

**NEW YORK**  
state department of  
**HEALTH**

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

Sue Kelly  
Executive Deputy Commissioner

November 26, 2013

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

RE: SPA #13-66  
Non-Institutional Services

Dear Mr. Melendez:

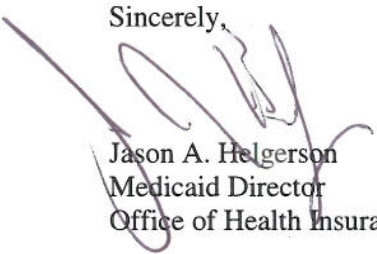
The State requests approval of the enclosed amendment #13-66 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective November 1, 2013 (Appendix I). This amendment is being submitted based on current regulations. A summary of the plan amendment is provided in Appendix II.

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

Copies of pertinent sections of proposed State statute are enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register to appear November 20, 2013, is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

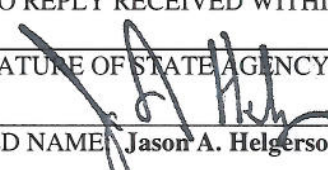
If you have any questions regarding this State Plan submission, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting at (518) 474-6350.

Sincerely,



Jason A. Helgerson  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: <b>#13-66</b>	2. STATE <b>New York</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>November 1, 2013</b>	
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: <b>Section 1902(a) of the Social Security Act, and 42 CFR 447</b>		7. FEDERAL BUDGET IMPACT: a. FFY 11/01/13-09/30/14 \$4,500,000 b. FFY 10/01/14-09/30/15 \$ 700,000	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-B: Page 1(q)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  <b>Attachment 4.19-B: Page 1(q)</b>	
10. SUBJECT OF AMENDMENT: <b>Safety Net/VAP – OP (Kingsbook Jewish) (FMAP = 50%)</b>			
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: <b>New York State Department of Health Bureau of Federal Relations &amp; Provider Assessments 99 Washington Ave – One Commerce Plaza Room 1430 Albany, NY 12210</b>	
13. TYPED NAME: <b>Jason A. Helgeson</b>			
14. TITLE: <b>Medicaid Director Department of Health</b>			
15. DATE SUBMITTED: <b>November 26, 2013</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED:	
<b>PLAN APPROVED – ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

**Appendix I**  
**2013 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Inpatient Hospital Services**  
**Amended SPA Pages**

**New York  
1(q)**

**Temporary Rate Adjustments for Mergers, Acquisitions, Consolidations, Restructurings, and Closures – hospital-based outpatient**

A temporary rate adjustment will be provided to eligible providers of outpatient services that are subject to or impacted by the closure, merger, and acquisition, consolidation, or restructuring of a health care provider. The rate adjustment is intended to:

- Protect or enhance access to care;
- Protect or enhance quality of care; or
- Improve the cost effectiveness.

Eligible providers, the annual amount of the temporary rate adjustment, and the duration of the adjustment shall be listed in the table which follows. The total annual adjustment amount will be paid quarterly with the amount of each quarterly payment being equal to one fourth of the total annual amount established for each provider. The quarterly payment made under this section will be an add-on to services payments made under this Attachment to such facilities during the quarter.

To remain eligible, providers must submit benchmarks and goals acceptable to the Commissioner and must submit periodic reports, as requested by the Commissioner, concerning the achievement of such benchmarks and goals. Failure to achieve satisfactory progress in accomplishing such benchmarks and goals will result in termination of the provider’s temporary rate adjustment prior to the end of the specified timeframe. Once a provider’s temporary rate adjustment ends, the provider will be reimbursed in accordance with the otherwise applicable rate-setting methodology as set forth in this Attachment.

Temporary rate adjustments have been approved for the following providers in the amounts and for the effective periods listed:

**Outpatient Services:**

<u>Provider Name</u>	<u>Gross Medicaid Rate Adjustment</u>	<u>Rate Period Effective</u>
[- Table reserved for future awardees -]		
<u>Kingsbrook Jewish Medical Center</u>	<u>\$7,600,000</u>	<u>11/1/2013-3/31-2014</u>
	<u>\$2,800,000</u>	<u>4/1/2014-3/31/2015</u>

TN   #13-66    
Supersedes TN   #11-26  

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

**Appendix II**  
**2013 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Inpatient Hospital Services**  
**Summary**

**SUMMARY**  
**SPA #13-66**

This State Plan Amendment proposes to modify the listing of freestanding clinics previously approved to receive temporary rate adjustments under the closure, merger, consolidation, acquisition, or restructuring of a health care provider. The additional provider for which approval is being requested is Kingsbrook Jewish Medical Center.

**Appendix III**  
**2013 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Inpatient Hospital Services**  
**Authorizing Provisions**

tice, published in the New York State Register invited comments and questions from the general public.

#### Job Impact Statement

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is not expected that the proposed rule to accelerate capital reimbursement for costs related to the installation of automatic sprinkler systems will have a material impact on jobs or employment opportunities across the Nursing Home industry.

### NOTICE OF ADOPTION

#### Hospital Temporary Rate Adjustments

I.D. No. HLT-14-12-00006-A

Filing No. 569

Filing Date: 2012-06-13

Effective Date: 2012-07-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 86-1.31 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2807-c(35)

**Subject:** Hospital Temporary Rate Adjustments.

**Purpose:** No longer require that a merger, acquisition or consolidation needs to occur on or after the year the rate is based upon.

**Text or summary was published** in the April 4, 2012 issue of the Register, I.D. No. HLT-14-12-00006-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF ADOPTION

#### Temporary Rate Adjustment (TRA) - Residential Health Care Facilities (RHCF) (Nursing Homes)

I.D. No. HLT-14-12-00007-A

Filing No. 570

Filing Date: 2012-06-13

Effective Date: 2012-07-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 86-2.39 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2808(2-c)(d)

**Subject:** Temporary Rate Adjustment (TRA) - Residential Health Care Facilities (RHCF) (Nursing Homes).

**Purpose:** To provide a TRA to eligible RHCFs subject to or impacted by closure, merger, acquisition, consolidation, or restructuring.

**Text or summary was published** in the April 4, 2012 issue of the Register, I.D. No. HLT-14-12-00007-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF ADOPTION

#### Temporary Rate Adjustment (TRA) - Licensed Ambulatory Care Facilities (LACF)

I.D. No. HLT-14-12-00008-A

Filing No. 571

Filing Date: 2012-06-13

Effective Date: 2012-07-03

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Addition of section 86-8.15 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2807(2-a)(e)

**Subject:** Temporary Rate Adjustment (TRA) - Licensed Ambulatory Care Facilities (LACF).

**Purpose:** Expand TRA to include Article 28 LACFs subject to or affected by closure, merger, acquisition, consolidation, or restructuring.

**Text or summary was published** in the April 4, 2012 issue of the Register, I.D. No. HLT-14-12-00008-P.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

#### Assessment of Public Comment

The agency received no public comment.

## Department of Motor Vehicles

### PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

#### Genesee County Motor Vehicle Use Tax

I.D. No. MTV-27-12-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** This is a consensus rule making to amend Part 29 of Title 15 NYCRR.

**Statutory authority:** Vehicle and Traffic Law, sections 215(a) and 401(6)(d)(ii); and Tax Law, section 1202(c)

**Subject:** Genesee County motor vehicle use tax.

**Purpose:** To impose a Genesee County motor vehicle use tax.

**Text of proposed rule:** Section 29.12 is amended by adding a new subdivision (aj) to read as follows:

(aj) *Genesee County. The Genesee County Legislature adopted a local on November 9, 2011, to establish a Genesee County Motor Vehicle Use Tax. The Chairman of the Genesee County Legislature entered into an agreement with the Commissioner of Motor Vehicles for the collection of the tax in accordance with the provisions of this Part, for the collection of such tax on original registrations made on and after October 1, 2012 and upon the renewal of registrations expiring on and after December 1, 2012. The County Treasurer is the appropriate fiscal officer, except that the County Attorney is the appropriate legal officer of Genesee County referred to in this Part. The tax due on passenger motor vehicles for which the registration fee is established in paragraph (a) of subdivision (6) of Section 401 of the Vehicle and Traffic Law shall be \$5.00 per annum on such motor vehicles weighing 3,500 lbs. or less and \$10.00 per annum for such motor vehicles weighing in excess of 3,500 lbs. The tax due on trucks, buses and other commercial motor vehicles for which the registration fee is established in subdivision (7) of Section 401 of the Vehicle and Traffic Law used principally in connection with a business carried on within Genesee County, except for vehicles used in connection with the operation of a farm by the owner or tenant thereof shall be \$10.00 per annum.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Heidi Bazicki, DMV, 6 Empire State Plaza, Albany, NY 12228, (518) 474-0871, email: heidi.bazicki@dmv.ny.gov

**Data, views or arguments may be submitted to:** Ida. L. Traschen, DMV, same as above.

**Public comment will be received until:** 45 days after publication of this notice.

#### Consensus Rule Making Determination

This proposed regulation would create a new 15 NYCRR Part 29.12(aj) to provide for the collection of a Genesee County motor vehicle use tax by the Department of Motor Vehicles. Pursuant to the authority contained in Tax Law section 1202(c) and Vehicle and Traffic Law section 401(6)(d)(ii), the Commissioner must collect a motor vehicle use tax if a county has enacted a local law requiring the collection of such tax.

On November 9, 2011, the Genesee County Legislature enacted a local law requiring that a motor vehicle use tax be imposed on passenger and commercial vehicles. Pursuant to this law, the Commissioner is required to collect the tax on behalf of the county and transmit the revenue to the



**Appendix IV**  
**2013 Title XIX State Plan**  
**Fourth 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](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

Division of Criminal Justice Services  
Juvenile Justice Advisory Group  
Executive Committee Meeting

Pursuant to Public Officer Law § 104, the Division of Criminal Justice Services gives notice of a meeting of the Executive Committee of the New York State Juvenile Justice Advisory Group:

Date: November 21, 2013  
Time: 12:00 p.m. – 1:30 p.m.  
Place: Executive Chamber  
633 Third Ave.  
33rd Fl. Board Rm.  
New York, NY  
Video Conference with:  
Division of Criminal Justice Services  
80 S. Swan St., 5th Fl.  
Albany, NY 12210

*For further information contact:* Schellie Tedesco, Secretary to Jacquelyn Greene, Esq., Office of Juvenile Justice, Division of Criminal Justice Services, 80 S. Swan St. – 10th Fl., Albany, NY 12210, e-mail: [Schellie.tedesco@dcjs.nys.gov](mailto:Schellie.tedesco@dcjs.nys.gov), (518) 457-3670, Fax: (518) 485-0909

## 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 Office for People with Developmental Disabilities has determined 5921 Old Oneida Rd. in the City of Rome, Oneida County, New York State, improved with a two story residential building, with tax identifier Section 257, Block 1, Lot 26 as 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 Service, Legal Services, 41st Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831, (518) 473-4973 (fax)

## 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 Division of Military and Naval Affairs has determined 1110 Black River Blvd. in the City of Rome, Oneida County, New York State, improved with 3± structures, consisting of approximately 25,838± square feet of building area, with tax identifier Section 223.020, Block 0005, Lot 067 consisting of 4.623± acres as 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 Service, Legal Services, 41st Fl., Corning 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 and non-institutional services to comply with recently enacted statutory provisions related to temporary rate adjustments to providers that are undergoing a closure, merger, consolidation, acquisition or restructuring of themselves or other health care providers. These payments are currently authorized by current State statutory and regulatory provisions. The following provides clarification to provisions previously noticed on October 30, 2013, and notification of new significant changes:

Additional temporary rate adjustments have been reviewed and approved for three providers with aggregate payment amounts totaling up to \$36.7 million for the period November 1, 2013 through March 31, 2015. The approved providers, along with their individual estimated aggregate payment amounts include: Montefiore Medical Center, up to \$6.0 million for the period November 1, 2013 through March 31, 2014; Interfaith Medical Center, up to \$12.9 million for the period November 1, 2013 through March 31, 2014; and Kingsbrook Jewish Medical Center; up to \$17.8 million, allocated between inpatient (\$7.4 million) and outpatient services (\$10.4 million), for the period November 1, 2013 through March 31, 2015.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal years 2013/2014 and 2014/2015 is \$30.2 million and \$6.5 million, respectively.

The public is invited to review and comment on this proposed State Plan Amendment. Copies of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status).

Copies of the proposed State Plan Amendments will be on file in

each local (county) social services district and available for public review.

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

New York County  
250 Church Street  
New York, New York 10018

Queens County, Queens Center  
3220 Northern Boulevard  
Long Island City, New York 11101

Kings County, Fulton Center  
114 Willoughby Street  
Brooklyn, New York 11201

Bronx County, Tremont Center  
1916 Monterey Avenue  
Bronx, New York 10457

Richmond County, Richmond Center  
95 Central Avenue, St. George  
Staten Island, New York 10301

*For further information and to review and comment, please contact:*  
Department of Health, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave. – One Commerce Plaza, Suite 1430, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), e-mail: spa\_inquiries@health.state.ny.us

## PUBLIC NOTICE

Department of State  
*Proclamation*

### Revoking Limited Liability Partnerships

**WHEREAS**, Article 8-B of the Partnership Law, requires registered limited liability partnerships and New York registered foreign limited liability partnerships to furnish the Department of State with a statement every five years updating specified information, and **WHEREAS**, the following registered limited liability partnerships and New York registered foreign limited liability partnerships have not furnished the department with the required statement, and **WHEREAS**, such registered limited liability partnerships and New York registered foreign limited liability partnerships have been provided with 60 days notice of this action; **NOW, THEREFORE**, I, Cesar A. Perales, Secretary of State of the State of New York, do declare and proclaim that the registrations of the following registered limited liability partnerships are hereby revoked and the status of the following New York foreign limited liability partnerships are hereby revoked pursuant to the provisions of Article 8-B of the Partnership Law, as amended:

### DOMESTIC REGISTERED LIMITED LIABILITY PARTNERSHIPS

**A**  
ASSOCIATES FOR WOMEN'S CARE LLP (98)  
AZOULAY & AZOULAY, LLP (08)

**B**  
BEATIE AND OSBORN A LIMITED LIABILITY PARTNERSHIP (98)  
BENNETT & MOY, LLP (03)  
BROSNAN AND BLESER, LLP (08)

**C**  
CAPETANAKIS & PREITE LLP (03)  
CHAVES & PERLOWITZ LLP (98)  
CORPINA, PIERGROSSI, OVERZAT & KLAR, LLP V (98)

**D**  
DAY SECKLER LLP (08)  
DENTAL HEALTH CENTER LLP (03)  
DIAGNOSTICS, LLP (08)  
DOOR2DOOR MASSAGE LLP (08)

**E**  
EAST VILLAGE DENTAL GROUP LLP (98)

**F**  
FAMILY MEDICINE OF SOUTHERN WESTCHESTER, LLP (98)  
FULTON, FRIEDMAN & GULLACE, LLP (08)

**G**  
GABLER & MCVEETY LLP (03)  
GARYN & GARYN L.L.P. (98)  
GDANSKI & GDANSKI, LLP (03)  
GENESIS PSYCHOLOGICAL SERVICES, LLP (03)  
GINDI & BARONE, LLP (03)  
GIORGIO, DEPOTO AND PRINCIPE, L.L.P. (98)  
GOLDSTEIN GOLUB KESSLER LLP (98)

**H**  
HANRAHANMEYERS ARCHITECTS, LLP (08)

**J**  
JN-GLOBAL LAW GROUP, LLP (08)

**K**  
KARDARAS & KELLEHER L.L.P. (03)

**L**  
LACHMAN & LACHMAN LLP (98)  
LEASON ELLIS, LLP (08)  
LONG ISLAND W.G. DENTAL, LLP (08)

**M**  
METRO PHYSICIAN ASSOCIATES, LLP (08)

**N**  
NORTHSIDE CHIROPRACTC L.L.P. (08)  
NUGENT & SMITH, LLP (08)

**P**  
PRADO & TUY, LLP (98)

**R**  
RAGUES & MIN, LLP (03)  
REESE RICHMAN LLP (08)  
REID RODRIGUEZ & ROUSE, LLP (98)  
RESTORATIVE & IMPLANT DENTISTRY OF LONG ISLAND, LLP (03)  
ROBERT A CARDALI & ASSOCIATES LLP (03)  
ROCKVILLE CENTRE PEDIATRICS, LLP (03)  
ROGOVIN & SPERBER, LLP (08)  
ROSE & ASSOCIATES, LLP (03)

**S**  
SAMUEL G. OBERLANDER, M.D. & JORDAN HIRSCH, M.D., LLP (98)  
SEWON, LLP (03)  
SICHENZIA ROSS FRIEDMAN FERENCE LLP (98)  
SMITHDEHN LLP (08)  
SOMATIC WELLNESS OF LONG BEACH LLP (08)  
SPECTOR & FELDMAN, L.L.P. (98)  
STERN & STERN LLP (08)  
STOUGES, MORGAN & PIEPER, LLP (03)

**T**  
TIGER & DAGUANNO, LLP (98)  
TIMOSHENKO AND SCOTTO, LLP (08)  
TOTAL ORTHOPAEDICS & SPORTS MEDICINE, L.L.P. (03)  
TROKIE LANDAU LLP (08)

**U**  
ULLMAN SHAPIRO, LLP (08)

**Appendix V**  
**2013 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Inpatient Hospital Services**  
**Responses to Standard Funding Questions**

**NON-INSTITUTIONAL SERVICES**  
**State Plan Amendment #13-66**

**CMS Standard Funding Questions**

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-B of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

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

**Response:** Providers do retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular A-87 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

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

**Response:** Payments made to service providers under the provisions of this SPA are funded through a general appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Local Assistance Account under the General Fund/Aid to Localities.

3. **Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.**

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

4. **For clinic or outpatient hospital services please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated,**

**non-state government owned or operated, and privately owned or operated). Please provide a current (i.e., applicable to the current rate year) UPL demonstration.**

**Response:** Based on guidance from CMS, the State will submit the current clinic UPL demonstration by December 31, 2013.

- 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 State Plan for freestanding diagnostic and treatment and ambulatory surgery center services is based upon the Ambulatory Patient Group (APG) system with the exception of Federally Qualified Health Centers who have the option to opt into the APG system or remain on the Prospective Payment Methodology (PPS) as approved by CMS in SPA 01-03. We are unaware of any requirement under current federal law or regulation that limits individual providers' payments to their actual costs.

#### **ACA Assurances:**

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

#### **MOE Period.**

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

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

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

expenditures at a greater percentage than would have been required on December 31, 2009.

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

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

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

**Response:** This SPA does comply with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

**Tribal Assurance:**

**Section 1902(a)(73) of the Social Security Act** the Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular ongoing basis from designees of Indian health programs whether operated by the Indian Health Service HIS Tribes or Tribal organizations under the Indian Self Determination and Education Assistance Act ISDEAA or Urban Indian Organizations under the Indian Health Care Improvement Act.

**IHCIA Section 2107(e)(I) of the Act** was also amended to apply these requirements to the Children's Health Insurance Program CHIP. Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.

- a) **Please describe the process the State uses to seek advice on a regular ongoing basis from federally recognized tribes Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments waiver proposals waiver extensions waiver amendments waiver renewals and proposals for demonstration projects prior to submission to CMS.**
- b) **Please include information about the frequency inclusiveness and process for seeking such advice.**
- c) **Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment when it occurred and who was involved.**



**Response:** Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 11-06, and documentation of such is included with this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.