

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

June 28, 2011

National Institutional Reimbursement Team
Attention: Mark Cooley
CMS, CMCS
7500 Security Boulevard, M/S S2-01-16
Baltimore, MD 21244-1850

Re: SPA #11-47B
Inpatient Hospital Services

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #11-47B to the Title XIX (Medicaid) State Plan for inpatient hospital services to be effective July 1, 2011 (Appendix I). This amendment is being submitted based upon recently filed State regulations. A summary of the proposed amendment is contained in Appendix II.

This amendment is submitted pursuant to §1902(a) of the Social Security Act (42 USC 1396a(a)) and Title 42 of the Code of Federal Regulations (CFR), Part 447, Subpart C.

The State of New York pays for inpatient general hospital services using rates determined in accordance with methods and standards specified in an approved State Plan, following a public process, which complies with Social Security Act §1902(a)(13)(A).

Notice of the changes in the methods and standards for setting payment rates for general hospital inpatient services was given in the New York State Register on June 15, 2011 (Appendix IV).

It is estimated that the changes represented by 2011 payment rates for inpatient general hospital services will have no noticeable short-term or long-term effect on the availability of services on a statewide or geographic area basis, the type of care furnished, or the extent of provider participation.

In accordance with 42 CFR §447.272(c), New York assures that its aggregate disproportionate share hospital payments do not exceed the disproportionate share hospital payment limit.

In accordance with §1923(g) of the Social Security Act, New York assures that it has calculated facility specific limits for disproportionate share payments for each disproportionate share hospital. New York assures that it will not make disproportionate share payments to a hospital in excess of the facility specific limits established for such hospital.

Copies of pertinent sections of enacted state statute are enclosed for your information (Appendix III). In addition, responses to the five standard funding questions and the standard access questions are also enclosed (Appendix V and VI, respectively).

If you have any questions regarding this matter, please do not hesitate to contact John E. Ulberg, Jr., Director, Division of Health Care Financing at (518) 474-6350.

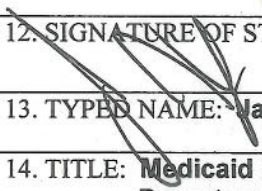
Sincerely,



Jason A. Helgerson
Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs

Enclosures

cc: Mr. Michael Melendez
Mr. Tom Brady

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: #11-47B	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2011	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1902(a) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: a. FFY 07/01/11-09/30/11 (\$4.03) million b. FFY 10/01/11-09/30/12 (\$8.07) million	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-A – Page 106(a)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Attachment 4.19-A – Page 106(a)	
10. SUBJECT OF AMENDMENT: Reduction to Statewide base price (FMAP = 56.88% 4/1/11 – 6/30/11; 50% 7/1/11 forward)			
11. GOVERNOR'S REVIEW (<i>Check One</i>): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health			
15. DATE SUBMITTED: June 28, 2011			
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
2011 Title XIX State Plan
Third Quarter Amendment
Inpatient Hospital Services
Amended SPA Pages

**New York
106(a)**

**Attachment 4.19-A
(07/11)**

for non-comparables adjustments shall not include those patients that are transferred to a facility or unit that is exempt from the case-based system, except when the patient is a newborn transferred to an exempt hospital for neonatal services and thus classified as a transfer patient pursuant to this Section.

4. To establish the Transition II Pool, effective October 20, 2010, the statewide base price will be reduced such that the level of total Medicaid payments shall be decreased for the periods specified on the 'Transition II Pool' section by the corresponding Transition II fund amounts.
5. For the period effective July 1, 2011 through March 31, 2012, the statewide base price will be reduced such that the level of total Medicaid payments are decreased by \$24.2 million.

TN #11-47B

Approval Date _____

Supersedes TN #10-33

Effective Date _____

Appendix II
2011 Title XIX State Plan
Third Quarter Amendment
Hospital Inpatient Services
Summary

SUMMARY
SPA #11-47B

This state plan amendment proposes to reduce the statewide base price for inpatient case payment services. This reduction is effective July 1, 2011.

Appendix III
2011 Title XIX State Plan
Third Quarter Amendment
Hospital Inpatient Services
Authorizing Provisions

EXPRESS TERMS

Pursuant to the authority vested in the Commissioner of Health by section 2807-c(35) of the Public Health Law, section 86-1.16 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York, are amended to be effective July 1, 2011, to read as follows:

Section 86-1.16 of Subpart 86-1 of title 10 NYCRR is amended by adding a new subdivision (c), to read as follows:

(c) For the period effective July 1, 2011 through March 31, 2012, the statewide base price shall be adjusted such that total Medicaid payments are decreased by \$24,200,000.

**Appendix IV
2011 Title XIX State Plan
Third Quarter Amendment
Inpatient Hospital Services
Public Notice**

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

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

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

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

NOTICE OF PUBLIC HEARING Insurance Department

The Insurance Department will hold, pursuant to Section 2305 of the Workers' Compensation Law, a public hearing in New York City to determine whether to approve a proposed workers' compensation insurance 2010 loss cost increase of 10.4 percent filed with the Insurance Department by the New York Compensation Insurance Rating Board (NYCIRB), to be effective October 1, 2011 if approved.

If approved, the loss cost will be used by workers' compensation insurance companies in setting rates. The hearing will take place on Thursday, June 23, 2011 beginning at 11 a.m. at the following address:

Insurance Department
25 Beaver Street - Room 510
New York, NY 10004

The hearing is open to the public. Interested parties may testify at these hearings, or submit written comments to be included in the hearing record. Any person wishing to testify should contact the Department's Public Affairs Bureau at (212) 480-5262. Oral testimony will be allowed for up to 5 minutes.

Information about the hearing and the complete loss cost increase application is available at the Department's website, www.ins.state.ny.us. Testimony can be scheduled and written testimony submitted through the website.

Written comments for the hearing record also may be submitted to Workers' Compensation Loss Cost 2010 Hearings, Public Affairs Bureau, New York State Insurance Department, 25 Beaver Street, New York, NY 10004, or e-mailed to PublicHearingsComments@ins.state.ny.us with the subject line "WORKERS' COMPENSATION LOSS COST 2011 HEARINGS." The Department will accept comments for up to five business days after the hearing.

In accordance with the Americans with Disabilities Act, the Department will provide a reasonable accommodation, including interpreter services for the hearing impaired, at no charge to any covered individual wishing to testify at these hearings, provided that such a request is received at least five business days prior to the particular hearing date and either communicated in writing to Workers' Compensation Loss Cost 2011 Hearings, Public Affairs Bureau, Insurance Department, 25 Beaver St., New York, NY 10004, or by calling the Department at (212) 480-5262.

PUBLIC NOTICE

Division of Criminal Justice Services
Commission on Forensic Science

Pursuant to Public Officers Law section 104, the Division of Criminal Justice Services gives notice of a meeting of the Commission on Forensic Science to be held on:

Date: Monday, June 27, 2011
Time: 9:00 a.m.
Place: Empire State Development Corporation
(ESDC)
633 3rd Ave.
37th Fl.
New York, NY

Identification and sign-in are required at this location. *For further information, or if you need a reasonable accommodation to attend this meeting, contact:* Louis Stellato, Division of Criminal Justice Services, Office of Forensic Services, Four Tower Place, Albany, NY 12203, (518) 457-1901

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 inpatient hospital, long term care, non-institutional services and prescription drugs to comply with recently enacted State statutory provisions. The following provides clarification to previously noticed provisions and notification of new significant changes:

Institutional Services

- To clarify the previously noticed provision on March 30, 2011, regarding the limit on hospital inpatient rates of payment for cesarean deliveries, the statewide base price will be reduced by \$24.2 million in aggregate as an interim adjustment, effective July 1, 2011. This reduction to the base rate will remain in effect until such time that a risk adjusted hospital specific factor can be implemented to incentivize providers to an appropriate level of cesarean services.

The previously noticed reduction effective April 1, 2011, to limit the payment for cesarean deliveries to the average Medicaid payment for vaginal deliveries will not be implemented and the claims will not be subject to an appeal process.

Prescription Drugs

• Effective October 1, 2011, New York State Medicaid beneficiaries have the option of filling their prescriptions at either a local retail outlet of their choice or by a mail-order pharmacy. Mail-order pharmacy service is available to all fee-for-service Medicaid beneficiaries statewide. The mail-order pharmacy shall be any willing provider registered as a mail-order pharmacy with the New York State Department of Education and enrolled in New York State Medicaid.

All policies and procedures that apply to retail pharmacies also apply to the mail-order pharmacy, except for the following:

(a) The mail-order pharmacy is reimbursed as follows - brand name drugs: AWP-20% or WAC-4% (dispensing fee \$3.50); generic drugs: the lower of AWP-25%, Federal Upper Limit (FUL), State Maximum Allowable Cost (SMAC), usual and customary, or Average Acquisition Cost (dispensing fee \$1.00).

(b) If authorized by the prescriber, the mail-order pharmacy may dispense drugs in up to a 90-day supply.

The estimated annual net aggregate decrease in gross Medicaid expenditures attributable to this initiative for state fiscal year 2011/2012 is \$10 million.

For all of these initiatives, the estimated annual net aggregate decrease in gross Medicaid expenditures for state fiscal year 2011/2012 is \$34.2 million.

Copies of the proposed state plan amendment 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

The public is invited to review and comment on this proposed state plan amendment.

For further information and to review and comment, please contact: Department of Health, Bureau of HCRA Operations & Financial Analysis, Corning Tower Bldg., Rm. 984, Empire State Plaza, Albany, NY 12237, (518) 474-1673, (518) 473-8825 (FAX), e-mail: spa_inquiries@health.state.ny.us

PUBLIC NOTICE

Department of State
F-2011-0086 (DA)

Date of Issuance - June 15, 2011

The New York State Department of State (DOS) is required by Federal law to provide timely public notice for the activity described below, which is subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The United States Department of Interior, Army Corps of Engineers - New England District has determined that the proposed activity

complies with and will be conducted in a manner consistent to the maximum extent practicable with the approved New York State Coastal Management Program. The consistency determination and accompanying public information and data is available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue in Albany, New York.

In F-2011-0086 (DA), The U.S. Army Corps of Engineers, New England District, has submitted a consistency determination for the final version of the 2011 Connecticut Programmatic General Permit, which includes activities authorized under Section 10 of the Rivers and Harbors Act of 1899; and the discharge of dredged or fill material into waters of the United States under Section 404 of the Clean Water Act within Long Island Sound. General permits are issued on a regional or State-wide basis to streamline the authorization of activities that meet predetermined parameters that would result in minimal individual and cumulative adverse effects on the aquatic environment. A Division may elect to add regional conditions specific to the needs of a particular region.

DOS previously reviewed the draft permit, under the same file number, and concurred with the Corps' consistency determination, with conditions to be implemented within the final version. Those conditions have been addressed within the final version. More information on the proposal to reissue and modify the Connecticut General Permit can be found on the U.S. Army Corps of Engineers - New England District website at: <http://www.nae.usace.army.mil/reg/11/spn012511CTPGP.pdf> or by contacting the New England District, Corps of Engineers at: 696 Virginia Road, Concord, MA 01742-2751.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, June 30, 2011.

Comments should be addressed to: Department of State, Office of Coastal, Local Government and Community Sustainability, One Commerce Plaza, 99 Washington Ave., Suite 1010, Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Susquehanna River Basin Commission

Notice of Projects Approved for Consumptive Uses of Water

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATE: March 1, 2011, through April 30, 2011.

ADDRESS: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 306; fax: (717) 238-2436; e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238-0423, ext. 304; fax: (717) 238-2436; e-mail: srichardson@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR § 806.22(e) and 18 CFR § 806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR § 806.22(e):

1. Hydro Recovery, LP, Treatment Plant For High TDS Fluids, ABR-201103052, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 0.200 mgd; Approval Date: March 31, 2011.

Approvals By Rule Issued Under 18 CFR § 806.22(f):

1. EOG Resources, Inc., Pad ID: COP Pad N, ABR-201103001, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: March 4, 2011.

2. Penn Virginia Oil & Gas Corporation, Pad ID: Hurler Pad, ABR-201103002, Harrison Township, Potter County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: March 7, 2011.

Appendix V
2011 Title XIX State Plan
Third Quarter Amendment
Inpatient Hospital Services
Responses to Standard Funding Questions

HOSPITAL SERVICES
State Plan Amendment #11-47B

CMS Standard Funding Questions (NIRT Standard Funding Questions)

The following questions are being asked and should be answered in relation to all payments made to all providers under Attachment 4.19-(A or D) of your 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 do retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular A-87 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-

07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

2. **Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either 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: Payments made to service providers under the provisions of this SPA are funded through a general appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Local Assistance Account under the General Fund/Aid to Localities.

3. **Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If**

supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.

Response: The payments authorized for this provision, are not supplemental or enhanced payments.

- 4. 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 4447.272, 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: Based on guidance from CMS, the State and CMS staff will engage in discussions to develop a strategic plan to complete the UPL demonstration for 2011.

- 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 institutional services is prospective payment. We are unaware of any requirement under current federal law or regulation that limits individual provider payments to their actual costs.

Assurances:

- 1. In compliance with provisions of the Recovery Act, the State should provide assurances that they are in compliance with the terms of the Recovery Act concerning (1) Maintenance of Effort (MOE); (2) State or local match; (3) Prompt payment; (4) Rainy day funds; and (5) Eligible expenditures (e.g. no DSH or other enhanced match payments).**

Response: The State hereby provides assurances that it remains in compliance with the terms of the Recovery Act with regard to the requirements pertaining to the maintenance of effort, State or local match, prompt payment, rainy day funds, and eligible expenditures. In addition, the HHS Office of Inspector General has reviewed the State's compliance

with the political subdivision requirement for increased FMAP under ARRA and found the State to be in compliance with this provision (Report A-02-09-01029).

2. **The State needs to verify it is in compliance with the provisions of Section 5006 of the Recovery Act concerning tribal consultations for the SPA, or an explanation why the provisions did not apply in this instance.**

Response: The provision concerning tribal consultations does not apply to this SPA since Indian Health Programs in New York State do not provide inpatient hospital services and, therefore, receive no Medicaid payments for such services.

**Appendix VI
2011 Title XIX State Plan
Third Quarter Amendment
Inpatient Hospital Services
Responses to Standard Access Questions**

INPATIENT SERVICES
State Plan Amendment #11-47B

CMS Standard Access Questions

The following questions have been asked by CMS and are answered by the State in relation to all payments made to all providers under Attachment 4.19-A of the state plan.

- 1. Specifically, how did the State determine that the Medicaid provider payments that will result from the change in this amendment are sufficient to comply with the requirements of 1902(a)(30)?**

Response: The statewide base price will be reduced to achieve targeted State savings of \$24.2M while an obstetrical task force is consulted to implement a more clinically sound approach to reducing inappropriate cesarean deliveries. It is not expected that this will have a negative impact on providers as the reduction to the statewide base price is minimal.

- 2. How does the State intend to monitor the impact of the new rates and implement a remedy should rates be insufficient to guarantee required access levels?**

Response: The State has various ways to ensure that access levels in the Medicaid program are retained and is currently not aware of any access issues, particularly since there is excess bed capacity for both hospitals and nursing homes. Additionally, hospital and nursing home providers must notify and receive approval from the Department's Office of Health Systems Management (OHSM) in order to discontinue services. This Office monitors and considers such requests in the context of access as they approve/deny changes in services. Finally, providers cannot discriminate based on source of payment.

For providers that are not subject to an approval process, the State will continue to monitor provider complaint hotlines to identify geographic areas of concern and/or service type needs. If Medicaid beneficiaries begin to encounter access issues, the Department would expect to see a marked increase in complaints. These complaints will be identified and analyzed in light of the changes proposed in this State Plan Amendment.

Finally, the State ensures that there is sufficient provider capacity for Medicaid Managed Care plans as part of its process to approve managed care rates and plans. Should sufficient access to services be compromised, the State would be alerted and would take appropriate action to ensure retention of access to such services.

- 3. How were providers, advocates and beneficiaries engaged in the discussion around rate modifications? What were their concerns and how did the State address these concerns?**

Response: This change was enacted by the State Legislature as part of the negotiation of the 2011-12 Budget. The impact of this change was weighed in the context of the overall Budget in the State. The legislative process provides opportunities for all stakeholders to lobby their concerns, objections, or support for various legislative initiatives. In fact, this proposal was modified from its original form as a result of discussions with Industry stakeholders. It was with their advice that the State find an alternative means to generate immediate savings while consultation will be made to implement a more clinically sound approach to reducing inappropriate cesarean deliveries.

- 4. What action(s) does the State plan to implement after the rate change takes place to counter any decrease to access if the rate decrease is found to prevent sufficient access to care?**

Response: Should any essential community provider experience Medicaid or other revenue issues that would prevent access to needed community services, per usual practice, the State would meet with them to explore the situation and discuss possible solutions, if necessary.

- 5. Is the State modifying anything else in the State Plan which will counterbalance any impact on access that may be caused by the decrease in rates (e.g. increasing scope of services that other provider types may provide or providing care in other settings)?**

Response: Over the course of the past three years, the State has undertaken a massive reform initiative to better align reimbursement with care. When fully implemented in 2010-11, the initiative will invest over \$600 million in the State's ambulatory care system (outpatient, ambulatory surgery, emergency department, clinic and physicians) to incentivize care in the most appropriate setting. The State has also increased its physician reimbursement schedule to resemble Medicare payments for similar services, thus ensuring continued access for Medicaid beneficiaries. Further, the State is implementing initiatives that will award \$600 million annually, over five years, to providers who promote efficiency and quality care through the Federal-State Health Reform Partnership(F-SHRP)/ NYS Healthcare Efficiency and Affordability Law (HEAL). While some of these initiatives are outside the scope of the State Plan, they represent some of the measures the State is taking to ensure quality care for the State's most vulnerable population.