessary by a credentialed youth peer with relevant lived experience as determined appropriate by the Office to ensure engagement and active participation of the youth in the treatment planning process and with the ongoing implementation and reinforcement of skills learned throughout the treatment processes are the focus of this service. Youth peer support and training activities must be intended to develop and achieve the identified goals and/or objectives as set forth in the youth's individualized treatment plan. The Youth Peer Support and Training services are based on the individualized treatment plan developed by the licensed practitioner working with the child/youth.

(b) Approved Modality and Setting.

(1) Modality. Unless otherwise authorized, services should include face-to-face interaction with the child and their family as appropriate. Any such interactions, or the reasons such interaction could not be completed, shall be documented in the treatment plan and case record.

(2) Setting. Services may be provided in a variety of settings including a health or behavioral health clinic or other community location where the child lives, attends school, works or engages in social activities. Services should be offered in the best setting suited for the desired outcomes as referenced in the Manual.

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511.7 Designation Process

(a) Requests for designation to provide EPSDT childrens' services shall be made in a form and format established by the Office

(b) To be eligible for designation, the applicant must:

(1) be enrolled in the Medicaid program prior to commencing service delivery;

(3) satisfy requisite criteria identified in the Childrens' Provider Designation Application, the Standards of Care, applicable regulations, and the *Children's Health and Behavioral Health Services Transformation, Medicaid State Plan Provider Manual*, available at (need to identify where these documents can be found).

(c) The Office shall provide its designation in writing. The provider of services must retain a copy of the designation letter and shall make it available for inspection upon request of the Office.

(d) Failure to adhere to the requirements set forth in this Part, may be grounds for revocation of designation. In the event that the Office, after consulting with the State Agencies, determines that designation must be revoked, it will notify the provider of its decision in writing. The provider may request an informal administrative review of such decision.

(1) The provider must request such review in writing within 14 days of the date it receives notice of revocation of designation to provide these childrens' services to the Commissioner or designee. The request shall state specific reasons why the provider considers the revocation of approval incorrect and shall be accompanied by any supporting evidence or arguments.

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(2) The Commissioner or designee shall notify the provider, in writing, of the results of the informal administrative review within 20 days of receipt of the request for review. Failure of the Commissioner or designee to respond within that time shall be considered confirmation of the revocation.

(3) The Commissioner's determination after informal administrative review shall be final and not subject to further administrative review.

(4) A de-designated provider agency may apply for re-designation after it has been determined by the State Agencies that the provider agency has thoroughly corrected the problem which arose during the evaluation process. An on-site and/or desk evaluation may be conducted prior to approving a re-designation request.

§511. 8 Standards Pertaining to Medicaid reimbursement

Reimbursement for children's health and behavioral health services must be in accordance with the rates and fees established by the State Agencies and approved by the Director of Budget.

§ 511.9 Guidelines

The Office shall develop guidelines to assist providers in complying with the provisions of this Part and in delivering EPSDT services. The Office shall post such guidelines on its public website.

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TITLE 18

Pursuant to the authority vested in the Commissioner of Health by section 206 of the Public Health Law, section 507.6, Part 507 of title 18 of the Official Compilation of Codes, Rules, and Regulations of the state of New York is amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Section 507.6 is added to read as follows:

(a) Purpose: This section promotes the expansion of health and behavioral health services for children/youth under 21 years of age. The New York State Department of Health (DOH), the New York State Office of Mental Health (OMH), the New York State Office of Alcoholism and Substance Abuse Services (OASAS), and the New York State Office of Children and Family Services (OCFS) (the "State Agencies") shall designate qualified organizations to deliver the following services under the Medical Assistance (MA) program.

(b) Services: The following services shall hereafter be available to children, youth and transitional age youth who are eligible for Medicaid who meet medically necessity criteria.

(1) *Crisis Intervention - (CI)* services are provided to children/youth under age 21, and his/her family/caregiver, who is experiencing a psychiatric or substance use (behavioral health) crisis, and are designed to:

- i. Interrupt and/or ameliorate the crisis experience
- ii. Include an assessment that is culturally and linguistically sensitive

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- iii. Result in immediate crisis resolution and de-escalation
- iv. Development of a crisis plan

(2) Other Licensed Practitioner:

i. A non-physician licensed behavioral health practitioner (NP-LBHP) is an individual who is licensed in the State of New York, operating within the scope of practice defined in State law and in any setting permissible under State practice law. This service allows for the delivery of services in the community in order to effectively engage children and youth. Services delivered in the community are to be within appropriate parameters.

ii. Individual Staff Qualifications: NP-LBHPs include individuals licensed and able to practice independently as a:

- A. Licensed Psychoanalyst
- B. Licensed Clinical Social Worker (LCSW)
- C. Licensed Marriage & Family Therapist
- D. Licensed Mental Health Counselor
- E. Licensed Master Social Worker (LMSW) under the supervision or direction of a Licensed Clinical Social Worker (LCSW), a Licensed Psychologist, or a Psychiatrist.

(3) Community Psychiatric Support and Treatment: CPST services are goal-directed supports and solution-focused interventions intended to achieve identified goals or objectives as set

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forth in the child's treatment plan. CPST is designed to provide community-based services to children and families who may have difficulty engaging in formal office settings, but can benefit from community based rehabilitative services. CPST allows for delivery of services within a variety of permissible settings including community locations where the beneficiary lives, works, attends school, engages in services (e.g. provider office sites), and/or socializes. This includes the implementation of Evidence Based Practices with approved by the State Agencies.

(4) *Psychosocial Rehabilitation*: Psychosocial Rehabilitation Services (PSR) are designed to work with children and their families to implement interventions outlined in the treatment plan to compensate for or eliminate functional deficits and interpersonal and/or environmental barriers associated with a child/youth's behavioral health needs. The intent of PSR is to restore, rehabilitate, and support a child/youth's functional level as much as possible and as necessary for the integration of the child/youth as an active and productive member of their community and family with minimal ongoing professional interventions. Activities included must be task oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's individualized treatment plan.

(5) *Family Peer Support - (FPSS)* are an array of formal and informal services and supports provided to families caring for/raising a child who is experiencing social, emotional, developmental, medical, substance use, and/or behavioral challenges in their home, school, placement, and/or community. FPSS provide a structured, strength-based relationship between a credentialed Family Peer with relevant lived experience as determined

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appropriate by the State Agencies as defined in subdivision (a) of this subsection and the parent/family member/caregiver for the benefit of the child/youth. Activities must be task oriented and intended to achieve the identified goals or objectives as set forth in the child/youth's individualized treatment plan.

(6) *Youth Peer Support and Training: (YPST)* services are youth formal and informal services and supports provided to youth who are experiencing social, emotional, medical, developmental, substance use, and/or behavioral challenges in their home, school, placement, and/or community centered services. These services provide the training and support necessary by a credentialed youth peer with relevant lived experience as determined appropriate by the State Agencies as defined in subdivision (a) of this subsection to ensure engagement and active participation of the youth in the treatment planning process and with the ongoing implementation and reinforcement of skills learned throughout the treatment processes are the focus of this service. Youth peer support and training activities must be intended to develop and achieve the identified goals and/or objectives as set forth in the youth's individualized treatment plan. The Youth Peer Support and Training services delivered are based on the individualized treatment plan developed by the licensed practitioner working with the child/youth.

(c) *Provider Agency Qualification:*

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- (1) Any child serving agency or agency with children's behavioral health and health experience that is licensed, certified, or designated by DOH, OMH, or OASAS, or in the case of voluntary foster care agencies licensed or approved by OCFS to provide comparable and appropriate services as referenced in the *Children's Behavioral Health and Health Services Transformation, Medicaid State Plan Provider Manual*.
- (2) Any practitioner providing behavioral health or health services must operate within a child serving agency or agency with children's behavioral health and health experience that is licensed, certified, or designated by DOH, OMH, or OASAS, or in the case of voluntary foster care agencies licensed or approved by OCFS
- (3) CI practitioners must work within agencies that possess a current license or authorization to provide crisis and/or crisis treatment services, or any child serving agency with children's behavioral health and health experience that is licensed, certified, or designated by DOH, OMH, OASAS or in the case of voluntary foster care agencies licensed or approved by OCFS to provide comparable and appropriate crisis services as referenced in the *Children's Behavioral Health and Health Services Transformation, Medicaid State Plan Provider Manual*.
- (4) If an organization applies for designation to provide any SPA service referenced in this regulation and wishes to serve the general population needing mental health services; the organization will need to be licensed or authorized by the NYS Office of Mental Health in addition to obtaining the State interagency designation. Guidance on this process is provided in the *Children's Behavioral Health and Health Services Transformation, Medicaid State Plan Provider Manual*.

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- (5) If an organization applies for designation to provide any SPA service referenced in this regulation and wishes to serve the general population needing substance use disorder services; the organization will need to be certified, designated or authorized by the NYS Office of Alcoholism and Substance Abuse Services (OASAS) in addition to obtaining the State interagency designation. Guidance on this process is provided in the *Children's Behavioral Health and Health Services Transformation, Medicaid State Plan Provider Manual*.

(d) Designation of Providers:

- (1) Providers must be designated to provide any of the services authorized under this regulations. The designation of providers pursuant to this regulation is not a substitute for possessing any required State licensure, certification, authorization or credential.
- (2) To be eligible for designation, the applicant must:
 - i. Be a Medicaid enrolled provider prior to commencing service delivery
 - ii. Be a qualified provider as described in subsection (c) of this section.
 - iii. Be in good standing as determined by DOH, OMH, OASAS, or in the case of voluntary foster care agencies licensed or approved by OCFS and maintain license, certification, and designation or approval with that agency.
 - iv. Be a fiscally viable agency.
 - v. Meet developed criteria as outlined in the Provider Designation Application guidance and form, including adequate explanation of how the provider meets such criteria.

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- vi. Adhere to the Standards of Care described in the Children’s Behavioral Health and Health Transformation, Medicaid State Plan Provider Manual and as set forth in regulations.
 - vii. For Evidenced Based Practices (EBP), once the agency has received designation by the State Agencies to be a provider of Community Psychiatric Support and Treatment (CPST), it may seek designation as an approved EBP provider as per State guidance.
- (3) Once an agency is designated as a SPA provider, delegation of the lead State agency (either DOH, OASAS, OCFS or OMH) will be based on the primary population served, location, and indicated line of business on provider application. Once designated, a provider may be required to modify the appropriate license/certificate/authorization for the respective State agency or to apply for licensure/certification/authorization as necessary and determined by the lead State Agency. The respective State Agency and other partner agencies will take on overall collaborative responsibilities relating to monitoring and oversight.
- (4) Providers who fail to comply with laws, regulations and policies shall have designation withdrawn by the lead agency, who will consult with the State Agencies before making such determination. The provider has 14 business days to appeal the decision to the lead agency. The lead agency shall respond with a final decision within 14 business days of appeal.
- (5) A de-designated provider agency may apply for re-designation after it has been determined that the provider agency has thoroughly corrected the problems which arose during the evaluation process of the lead agency. An on-site and/or desk evaluation may be conducted prior to approving the re-designation request.

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- (6) Providers designated to provide such services under the Medical Assistance program shall do so when such services are medically necessary and recommended by a licensed practitioner of the healing arts.
- (7) Nothing contained herein shall authorize a provider agency as described in subdivision (c) to provide medical services, except as otherwise required by law or regulation.

(e) Reimbursement: Reimbursement for children's behavioral health and health services must be in accordance with the rates established by the Department of Health and approved by the Director of the Budget.

**Appendix IV
2017 Title XIX State Plan
First Quarter Amendment
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

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

Office of Children and Family Services

The Office of Children and Family Services (OCFS) Bureau of Waiver Management (BWM) will soon submit an application to the Federal Centers for Medicare and Medicaid Services (CMS) to renew the three Home and Community Based Services (HCBS) Bridges to Health (B2H) Medicaid Waiver Programs for children and adolescents with Serious Emotional Disturbance (SED), Developmental Disabilities (DD) or who are Medically Fragile (MedF). The OCFS B2H Waiver Programs have been in operation since 2008 serving children and adolescents who are or have been in the NYS Child Welfare System. They are extremely important components in the spectrum of services for New York State's children with serious emotional disturbance, developmental disabilities, and who are medically fragile, by providing necessary support for these children and adolescents to remain in the community in the most integrated setting as an alternative to institutionalization.

There is one proposed change to the B2H Waiver Programs. Currently, the DD slots and the MedF slots are allocated to each of the 6 NYS Regions and managed by Home Office BWM B2H staff. The proposed change would pool together the DD and MedF slots currently allocated to the 5 Upstate Regions. Those pooled slots would then be managed by Home Office BWM B2H staff. This change does not affect the number of slots. Additionally, there would be no change to slots allocated to Region 6 – New York City.

We want to advise you of this opportunity to comment because feedback from the community is essential in our renewal process. The current B2H SED, DD and MedF waivers are available for viewing on the OCFS website at <http://ocfs.ny.gov/main/b2h/>. Comments may be forwarded within the next thirty days as we work toward the renewal of this important waiver program. Please direct all comments to:

Mimi Weber, Director, Bureau of Waiver Management, Office of Children and Family Services, 52 Washington St., Rensselaer, NY 12144, or e-mail: ocfs.sm.B2Hpubliccomment@ocfs.ny.gov, (518) 408-4064

Kimberly Jefferson, Assistant Director, Bureau of Waiver Management, Office of Children and Family Services, 52 Washington St., Rensselaer, NY 12144, or e-mail: ocfs.sm.B2Hpubliccomment@ocfs.ny.gov, (518) 408-4064

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 May 2015 will be conducted on May 12 and May 13 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.

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. 1, 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 non-institutional services to revise provisions of the Ambulatory Patient Group (APG) reimbursement methodology on or after July 1, 2015. The following changes are proposed:

The Ambulatory Patient Group (APG) reimbursement methodology is revised to mitigate fiscal disincentives for rendering multiple service visits at integrated service clinics certified pursuant to Part 404 Subchapter A of Chapter V of 10 NYCRR. Multiple minor changes to the APG reimbursement methodology will be implemented for these clinics which include eliminating multiple behavioral health service discounting and multiple Evaluation and Management (E&M) service consolidation so that the second E&M pays at a discounted rate rather than consolidating.

The estimated annual impact of these changes will be nominal since less than one percent of claims will be affected.

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.

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 1460, Albany, NY 12210, or e-mail: 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 services to revise provisions of the Early and Periodic Screening Diagnosis and Treatment (EPSDT) services related to the expansion of behavioral health services provided to individuals under age 21 years on or after May 1, 2015 by adding the following new services:

- Crisis Intervention;
- Other Licensed Practitioner;
- Community Psychiatric Supports & Treatment;
- Psychosocial Rehabilitation Services;
- Family Peer Support Services; and
- Youth Peer Support and Training.

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.

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

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New York, New York 10018

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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 1460, Albany, NY 12210, or e-mail: 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 services to revise provisions of the Federally Qualified Health Center (FQHC) reimbursement methodology. The following changes are proposed:

Effective on May 1, 2015 and each October 1 thereafter, rates of payment for the group psychotherapy and individual off-site services will be increased by the percentage increase in the Medicare Economic Index (MEI) for FQHC providers only. Also, the reimbursement methodology for out-of-state FQHCs will be that the Department may use the currently approved FQHC rate of the provider's home state. The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2015/2016 is \$2,417.

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.

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:

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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

PUBLIC NOTICE

Office of Parks, Recreation and Historic Preservation

Pursuant to Title 9, Article 54 of the Environmental Conservation Law, the New York State Office of Parks, Recreation and Historic Preservation hereby gives public notice of the following:

Notice is hereby given, pursuant to Section 49-0305 (9) of the Environmental Conservation Law, that the State of New York acting by and through the New York State Office of Parks, Recreation and Historic Preservation intends to acquire a Conservation Easement from the following: Finger Lakes Land Trust, Inc. in Town of Spaford, Onondaga County, New York; D&H Canal Historical Society, Inc. in Town of Marbletown, Ulster County, New York; County of Erie in City of Buffalo, New York.

For further information, contact: Beatrice Gamache, Regional

Appendix V
2017 Title XIX State Plan
First Quarter Amendment
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #17-0001

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-B of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

- 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 payments, a complete listing of providers that return a portion of their payments, 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 through 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 governmental 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. **For clinic or outpatient hospital services 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.

Response: The services we are proposing are for EPSDT only; they are not hospital or clinic services and not calculated for the UPL. This question does not apply.

- 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: No. Governmental providers will receive payments based on a uniform fee schedule which is the same for both governmental and private providers. These payments will not exceed their costs to provide these services.

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 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 this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.