



# Department of Health

**KATHY HOCHUL**  
Governor

**JAMES V. McDONALD, M.D., M.P.H.**  
Commissioner

**MEGAN E. BALDWIN**  
Acting Executive Deputy Commissioner

June 30, 2023

Todd McMillion  
Director  
Department of Health and Human Services  
Centers for Medicare and Medicaid Services  
233 North Michigan Ave, Suite 600  
Chicago, IL 60601

RE: SPA #23-0070  
Non-Institutional Services

Dear Mr. McMillion:

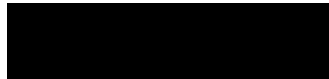
The State requests approval of the enclosed amendment #23-0070 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective April 1, 2023 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

The State of New York reimburses these services through the use of rates that are consistent with 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). Copies of the public notice of this plan amendment, which were given in the New York State Register on March 29, 2023, and clarified on July 12, 2023, 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,



Amir Bassiri  
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 3 — 0 0 7 0

2. STATE

N Y

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX  XXI

TO: CENTER DIRECTOR  
CENTERS FOR MEDICAID & CHIP SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

April 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION

§ 1905(a)(13) Other Diagnostic, Screening, Preventive, and Rehabil

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 04/01/23-09/30/23 \$ 1,044,764  
b. FFY 10/01/23-09/30/24 \$ 2,089,527

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-B: Page 10(a.1)(b), 10(a.3.i), 10(a.5), 10(a.6)(a), 10(a.7)(a)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-B: Page 10(a.1)(b), 10(a.3.i), 10(a.5), 10(a.6)(a), 10(a.7)(a)

9. SUBJECT OF AMENDMENT

4.0% COLA for OASAS Freestanding Outpatient, Part 820 Residential, Freestanding Residential Medically Supervised Withdrawa

10. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME

Amir Bassiri

13. TITLE

Medicaid Director

14. DATE SUBMITTED

June 30, 2023

15. 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

**FOR CMS USE ONLY**

16. DATE RECEIVED

17. DATE APPROVED

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

**Appendix I**  
**2023 Title XIX State Plan**  
**Second Quarter Amendment**  
**Amended SPA Pages**

New York  
10(a.1)(b)

**1905(a)(13) Other Diagnostic, Screening, Preventive, and Rehabilitative Services**

**Rehabilitative Services - Addiction Services**

**Addiction Residential Services (cont.)**

Effective March 1, 2023, the downstate region fee for Residential Stabilization will receive a 5.6% rate increase for parity to the upstate region. Also on March 1, 2023, Residential Stabilization will receive an additional 15.0% rate increase for both the upstate and downstate regions (compounding with the 5.6% rate increase in the downstate region). On March 1, 2023, Residential Rehabilitation will receive a 4.5% rate increase in each region. Residential Reintegration fees will remain unchanged. All fees associated with these adjustments will be posted on the OASAS website at:

<https://oasas.ny.gov/reimbursement/non-ambulatory>

Effective April 1, 2023, all three elements of the Part 820 service will receive a 4.0% cost-of-living adjustment. The revised rates will be posted at the link above.

TN: #23-0070 Approval Date: \_\_\_\_\_

Supersedes TN: #23-0003 Effective Date: April 1, 2023

**New York  
10(a.3.i)**

**1905(a)(13) Other Diagnostic, Screening, Preventive, and Rehabilitative Services**

**Reimbursement methodology (cont.)**

OASAS freestanding APG base rates effective July 1, 2022, are as follows.

<b>Service Type</b>	<b>7-1-22 Fee</b>	
	<b>Upstate</b>	<b>Downstate</b>
Outpatient Addiction Rehab	\$150.11	\$175.64
Outpatient Addiction Day Rehab	\$150.52	\$176.12
Opioid Treatment Program	\$138.31	\$161.82

OASAS freestanding APG base rates for in-community services effective July 1, 2022, with all three services sharing the same in-community APG base rates, are as follows:

<b>Service Type</b>	<b>7-1-22 Fee</b>	
	<b>Upstate</b>	<b>Downstate</b>
Outpatient Addiction Rehab - In-Community	\$150.52	\$176.12
Outpatient Addiction Day Rehab - In-Community	\$150.52	\$176.12
Opioid Treatment Program - In-Community	\$150.52	\$176.12

Effective April 1, 2022, the November 1, 2021, rates for Outpatient Addiction Rehab, Outpatient Addiction Day Rehab, and Opioid Treatment Programs (including in-community services) will receive a 5.4% cost-of-living adjustment (COLA). The July 1, 2022, rates for the same services will also receive the same 5.4% COLA. Effective January 1, 2023, rates for Outpatient Addiction Rehab, Outpatient Addiction Day Rehab, and Opioid Treatment Programs, as well as the in-community fees for the same services, will receive a 5.0% rate increase. Also, effective January 1, 2023, in-community rates will receive an additional, compounding 40% off-site rate enhancement. Effective April 1, 2023, rates for Outpatient Addiction Rehab, Outpatient Addiction Day Rehab, and Opioid Treatment Programs, as well as the in-community fees for the same services, will receive a 4.0% cost-of-living adjustment. All rates will be posted at:

<https://oasas.ny.gov/reimbursement/ambulatory-providers>

**TN: #23-0070**  
**Superseding TN: 23-0032**

**Approval Date:** \_\_\_\_\_  
**Effective Date:** April 1, 2023

**New York  
10(a.5)**

**1905(a)(13) Other Diagnostic, Screening, Preventive, and Rehabilitative Services**

Statewide RMSW fees:

Bed Size	RMSW Fees
6	\$ 408.97
7	\$ 401.53
8	\$ 395.20
9	\$ 389.70
10	\$ 384.85
11	\$ 380.51
12	\$ 376.59
13	\$ 373.01
14	\$ 369.74
15	\$ 366.72
16	\$ 363.91

The geographic regions and regional cost factors applicable to the statewide fees derived from the table above and used to determine the final facility-specific free-standing residential medically supervised withdrawal fees are as follows:

Region	Factor	Counties
1	1.2267	Bronx, Kings, New York, Richmond, Queens
2	1.2001	Westchester
3	1.1825	Nassau, Suffolk, Rockland, Orange, Putnam
4	1.1009	Dutchess
5	1.0317	Erie, Niagara
6	0.9710	Madison, Onondaga, Oswego, Tompkins, Jefferson, Herkimer, Oneida
7	0.9192	Rest of State

Effective April 1, 2022, the January 1, 2019, fees in the table above will receive a 5.4% cost-of-living adjustment. Effective January 1, 2023, the RMSW, fees will receive a 5.0% rate increase. Effective April 1, 2023, RMSW fees will receive a 4.0% cost-of-living adjustment. All fees will be posted on the OASAS website at:

<https://oasas.ny.gov/reimbursement/non-ambulatory>

**TN: #23-0070**  
**Superseding TN: #23-0032**

**Approval Date:** \_\_\_\_\_  
**Effective Date:** April 1, 2023

**New York  
10(a.6)(a)**

**1905(a)(13) Other Diagnostic, Screening, Preventive, and Rehabilitative Services**

**Chemical Dependence Freestanding Residential Rehabilitation Services (cont.)**

Effective April 1, 2022, the January 1, 2019, fees for Freestanding Residential Rehabilitation Services will receive a 5.4% cost-of-living adjustment (COLA). Effective January 1, 2023, fees for Freestanding Residential Rehabilitation Services will receive a 5.0% rate increase. Effective April 1, 2023, fees for Freestanding Residential Rehabilitation Services will receive a 4.0% cost-of-living adjustment. All fees associated with these adjustments will be posted on the OASAS website at:

<https://oasas.ny.gov/reimbursement/non-ambulatory>

**TN: #23-0070** \_\_\_\_\_  
**Superseding TN: #23-0032** \_\_\_\_\_

**Approval Date:** \_\_\_\_\_  
**Effective Date:** April 1, 2023

New York  
10(a.7)(a)

**1905(a)(13) Other Diagnostic, Screening, Preventive, and Rehabilitative Services**

**OASAS Opioid Treatment Programs (OTPs) Alternative Reimbursement Methodology  
– Freestanding Weekly Bundles (cont.)**

Effective April 1, 2022, and through June 30, 2022, the November 1, 2021, freestanding OTP weekly bundle fees will receive a 5.4% cost-of-living adjustment (COLA). Effective July 1, 2022, the existing the July 1, 2022, freestanding OTP weekly bundle fees will receive a 5.4% COLA. Effective January 1, 2023, freestanding OTP weekly bundle fees will receive an additional 5.0% rate increase. Effective April 1, 2023, freestanding OTP weekly bundle fees will receive a 4.0% cost-of-living adjustment. All fees associated with these adjustments will be posted on the OASAS website at:

<https://oasas.ny.gov/reimbursement/ambulatory-providers>

TN: #23-0070  
Superseding TN: #23-0032

Approval Date: \_\_\_\_\_  
Effective Date: April 1, 2023



**Appendix II**  
**2023 Title XIX State Plan**  
**Second Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #23-0070**

This State Plan Amendment proposes to provide a 4.0% COLA effective April 1, 2023 for OASAS freestanding outpatient services, Part 820 residential services, freestanding residential medically supervised withdrawal, and freestanding residential rehabilitation.

**Appendix III**  
**2023 Title XIX State Plan**  
**Second Quarter Amendment**  
**Authorizing Provisions**

Authorizing Provisions

Chapter 57 of the Laws of 2023 Part DD

2. Notwithstanding any inconsistent provision of law, subject to the approval of the director of the budget and available appropriations therefore, for the period of April 1, 2023 through March 31, 2024, the commissioners shall provide funding to support a four percent (4.0%) cost of living adjustment under this section for all eligible programs and services as determined pursuant to subdivision four of this section..

(4)(iii) Programs and services funded, licensed, or certified by the office of addiction services and supports (OASAS) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: medically supervised withdrawal services - residential; medically supervised withdrawal services - outpatient; medically managed detoxification; medically monitored withdrawal; inpatient rehabilitation services; outpatient opioid treatment; residential opioid treatment; KEEP units outpatient; residential opioid treatment to abstinence; problem gambling treatment; medically supervised outpatient; outpatient rehabilitation; specialized services substance abuse programs; home and community based waiver services pursuant to subdivision 9 of section 366 of the social services law; children and family treatment and support services; continuum of care rental assistance case management; NY/NY III post-treatment housing; NY/NY III housing for persons at risk for homelessness; permanent supported housing; youth clubhouse; recovery community centers; recovery community organizing initiative; residential rehabilitation services for youth (RRSY); intensive residential; community residential; supportive living; residential services; job placement initiative; case management; family support navigator; local government unit administration; peer engagement; vocational rehabilitation; support services; HIV early intervention services; dual diagnosis coordinator; problem gambling resource centers; problem gambling prevention; prevention resource centers; primary prevention services; other prevention services; and community services.

**Appendix IV**  
**2023 Title XIX State Plan**  
**Second 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](http://www.osc.state.ny.us)

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

## PUBLIC NOTICE Department of Health

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

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

### All Services

Effective on or after April 1, 2023, the Department of Health will adjust rates statewide to reflect a 2.5% percent Cost of Living Adjustment for the following Office of Mental Health (OMH), Office of Addiction Services and Supports (OASAS), and Office for People With Developmental Disabilities (OPWDD) State Plan Services: OMH Outpatient Services, OMH Clinic Services, OMH Rehabilitative Services, Children Family Treatment Support Services, Health Home Plus, Psychiatric Residential Treatment Facilities for Children and Youth, OASAS Outpatient Addiction Services, OASAS Freestanding (non-hospital) Inpatient Rehabilitation Services, OASAS Freestanding Inpatient Detox Services, OASAS Addiction Treatment Centers, OASAS Part 820 Residential Services, OASAS Residential Rehabilitation Services for Youth, Intermediate Care Facility (ICF/IDD), Day Treatment, Article 16 Clinic Services, Specialty Hospital, Health Home Services Provided by Care Coordination Organizations, Independent Practitioner Services for Individual with Developmental Disabilities (IPSIDD), and OPWDD Crisis Services.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$53.6 million.

### Non-Institutional Services

Effective on and after April 1, 2023, the New York State Department of Health proposes to amend the State Plan to allow for reimbursement of Medicaid covered services provided by pharmacists within their lawful scope of practice, including pharmacist prescribing oral contraceptives and smoking cessation products.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$1.6 million. In the out years the net aggregate in gross Medicaid expenditure for smoking cessation products will be a savings.

Effective on or after April 1, 2024, this proposal would eliminate Prescriber Prevals which applies to the Medicaid fee-for-service pharmacy program. Doing so would reduce inappropriate prescribing, remove barriers that limit the State's ability to manage pharmacy programs, and minimize the inappropriate influence of pharmaceutical manufacturers in the prior authorization process.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is (\$99 million).

Effective on or after April 1, 2023, the Department will remove copayments for over the counter (OTC) products and limit OTC products to those that are medically necessary. Clinically critical products such as aspirin and vitamins and minerals used for deficiencies will continue to be covered, as will less expensive OTC products that are in Preferred Drug Program (PDP) drug classes.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is (\$17.4 million).

Effective on and after April 1, 2023, the New York State Department of Health proposes to amend the State Plan to modify the specific drug class language for excluded drugs, to alternatively use current publicly available Department resources for coverage transparency.

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

Effective on or after April 1, 2023, this proposal 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.

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

For state fiscal year beginning April 1, 2023, through March 31, 2024, this proposal 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 periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Such adjustments shall be paid by means of one or more estimated payments. Payments may be added to rates of payment or made as aggregate payments.

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

For state fiscal year beginning April 1, 2023, through March 31, 2024, this proposal continues payment of up to \$5.4 million in additional annual Medicaid payments to county operated free-standing clinics, not including facilities operated by the New York City Health

and Hospitals Corporation, for services provided by such DTC and those provided by a county operated freestanding mental health or substance abuse DTC. Distributions shall be based on each eligible facility's proportionate share of the sum of all DTC and clinic visits for all eligible facilities receiving payments for the base year two years prior to the rate year. The proportionate share payments may be added to rates of payment or made as aggregate payments to eligible facilities.

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

Effective April 1, 2023, and each state fiscal year thereafter, this amendment proposes to revise the calculation to extract data later on in the calendar year for the applicable dates of service. The current authority to make supplemental payments for services provided by physicians, nurse practitioners and physician assistants will continue.

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

Effective on or after April 1, 2023, the Department of Health will adjust rates for Assisted Living Program (ALP) providers by a 5% across the board increase to the most recently active Operating rate in effect on March 31, 2023, for each provider.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$18 million.

Effective on or after April 1, 2023, the Department of Health will adjust rates for Adult Day Health Care providers by a 5% across the board increase to the most recently active Operating rate in effect on March 31, 2023, for each provider.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$838,000.

Effective on and after April 1, 2023, this notice provides for a temporary rate adjustment with an aggregate payment totaling no less than \$7.5 million annually for Critical Access Hospitals (CAHs), for the periods April 1, 2023, through March 31, 2024, and April 1, 2024, through March 31, 2025. Funding will be allocated to financially distressed hospitals with plans to reconfigure operations by improving financial management, improving quality of care and service delivery and/or improving operational efficiency and cost effectiveness.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$7.5 million and contained in the budget for state fiscal year 2024-2025 is \$7.5 million.

Effective on and after April 1, 2023, this notice provides for a temporary rate adjustment with an aggregate payment amount totaling no less than \$10 million annually, for Essential Community Providers (ECPs) for the periods April 1, 2023, through March 31, 2024, and April 1, 2024, through March 31, 2025. Funding will be allocated to financially distressed hospitals with plans to reconfigure operations by improving financial management, improving quality of care and service delivery and/or improving operational efficiency and cost effectiveness.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$10 million and contained in the budget for state fiscal year 2024-2025 \$10 million.

Effective on or after April 1, 2023, this notice proposes to establish Medical Assistance coverage and rates of payment for rehabilitative services for individuals residing in OMH-licensed residential settings who have been diagnosed with an eating disorder, in order to provide appropriate care and treatment to adults and children with eating disorders.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$4 million.

Effective on or after May 1, 2023, the NYS Medicaid Program proposes to reimburse enrolled ambulance services for administration of vaccinations performed by Emergency Medical Technicians (EMT) / Paramedics employed by the ambulance service. This proposal is

intended to ensure ongoing access to vaccinations after the end of the federal COVID-19 Public Health Emergency.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-24 is \$35,000.

Effective March 11, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act, the Medicaid program assures coverage of COVID-19 vaccines and administration of the vaccines, COVID-19 treatment, including specialized equipment and therapies (including preventive therapies), and COVID-19 testing consistent with the Centers for Disease Control and Prevention (CDC) recommendations.

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

Effective December 1, 2021 and ending on the last day of the first calendar quarter that begins one year after the last day of the emergency period described in section 1135(g)(1)(B) of the Social Security Act, the Medicaid program proposes to reimburse providers for medically necessary COVID-19 vaccine counseling for children under 21 at a fee of \$25.00 per session.

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

Effective on or after April 1, 2023, the Department of Health will adjust rates statewide to reflect up to a twenty-five percent rate increase for all services provided by School-based Mental Health Outpatient Treatment and Rehabilitative Service (SBMH MHOTRS) programs licensed by the Office of Mental Health.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$9.2 million.

Effective on or after April 1, 2023, Medicaid will increase the APG Base Rates by ten percent for School Based Health Centers (SBHC).

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$2.8 million.

Effective on or after April 1, 2023, a Supplemental Payment Program will be established to reimburse eligible Federally Qualified Health Centers (FQHCs), Rural Health Clinics (RHCs) and Diagnostic and Treatment Centers (DTCs) for potential loss of funding associated with the 340B Drug Pricing Program due to State policy change. Additionally, this Amendment clarifies the reimbursement methodology for the Supplemental Payment Wrap Program for FQHCs and RHCs which provides supplemental payments that are equal to 100% of the difference between the facility's reasonable cost per visit rate and the amount per visit reimbursed by the Medicaid managed care health plan.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$250 million.

#### Institutional Services

Effective on or after April 1, 2023, this proposal continues the supplemental upper payment limit payments made to general hospitals, other than major public general hospitals under institutional services of \$339 million annually.

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

For state fiscal year beginning April 1, 2023 through March 31, 2024, this proposal continues adjustments for hospital inpatient services provided on and after April 1, 2012, to public general hospitals, other than those operated by the State of New York or the State University of New York, located in a city with a population of over one million and receiving reimbursement of up to \$1.08 billion annually based on criteria and methodology set by the Commissioner of Health, which the Commissioner may periodically set through a memorandum of understanding with the New York City Health and Hospitals Corporation. Such adjustments will be paid by means of one or more estimated payments. Payments to eligible public general hospitals may be added to rates of payment or made as aggregate payments.

**Public Notice**  
**NYS 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 statutory provisions. The following clarifications are proposed:

**All Services**

The following is a clarification to the March 29, 2023, noticed provision to adjust rates statewide to reflect a 2.5% Cost of Living Adjustment for the following Office of Mental Health (OMH), Office of Addiction Services and Supports (OASAS), and Office for People With Developmental Disabilities (OPWDD) State Plan Services: OMH Outpatient Services, OMH Clinic Services, OMH Rehabilitative Services, Children Family Treatment Support Services, Health Home Plus, Psychiatric Residential Treatment Facilities for Children and Youth, OASAS Outpatient Addiction Services, OASAS Freestanding (non-hospital) Inpatient Rehabilitation Services, OASAS Freestanding Inpatient Detox Services, OASAS Addiction Treatment Centers, OASAS Part 820 Residential Services, OASAS Residential Rehabilitation Services for Youth, Intermediate Care Facility (ICF/IDD), Day Treatment, Article 16 Clinic Services, Specialty Hospital, Health Home Services Provided by Care Coordination Organizations, Independent Practitioner Services for Individual with Developmental Disabilities (IPSIDD), and OPWDD Crisis Services. **With clarification**, the Cost of Living Adjustment will be four percent (4%) and includes the following services:



OMH Outpatient Services, OMH Inpatient Services, OMH Clinic Services, OMH Rehabilitative Services, Children Family Treatment Support Services, Health Home Plus, Psychiatric Residential Treatment Facilities for Children and Youth, OASAS Outpatient Addiction Services, OASAS Freestanding (non-hospital) Inpatient Rehabilitation Services, OASAS Freestanding Inpatient Detox Services, OASAS Addiction Treatment Centers, OASAS Part 820 Residential Services, OASAS Residential Rehabilitation Services for Youth, Intermediate Care Facility (ICF/IDD), Day Treatment, Article 16 Clinic Services, Specialty Hospital, Health Home Services Provided by Care Coordination Organizations, Independent Practitioner Services for Individual with Developmental Disabilities (IPSIDD), and OPWDD Crisis Services.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$89.8 million.

### **Institutional Services and Non-Institutional**

The following is a clarification to the March 29, 2023, noticed provision to adjust inpatient rates for hospital providers, certified under Article 28 of the Public Health Law, by an additional five percent (5%) across the board increase to the operating portion of the rates. **With clarification**, the across the board increase to the operating portion of the rates will now be seven and one-half percent (7.5%) and includes a non-institutional additional six and one-half percent (6.5%) across the board increase to the operating portion of outpatient rates for hospital providers, for services certified under Article 28 of the Public Health Law.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$244.4 million.

### **Non-Institutional**

The following is a clarification to the March 29, 2023, noticed provision for the Assisted Living Program (ALP) and Adult Day Health Care (ADHC) which stated the Department of Health will adjust rates for these providers by a five percent (5%) across the board increase to the most recently active Operating rate in effect on 3/31/23. **With clarification**, the Department of Health will provide a seven and one-half percent (7.5%) across the board increase for Adult Day Health Care rates (ADHC) and a six and one-half percent (6.5%) across the board increase for Assisted Living Program rates (ALP), to the most recently active operating rate in effect on 3/31/23, for each provider.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$24.7 million.

### **Long Term Care Services**

The following is a clarification to the March 29, 2023, noticed provision to adjust rates for Nursing Home (NH) providers by a five percent (5%) across the board increase to the most recently active Operating rate in effect on March 31, 2023, for each provider. **With clarification**, the across the board increase to the most recently active operating base rates will now be seven and one-half percent (7.5%).

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$403 million.

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](http://www.health.ny.gov/regulations/state_plans/status). Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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:

New York State Department of Health  
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**Appendix V**  
**2023 Title XIX State Plan**  
**Second Quarter Amendment**  
**Responses to Standard Funding Questions**

**NON-INSTITUTIONAL SERVICES**  
**State Plan Amendment #23-0070**

**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.

- 1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)**

**Response:** Providers receive and retain 100 percent of total Medicaid expenditures claimed by the State and the State does not require any provider to return any portion of such payments to the State, local government entities, or any other intermediary organization.

- 2. Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local government entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:**
  - (i) a complete list of the names of entities transferring or certifying funds;**
  - (ii) the operational nature of the entity (state, county, city, other);**

- (iii) the total amounts transferred or certified by each entity;
- (iv) clarify whether the certifying or transferring entity has general taxing authority; and,
- (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).

**Response:** The Non-Federal share Medicaid provider payment is funded by a combination of the following funds/funding sources through enacted appropriations authority to the Department of Health (DOH) for the New York State Medicaid program.

Payment Type	Non-Federal Share Funding	4/1/22 – 3/31/23	
		Non-Federal	Gross
Normal Per Diem	General Fund; County Contribution	\$100.5M	\$154.8M

A. **General Fund:** Revenue resources for the State’s General Fund includes taxes (e.g., income, sales, etc.), and miscellaneous fees (including audit recoveries). Medicaid expenditures from the State’s General Fund are authorized from Department of Health Medicaid.

- 1) New York State Audit Recoveries: The Department of Health collaborates with the Office of the Medical Inspector General (OMIG) and the Office of the Attorney General (AG) in recovering improperly expended Medicaid funds. OMIG conducts and coordinates the investigation, detection, audit, and review of Medicaid providers and recipients to ensure they are complying with all applicable laws and regulation. OMIG recovers any improper payments through cash collections and voided claim recoveries. Cash collections are deposited into the State’s General Fund to offset Medicaid costs.

In addition to cash collections, OMIG finds inappropriately billed claims within provider claims. To correct an error, OMIG and DOH process the current accurate claim, and reduce this claim by the inappropriate claim value to recoup the previous overclaim and decrease state spending.

**B. Additional Resources for Non-Federal Share Funding:**

County Contribution: In State Fiscal Year 2006, through enacted State legislation (Part C of Chapter 58 of the laws of 2005), New York State “capped” the amount localities contributed to the non-Federal share of providers claims. This was designed to relieve pressure on county property taxes and the NYC budget by limiting local contributions having New York State absorb all local program costs above this fixed statutory inflation rate (3% at the time).

However, in State Fiscal Year 2013 New York State provided additional relief to Localities by reducing local contributions annual growth from three percent to zero over a three-year period. Beginning in State Fiscal Year 2016, counties began paying a fixed cost in perpetuity as follows:

<b>Entity</b>	<b>Annual Amount</b>
New York City	\$4.882B
Suffolk County	\$216M
Nassau County	\$213M
Westchester County	\$199M
Erie County	\$185M
Rest of State (53 Counties)	\$979M
<b>Total</b>	<b>\$6.835B</b>

By eliminating the growth in localities Medicaid costs, the State has statutorily capped total Statewide County Medicaid expenditures at 2015 levels. All additional county Medicaid costs are funded by the State through State funding as described above. DOH provides annual letters to counties providing weekly contributions. Contributions are deposited directly into State escrow account and used to offset 'total' State share Medicaid funding.

NOTE: The Local Contribution is not tied to a specific claim or service category and instead is a capped amount based on 2015 county spending levels as stated above.

- 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 Medicaid payments under this State Plan Amendment are not supplemental 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. Under regulations at 42 CFR 447.272, States are prohibited from setting payment rates for Medicaid inpatient services that exceed a reasonable estimate of the amount that would be paid under Medicare payment principals.**

**Response:** The Medicaid payments authorized under this State Plan Amendment do not impact the UPL demonstrations.

- 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:** Providers do not receive payments that in the aggregate exceed their reasonable costs of providing services. If any providers received payments that in the aggregate exceeded their reasonable costs of providing services, the State would recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report.

### **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 complies 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.