



Department of Health

ANDREW M. CUOMO
Governor

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

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

June 30, 2020

Ms. Nicole McKnight
Acting 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 #20-0020
Non-Institutional Services

Dear Ms. McKnight:

The State requests approval of the enclosed amendment #20-0020 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective April 1, 2020 (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.

A copy of pertinent sections of enacted legislation is 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 March 25, 2020 is also enclosed for your information (Appendix IV).

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

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

7. FEDERAL BUDGET IMPACT

a. FFY _____ \$ _____

b. FFY _____ \$ _____

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

10. SUBJECT OF AMENDMENT

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL

16. RETURN TO

13. TYPED NAME

14. TITLE

15. DATE SUBMITTED June 30, 2020

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
2020 Title XIX State Plan
Second Quarter Amendment
Amended SPA Pages

**New York
2(a)(vi)**

Screening; Symptom Management; Medication Therapy; Medication Skill-Building; Verbal Therapy; Rehabilitation Readiness Assessment and Development; Crisis Intervention Services; Functional Skill Development; Clinical Support Services; and Discharge Planning Services.

Partial Hospitalization services are provided in preadmission visits for individuals prior to formal enrollment. Preadmission visits are limited to a maximum of three visits which must occur over a period of time not to exceed the remaining days of the month in which the first preadmission visit occurred and the next full calendar month.

Clinical Support Services may also be provided to collaterals, who are members of the individual's family or household, or others who regularly interact with the individual and are directly affected by or can affect the individual's condition and are identified in the treatment plan as having a role in the individual's treatment. Clinical support services that are provided to collaterals are for the direct benefit of the Medicaid beneficiary. Collateral and group collateral visits are limited to two hours per day.

Other limitations on amount and duration of Partial Hospitalization Services include:
[

- i. Reimbursement is limited to no more than 180 hours per course of treatment. A course of treatment shall not exceed six calendar weeks, unless during the course of treatment the recipient is admitted to an inpatient psychiatric facility. Such course of treatment may be extended to include the number of days of inpatient treatment, up to a maximum of 30 days. Partial Hospitalization Services provided during crisis, collateral or group collateral visits do not count towards the 180 hour maximum.
- ii. Reimbursement is limited to 360 hours per calendar year. Services provided during crisis, collateral or group collateral visits do not count towards the 360 hour maximum.]

[iii.] i. Reimbursement is limited to one visit, including preadmission visits (of up to 7 hours) and one individual or group collateral visit (of up to 2 hours) per individual per day. Additional Partial Hospitalization Services may be provided on the same day during a crisis visit.

3. Continuing Day Treatment Services

Continuing Day Treatment Services are mental health preventive, diagnostic, therapeutic, and rehabilitative services. Continuing Day Treatment Services are provided based upon the clinical assessment of an individual's mental, physical and behavioral condition and history, which is the basis for establishing the individual's diagnosis, functional deficits, and recovery goals. Medically necessary Continuing Day Treatment Services are documented in a treatment plan which is signed by a physician and reviewed on a periodic basis. Medically necessary Continuing Day

TN #20-0020 Approval Date _____

Supersedes TN #10-0018 Effective Date **April 1, 2020**

**New York
2(a)(vi)**

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Partial Hospitalization services are provided in preadmission visits for individuals prior to formal enrollment. Preadmission visits are limited to a maximum of three visits which must occur over a period of time not to exceed the remaining days of the month in which the first preadmission visit occurred and the next full calendar month.

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TN #20-0020 _____ **Approval Date** _____

Supersedes TN #10-0018 _____ **Effective Date** April 1, 2020

Appendix II
2020 Title XIX State Plan
Second Quarter Amendment
Summary

SUMMARY
SPA #20-0020

This State Plan Amendment proposes to remove course of treatment and annual limitations on partial hospitalization services. All Medicaid recipients receiving partial hospitalization services can receive these services based on medical necessity and without such limitations, effective April 1, 2020.

Appendix III
2020 Title XIX State Plan
Second Quarter Amendment
Authorizing Provisions

14-CRR-NY 588.9 Standards pertaining to reimbursement for partial hospitalization programs.

(a) Partial hospitalization visits shall be reimbursed on the basis of duration of hours provided as follows:

(1) Reimbursement shall be provided for visits of at least four hours in duration and not more than seven hours per recipient per day.

(2) Reimbursement for partial hospitalization shall be limited to no more than 180 hours per course of treatment per recipient within a partial hospitalization program. A course of treatment shall not exceed six calendar weeks, unless, during the course of treatment, the recipient is admitted to an inpatient psychiatric facility. Such course of treatment may be extended to include the number of days of inpatient treatment, up to a maximum of 30 days. Each course of treatment is a new admission.

(3) Reimbursement shall be limited to 360 hours per calendar year per recipient.

(4) Collateral visit: shall be reimbursed for clinical support services of at least 30 minutes in duration but not more than two hours of face-to-face interaction between one or more collaterals and one therapist with or without a recipient.

(5) Group collateral visit: shall be reimbursed for clinical support services, in accordance with section 587.4(c) of this Part, of at least 60 minutes in duration but not more than two hours and shall represent services to more than one recipient and/or his or her collaterals. Such visits need not include recipients but shall not include more than 12 collaterals and/or recipients in a face-to-face interaction with a therapist.

(b) The utilization review authority designated pursuant to section 587.6 of this Title shall conduct the following reviews regarding, at a minimum, a random 25 percent sample of recipients:

(1) a review of the appropriateness of admission to a partial hospitalization program by the fourth visit after admission;

(2) a review of the need for continued treatment in a partial hospitalization program every two weeks.

(c) The determination of need for admission to or continued treatment in a partial hospitalization program shall be reviewable by the Office of Mental Health or its designated agent, and shall take the following criteria into account:

(1) the recipient's history, diagnosis, prognosis, progress or lack thereof; and

(2) whether the recipient requires services at that level of care, or would be more appropriately discharged or referred to another program.

(d) The treatment plan required pursuant to section 587.16 of this Title shall be completed prior to the fourth visit after admission. Review of the treatment plan shall be every two weeks.

NYS Mental Hygiene Law- Section 43.02

Rates or methods of payment for services at facilities subject to licensure or certification by the office of mental health, the office for people with developmental disabilities or the office of alcoholism and substance abuse services

(a) Notwithstanding any inconsistent provision of law, payment made by government agencies pursuant to title eleven of article five of the social services law for services provided by any facility licensed by the office of mental health pursuant to article thirty-one of this chapter or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services, as defined in [section 1.03](#) of this chapter, shall be at rates or fees certified by the commissioner of the respective office and approved by the director of the division of the budget, provided, however, the commissioner of mental health shall annually certify such rates or fees which may vary for distinct geographical areas of the state and, provided, further, that rates or fees for service for inpatient psychiatric services or inpatient chemical dependence services, at hospitals otherwise licensed pursuant to article twenty-eight of the public health law shall be established in accordance with [section two thousand eight hundred seven of the public health law](#) and, provided, further, that rates or fees for services provided by any facility or program licensed, operated or approved by the office for people with developmental disabilities, shall be certified by the commissioner of health; provided, however, that such methodologies shall be subject to approval by the office for people with developmental disabilities and shall take into account the policies and goals of such office.

(b) Operators of facilities licensed by the office of mental health pursuant to article thirty-one of this chapter, licensed by the office for people with developmental disabilities pursuant to article sixteen of this chapter or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services shall provide to the commissioner of the respective office such financial, statistical and program information as the commissioner may determine to be necessary. The commissioner of the appropriate office shall have the power to conduct on-site audits of books and records of such facilities.

(c) The commissioner of the office of mental health, the commissioner of the office for people with developmental disabilities and the commissioner of the office of alcoholism and substance abuse services shall adopt rules and regulations to effectuate the provisions of this section. Such rules and regulations shall include, but not be limited to, provisions relating to:

(i) the establishment of a uniform statewide system of reports and audits relating to the quality of care provided, facility utilization and costs of providing services; such a uniform statewide system may provide for appropriate variation in the application of the system to different classes or subclasses of facilities licensed by the office of mental health pursuant to article thirty-one of this chapter or licensed or operated by the office for people with developmental disabilities pursuant to article sixteen of this chapter, or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services; and

(ii) methodologies used in the establishment of the schedules of rates or fees pursuant to this section provided, however, that the commissioner of health shall adopt rules and regulations including methodologies developed by him or her for services provided by any facility or program licensed, operated or approved by the office for people with developmental disabilities; provided, however, that such rules and regulations shall be subject to the approval of the office for people with developmental disabilities and shall take into account the policies and goals of such office.

Appendix IV
2020 Title XIX State Plan
Second Quarter Amendment
Public Notice

pursuant to section 6056.4(c)(4) or 6056.4(c)(5) of this Title, may apply to the commissioner for leave to substitute satisfactory completion of a course of basic training completed in such other jurisdiction or may apply to the commissioner for leave to substitute satisfactory completion of the pre-employment police basic training program in satisfaction of all or part of the requirements of an approved basic course for peace officers imposed under section 2.30 of the Criminal Procedure Law. The commissioner shall review and evaluate all such applications and may require the applicant to submit such additional documentation as he or she shall deem necessary. If, upon review and evaluation of such application, the commissioner determines that a program of peace officer basic training completed by the applicant in another jurisdiction or the pre-employment police basic training program completed by the application meets or exceeds all or part of the minimum standards prescribed in section 6025.3 of this Part, the commissioner may authorize such training to be substituted for such requirements of the basic course as he or she shall deem appropriate. The commissioner shall certify, in writing, the extent to which all or part of the curriculum of the basic course may be waived and any noted deficiencies must be satisfactorily completed at a basic course approved by the commissioner, within the period of time prescribed in section 6025.7 of this Part. Applicants for equivalency certificates shall be subject to the same limitations and requirements as prescribed in sections 6025.6 and 6025.7 of this Part and section 2.30 of the Criminal Procedure Law.

PUBLIC NOTICE

Division of Criminal Justice Services

I, Andrew M. Cuomo, Governor of the State of New York, do hereby adopt and promulgate the following regulations that have been recommended by the Municipal Police Training Council pursuant to the provisions of section eight hundred forty of the Executive Law. This action is taken pursuant to the authority vested in me by section eight hundred forty-two of such law and, as such, it is exempted from the rule making provisions of the State Administrative Procedure Act.

NOW, THEREFORE, be it known that the amendments to Part 6024 of Title 9 of the New York State Official Compilation of Codes, Rules and Regulations are hereby adopted and promulgated and shall be effective upon publication in the State Register.

1. Subdivision (d) of Section 6024.1 of Title 9 of NYCRR is renumbered to be subdivision (e). A new subdivision (d) is added to section 6024.1 to read as follows:

(d) The term federal law enforcement officer shall have the same meaning as set forth in section 2.15 of the Criminal Procedure Law.

2. Subdivisions (b) and (c) of Section 6024.2 of Title 9 of NYCRR are amended to read as follows:

(b) Have a minimum of three years of police [or], peace officer or federal law enforcement officer experience. The peace officer or federal law enforcement officer experience requirement can only be satisfied by those persons who have carried a firearm in the course of their official duties and have done so for the prescribed period of time.

(c) Successfully complete a Municipal Police Training Council approved basic course for police officers or basic course for peace officers, as appropriate [.] or a requisite basic training course prescribed by a federal law enforcement officer employer.

3. Section 6024.4 of Title 9 of NYCRR is amended to read as follows:

Firearms instructor certification shall be valid from the date of issuance and shall remain valid during the holder's continuous service as a police officer [or], peace officer, or federal law enforcement officer, or while the holder is employed by a sponsoring police officer or peace officer agency, unless revoked by the commissioner.

PUBLIC NOTICE

Division of Criminal Justice Services

I, Andrew M. Cuomo, Governor of the State of New York, do hereby adopt and promulgate the following regulations that have been recommended by the Law Enforcement Agency Accreditation Council pur-

suant to Executive Law § 846-h(1)(c). This action is taken pursuant to the authority vested in me by such law, and, as such, it is exempted from the rule making provisions of the State Administrative Procedure Act.

NOW, THEREFORE, be it known that the amendment to section 6035.1(a) of Title 9 of the New York State Official Compilation of Codes, Rules and Regulations is hereby adopted and promulgated, and shall be effective upon publication in the State Register.

Subdivision (a) of section 6035.1 of Title 9 NYCRR is amended to read as follows:

(a) The term law enforcement agency shall mean any law enforcement agency or department of any municipality, any police district, or any agency, department, commission, authority or public benefit corporation of the state of New York employing a police officer or police officers as that term is defined in paragraphs (a), (b), (c), (d), (e), (f), (j), (k), (l), (o), (p) [and], (s), and (u) of subdivision thirty-four of section 1.20 of the Criminal Procedure Law. For the purposes of this definition, the term shall not include any entity that employs police officers in a capacity which may require the use of their law enforcement authority but is supplementary to the primary official responsibilities for which they have been hired.

PUBLIC NOTICE

Office of General Services

Pursuant to Section 33 of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the New York State Department of Transportation has determined that:

Address: 3628 NYS Route 281, Town of Cortlandville, Cortland County, N:V 13045 DOT Map 118-D, Parcel 119

a.23 acre+ lot, is surplus and no longer useful or necessary for state program purposes and has abandoned the property to the Commissioner of General Services for sale or other disposition as Unappropriated State land.

For further information, please contact: Thomas Pohl, Esq., Office of General Services, Legal Services, 41st Fl., Coming Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831, (518) 473-4973 fax

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:

Non-Institutional Services

Effective for days of service on or after April 1, 2020, The Department of Health will eliminate the limitations on amount and duration of partial hospitalization services. The State Plan Amendment is necessary to comply with the Mental Health Parity and Addiction Equity Act of 2008.

There is no additional estimated annual change to gross Medicaid expenditures as a result of this proposed amendment.

Effective on or after April 1, 2020, continues the supplemental upper payment limit payments made to general hospitals, other than major public general hospitals under non-institutional services of \$339 million annually.

For state fiscal year beginning April 1, 2020 through March 31, 2021, continues hospital outpatient payment adjustments that increase the operating cost components of rates of payment for hospital outpatient and emergency departments on and after April 1, 2011, for public general hospitals other than those operated by the State of New York or the State University of New York, which are located in a city with a population of over one million. The amount to be paid will be up to \$287 million annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodi-