



## Department of Health

**ANDREW M. CUOMO**  
Governor

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

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

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

JUN 26 2018

RE: SPA #18-0023  
Non-Institutional

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #18-0023 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective April 1, 2018 (Appendix I). This amendment is being submitted based on enacted legislation. 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.

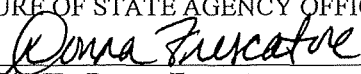
Copies of pertinent sections of enacted legislation are enclosed for your information (Appendix III). Copies of the public notice of this plan amendment, which was given in the New York State Register on October 19, 2016 and November 23, 2016 are also enclosed for your information (Appendix IV). In addition, 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 Regina Deyette, Medicaid State Plan Coordinator, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 473-3658.

Sincerely,

Donna Frescatore  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: 18-0023	2. STATE New York
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		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 April 1, 2018	
5. TYPE OF PLAN MATERIAL (Check One): <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 (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1905(r)(5) of the Social Security Act and 42 CFR 447		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 04/01/18-09/30/18      \$22.50 b. FFY 10/01/18-09/30/19      \$45.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B – Page 6(a)(5), 6(a)(6)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):	
10. SUBJECT OF AMENDMENT: Minimum Wage – Hospice Non-Residence (FMAP = 50%)			
11. GOVERNOR'S REVIEW (Check One): <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 & Rate Setting 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Donna Frescatore			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: JUN 26 2018			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
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**  
**2018 Title XIX State Plan**  
**Second Quarter Amendment**  
**Amended SPA Pages**

New York  
6(a)(5)

Effective April 1, 2018, and every January 1, thereafter until the minimum wage reaches the statutorily described per hour wage as shown below, the rates of payment for services provided by Hospice Non-Residence providers will increase in accordance with the wage chart shown below to address increases in labor costs.

[www.health.ny.gov/facilities/long\\_term\\_care/reimbursement/hospice/](http://www.health.ny.gov/facilities/long_term_care/reimbursement/hospice/)

**Minimum Wage Chart**

	04/1/2018	12/31/2019	12/31/2020	12/31/2021
New York City (Large employers)	\$15.00	\$15.00	\$15.00	\$15.00
New York City (Small employers)	\$13.50	\$15.00	\$15.00	\$15.00
Nassau, Suffolk, & Westchester counties	\$12.00	\$13.00	\$14.00	\$15.00
Remainder of the State	\$11.10	\$11.80	\$12.50	\$12.50

TN #18-0023

Approval Date

Supersedes TN New

Effective Date

New York  
6(a)(6)

Minimum Wage Reconciliation - Each calendar year, the Department of Health will survey providers to obtain information to reconcile the annual minimum wage reimbursement. The department will release the reconciliation survey by the end of March each year and providers will have two weeks to complete the survey. If a provider determines it is unable to complete the survey within that time, the provider may request an extension. Approval of extensions and the duration of the extension is at the discretion of the department. If the reconciliation survey is not submitted within two weeks or within the timeframe of an approved extension, the providers minimum-wage add on for the calendar year covered by the survey will be recouped.

The department will supply the total annual minimum-wage funding paid to the provider, as determined from the minimum-wage add onto claims paid for services rendered in the prior calendar year. Medicaid’s share is the percentage of minimum wage costs that are attributable to Medicaid services based on the proportion of Medicaid services to a provider’s total services.

The information collected from providers in the reconciliation survey will include, but may not be limited to, the following:

- i. Medicaid’s share of the total amount the provider was obligated to pay to bring salaries up to the minimum wage for the calendar year.
- ii. Minimum wage funds to be recouped or additional funds to be received by the provider. This will be the difference between the amount paid to the provider for the Medicaid share of the minimum wage law increase requirement and the corresponding amount the provider determined it was actually obligated to pay.

The department will review providers’ submissions for accuracy and reasonableness, following which it will process associated payments and recoupments via retroactive per unit rate adjustments as quickly as practical thereafter. The agency’s Chief Executive Officer or Chief Financial Officer must sign an Attestation verifying the data that is supplied in the survey.

Hospice per diem rates can be found on the Department of Health website at:

[www.health.ny.gov/facilities/long\\_term\\_care/reimbursement/hospice/](http://www.health.ny.gov/facilities/long_term_care/reimbursement/hospice/)

TN#:         #18-0023          
Supersedes TN#:         NEW        

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

**Appendix II**  
**2018 Title XIX State Plan**  
**Second Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #18-0023**

This amendment proposes to revise the State Plan to reimburse cost increases experienced by Hospice Non-Residence providers resulting from the passage of the Minimum Wage Act of 2016. Reimbursements will be calculated in accordance with the proposed rate methodology.

**Appendix III**  
**2018 Title XIX State Plan**  
**Second Quarter Amendment**  
**Authorizing Provisions**



**18-0023**

**Labor**

§ 652. Minimum wage. 1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than:

\$4.25 on and after April 1, 1991,  
\$5.15 on and after March 31, 2000,  
\$6.00 on and after January 1, 2005,  
\$6.75 on and after January 1, 2006,  
\$7.15 on and after January 1, 2007,  
\$8.00 on and after December 31, 2013,  
\$8.75 on and after December 31, 2014,

\$9.00 on and after December 31, 2015, and until December 31, 2016, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(a) New York City. (i) Large employers. Every employer of eleven or more employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

\$11.00 per hour on and after December 31, 2016,

\$13.00 per hour on and after December 31, 2017,

\$15.00 per hour on and after December 31, 2018, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(ii) Small employers. Every employer of ten or less employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

\$10.50 per hour on and after December 31, 2016,

\$12.00 per hour on and after December 31, 2017,

\$13.50 per hour on and after December 31, 2018,

\$15.00 per hour on and after December 31, 2019, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(b) Remainder of downstate. Every employer shall pay to each of its employees for each hour worked in the counties of Nassau, Suffolk and Westchester a wage not less than:

\$10.00 per hour on and after December 31, 2016,

\$11.00 per hour on and after December 31, 2017,

\$12.00 per hour on and after December 31, 2018,

\$13.00 per hour on and after December 31, 2019,

\$14.00 per hour on and after December 31, 2020,

\$15.00 per hour on and after December 31, 2021,

or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(c) Remainder of state. Every employer shall pay to each of its employees for each hour worked outside of the city of New York and the counties of Nassau, Suffolk, and Westchester, a wage of not less than:

\$9.70 on and after December 31, 2016,

\$10.40 on and after December 31, 2017,

\$11.10 on and after December 31, 2018,

\$11.80 on and after December 31, 2019,

\$12.50 on and after December 31, 2020,

and on each following December thirty-first, a wage published by the commissioner on or before October first, based on the then current minimum wage increased by a percentage determined by the director of the budget in consultation with the commissioner, with the result rounded to the nearest five cents, totaling no more than fifteen dollars, where the percentage increase shall be based on indices including, but not limited to, (i) the rate of inflation for the most recent twelve month period ending June of that year based on the consumer price index for all urban consumers on a national and seasonally unadjusted basis (CPI-U), or a successor index as calculated by the United States department of labor, (ii) the rate of state personal income growth for the prior calendar year, or a successor index, published by the bureau of economic analysis of the United States department of commerce, or (iii) wage growth; or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(d) The rates and schedules established in paragraphs (a) and (b) of this subdivision shall not be deemed to be the minimum wage under this subdivision for purposes of the calculations specified in subdivisions one and two of section five hundred twenty-seven of this chapter.

2. Existing wage orders. The minimum wage orders in effect on the effective date of this act shall remain in full force and effect, except as modified in accordance with the provisions of this article.

Such minimum wage orders shall be modified by the commissioner to increase all monetary amounts specified therein in the same proportion as the increase in the hourly minimum wage as provided in subdivision one of this section, including the amounts specified in such minimum wage orders as allowances for gratuities, and when furnished by the employer to its employees, for meals, lodging, apparel and other such items, services and facilities. All amounts so modified shall be rounded off to the nearest five cents. The modified orders shall be promulgated by the commissioner without a public hearing, and without reference to a wage board, and shall become effective on the effective date of such increases in the minimum wage except as otherwise provided in this subdivision, notwithstanding any other provision of this article.

3. Non-profitmaking institutions. (a) Application of article. This article shall apply to non-profitmaking institutions.

(b) Option available to non-profitmaking institutions. The provisions of any wage order issued under this article shall not apply, however, to any non-profitmaking institution which pays and continues to pay to each of its employees in every occupation a wage, exclusive of allowances, of not less than the minimum wage provided in subdivision one of this section provided that such institution had certified under oath to the commissioner, on or before September first, nineteen hundred sixty, that on or before October first, nineteen hundred sixty it would pay and thereafter intended to pay such wage to each of its employees in every occupation and provided further that all the provisions of this article have not become applicable to such institution by operation of paragraph (c) of this subdivision. If such institution was not organized or did not hire any employees as defined in subdivision five of section six hundred fifty-one of this chapter before September first, nineteen hundred sixty, such provisions shall not apply so long as, commencing six months after it was organized, or first employed such employees it paid and continues to pay such wage to each of its employees in every occupation, provided that such institution certified under oath within six months after it was organized or first employed such employees that

it would pay and thereafter intended to pay such wage to each of its employees in every occupation and provided further that all the provisions of this article have not become applicable to such institution by operation of paragraph (c) of this subdivision.

(c) Termination of option. All the provisions of this article, including all of the provisions of any wage order issued thereunder which, but for the operation of paragraph (b) of this subdivision, would apply to any non-profitmaking institution, shall become fully applicable to such institution sixty days after such institution files a notice with the commissioner requesting that the provisions of such wage order apply to it, or immediately upon the issuance of an order by the commissioner finding that such institution has failed to pay the wages provided in paragraph (b) of this subdivision, but in no event shall any such order discharge the obligation of such institution to pay the wages provided by paragraph (b) of this subdivision for any period prior to the issuance of such order.

4. Notwithstanding subdivisions one and two of this section, the wage for an employee who is a food service worker receiving tips shall be a cash wage of at least two-thirds of the minimum wage rates set forth in subdivision one of this section, rounded to the nearest five cents or seven dollars and fifty cents, whichever is higher, provided that the tips of such an employee, when added to such cash wage, are equal to or exceed the minimum wage in effect pursuant to subdivision one of this section and provided further that no other cash wage is established pursuant to section six hundred fifty-three of this article.

5. Notwithstanding subdivisions one and two of this section, meal and lodging allowances for a food service worker receiving a cash wage pursuant to subdivision four of this section shall not increase more than two-thirds of the increase required by subdivision two of this section as applied to state wage orders in effect pursuant to subdivision one of this section.

6. Notwithstanding subdivision one of this section, and sections six hundred fifty-three and six hundred fifty-five of this article, on or after January first, two thousand nineteen, and each January first thereafter until such time as the minimum wage is fifteen dollars in all areas of the state, the division of budget shall conduct an analysis of the state of the economy in each region, and the effect of the minimum wage increases listed in this section, to determine whether there should be a temporary suspension or delay in any scheduled increases. In conducting its analysis, the division of budget shall consult the department, the department's division of research and statistics, the United States department of labor, the federal reserve bank of New York and other economic experts. The division of budget will reference well-established economic indexes and accepted economic factors, including those set forth in section six hundred fifty-four of this article, to justify and explain its decision. After reviewing such indexes and factors, the division shall determine whether scheduled increases in the minimum wage shall continue up to and including fifteen dollars. The division of budget will issue a report and recommendation to the commissioner, who shall take action on that report and recommendation pursuant to section six hundred fifty-six of this article.

**Appendix IV  
2018 Title XIX State Plan  
Second Quarter Amendment  
Public Notice**

said lands of the New York State Electric and Gas Corporation, a distance of 238.00 feet to an iron pipe set on the northerly bounds of aforementioned East and West Road, Parcel No. 29, thence westerly along said northerly bounds North 89° 48' 15" West a distance of 170.00 feet to the point or place of beginning, containing 0.93 acre of land, more or less.

AS shown on a map entitled "Survey of House No. 980", dated March 8, 2012 with a final revision date of March 11, 2014 and filed in the New York State Office of General Services as OGS Map No. 2525.

This abandonment shall be effective as of the date of approval of this declaration by the Commissioner of General Services or her duly authorized representative.

New York State Department  
of Corrections and Community  
Supervision

By: Anthony J. Annucci, Acting  
Commissioner

New York State Office of General  
Services

Approved: RoAnn M. Destito,  
Commissioner

### PUBLIC NOTICE

#### Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional, non-institutional, and long term care services to comply with enacted statutory provisions. The following changes are proposed:

#### All Services

Effective on or after December 31, 2016, the Department of Health will adjust rates to take into account increased labor costs resulting from statutorily required increases in the New York State minimum wage. Under the statute, increases in the minimum wage will be phased in over a number of years until the minimum wage is \$15 per hour in all regions of the State, and Medicaid rates will be adjusted in those years to account for such increases.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2016/2017 is approximately \$8,500,000 and state fiscal year 2017/2018 is approximately \$47,300,000.

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

Copies of the proposed State Plan Amendments will be on file in 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, Division of Finance and Rate Setting, 99  
Washington Ave., One Commerce Plaza, Suite 1460, Albany, NY  
12210, e-mail: [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

### PUBLIC NOTICE

#### New York State and Local Retirement Systems Unclaimed Amounts Payable to Beneficiaries

Pursuant to the Retirement and Social Security Law, the New York State and Local Retirement Systems hereby gives public notice of the amounts payable to beneficiaries.

The State Comptroller, pursuant to Sections 109 (a) and 409 (a) of the Retirement and Social Security Law has received, from the New York State and Local Retirement Systems, a listing of beneficiaries or estates having unclaimed amounts in the Retirement System. A list of the names contained in this notice is on file and open to public inspection at the office of the New York State and Local Retirement Systems located at 110 State St., in the City of Albany, New York.

Set forth below are the names and addresses (last known) of beneficiaries and estates appearing from the records of the New York State and Local Retirement Systems, entitled to the unclaimed benefits.

At the expiration of six months from the date of publication of this list of beneficiaries and estates, unless previously paid to the claimant, the amounts shall be deemed abandoned and placed in the pension accumulation fund to be used for the purpose of said fund.

Any amounts so deemed abandoned and transferred to the pension accumulation fund, may be claimed by the executor or administrator of the estates or beneficiaries so designated to receive such amounts, by filing a claim with the State Comptroller. In the event such claim is properly made, the State Comptroller shall pay over to the estates or to the person or persons making such claim, the amount without interest.

ANDERSON, TRACE PLAINVIEW CT  
ANTHONY, LAWRENCE F ESTATE OF CAMDEN NY  
BALESZEN, MARY ESTATE OF ALBANY NY  
BECKER, MARY D ESTATE OF ALBANY NY  
BENOIT, ALICE T ESTATE OF TITUSVILLE NY  
BISSONNETTE, MICHAEL G MASTIC BEACH NY  
BOLLINGER, FLORENCE C ESTATE OF BALLSTON SPA NY  
BROWN, LOUIS E, JR ROCKVILLE CENTER NY  
BROWN, RHOMAS J BROOKLYN NY  
BUCHANAN, ELIZABETH JANE NORTH BABYLON NY  
BUCHANAN, KIM POUGHKEEPSIE NY  
CAIN, AMY BETH DEER PARK NY  
CASALI, DEBRA M CARMEL NY  
CHAMBERS, MAGGIE RALEIGH DC  
CHAMBLEE JR, MILTON ALBANY VA  
CHIVERS, BRENDA BUFFALO NY  
CHIVERS, DOUGLAS BUFFALO NY  
CHRISTY, DENISE BUFFALO NY  
CLEARY, SHEILA ESTATE OF GAITHERSBURG MD  
COMBS, DEXTER ALLEN WASHINGTON DC  
CONKLIN, PAUL R MIDDLETOWN NY  
CONKLING, VIRGINIA TONAWANDA NY  
COOKE, CHARLES A NORTH MEDFORD NY  
COOKE, CHRISTINA SELDEN NY  
DABBRACCIO, ELIA ESTATE OF LOUDONVILLE NY  
DAVIS, NICHOLAS ULSTER PARK NY  
DE DIVITIS, GERALDINE SPRING VALLEY NY

11/23/16

# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

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

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

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

## PUBLIC NOTICE Town of Amherst Office of Refuse Control

On November 1st, 2016 the Town of Amherst awarded a contract to Modern Disposal Services, Inc. pursuant to Section One Hundred Twenty-W (120-W) of the General Municipal Law for Solid Waste Services. The validity of this contract or the procedures which led to this award may be hereafter contested only by action, suit, or proceeding commenced within sixty (60) days after the date of this notice and only upon the ground or grounds that: (1) such award or procedure was not authorized pursuant to that section, or (2) any of the provisions of that section which should be complied with at the date of this publication have not been substantially complied with, or (3) a conflict of interest can be shown in the manner in which the contract was awarded; or by action, suit or proceeding commenced on the grounds that such contract was awarded in violation of the provisions of the Constitution.

## PUBLIC NOTICE Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional, non-institutional, and long term care services to comply with enacted statutory provisions. The following changes are proposed:

### All Services

The Department's proposal to adjust rates to take into account increased labor costs resulting from statutorily required increases in the New York State minimum wage is being amended to reflect a revision in the Medicaid expenditures. Under the statute, increases in the minimum wage will be phased in over a number of years until the minimum wage is \$15 per hour in all regions of the State, and Medicaid rates will be adjusted in those years to account for such increases.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2016/2017 is approximately \$18,000,000 and state fiscal year 2017/2018 is approximately \$104,000,000.

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

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, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1460, Albany, NY 12210, [spa\\_inquiries@health.ny.gov](mailto: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 institutional care related to temporary rate adjustments to providers that are undergoing closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are authorized by current State statutory and regulatory provisions.

The temporary rate adjustments have been reviewed and approved for St. Barnabas Hospital, with aggregate payment amounts totaling up to \$30,000,000 for the period January 1, 2017 through December 31, 2019.

**Appendix V**  
**2018 Title XIX State Plan**  
**Second Quarter Amendment**  
**Responses to Standard Funding Questions**

**NON-INSTITUTIONAL SERVICES**  
**State Plan Amendment #18-0023**

**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 the state plan. 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 2 CFR 200 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 budget appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Medicaid General Fund Local Assistance Account, which is part of the Global Cap. The Global Cap is funded by General Fund and HCRA resources. There have been no new provider taxes and no existing taxes have been modified as a result of this SPA.

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 Department is not aware of any UPL requirement for the Hospice program.

- 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:** The rate methodology included in the approved state plan for Hospice services is based on Federal rates from the CMS website adjusted by regional wage index factors. We are unaware of any requirement under current federal law or regulation that limits individual provider payments to their actual costs.

#### **ACA Assurances:**

- 1. Maintenance of Effort (MOE). Under section 1902(gg) of the Social Security Act (the Act), as amended by the Affordable Care Act, as a condition of receiving any Federal payments under the Medicaid program during the MOE period indicated below, the State shall not have in effect any eligibility standards, methodologies, or procedures in its Medicaid program which are more restrictive than such eligibility provisions as in effect in its Medicaid program on March 10, 2010.**

#### **MOE Period.**

- **Begins on: March 10, 2010, and**
- **Ends on: The date the Secretary of the Federal Department of Health and Human Services determines an Exchange established by a State under the provisions of section 1311 of the Affordable Care Act is fully operational.**

**Response:** This SPA complies with the conditions of the MOE provision of section 1902(gg) of the Act for continued funding under the Medicaid program.

- 2. Section 1905(y) and (z) of the Act provides for increased FMAPs for expenditures made on or after January 1, 2014 for individuals determined eligible under section 1902(a)(10)(A)(i)(VIII) of the Act. Under section 1905(cc) of the Act, the increased FMAP under sections 1905(y) and (z) would not be available for States that require local political subdivisions to contribute amounts toward the non-Federal share of the State's expenditures at a greater percentage than would have been required on December 31, 2009.**

**Prior to January 1, 2014** States may potentially require contributions by local political subdivisions toward the non-Federal share of the States' expenditures at percentages **greater than** were required on December 31, 2009. **However**, because of the provisions of section 1905(cc) of the Act, it is important to determine and document/flag any SPAs/State plans which have such greater percentages prior to the January 1, 2014 date in order to **anticipate potential violations and/or appropriate corrective actions** by the States and the Federal government.

**Response:** This SPA would [ ] / would not [✓] violate these provisions, if they remained in effect on or after January 1, 2014.

- 3. Please indicate whether the State is currently in conformance with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.**

**Response:** 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 17-0065, and documentation of such is included with this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.