



Department of Health

KATHY HOCHUL
Governor

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

JOHANNE E. MORNE, M.S.
Executive Deputy Commissioner

June 28, 2024

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 #24-0055
Inpatient Hospital Services

Dear Director McMillion:

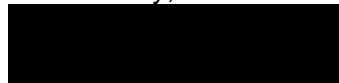
The State requests approval of the enclosed amendment #24-0055 to the Title XIX (Medicaid) State Plan for inpatient hospital services to be effective April 1, 2024 (Appendix I). This amendment is being submitted based upon enacted legislation. A summary of the proposed amendment is contained in Appendix 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.

Notices of the changes in the methods and standards for setting payment rates for general hospital inpatient services were given in the New York State Register on March 27, 2024, which were subsequently clarified on July 10, 2024. A copy of pertinent sections of enacted legislation is enclosed for your information (Appendix III). 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 <u>2 4 — 0 0 5 5</u>	2. STATE <u>NY</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

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

4. PROPOSED EFFECTIVE DATE
April 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION
§ 1905(a)(1) Inpatient Hospital Services

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 04/01/24-09/30/24 \$ 3,737
b. FFY 10/01/24-09/30/25 \$ 7,475

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-A Part I: Page 117(m)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-A Part I: Page 117(m)

9. SUBJECT OF AMENDMENT

OMH 2.84% COLA CPEP EOB

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, ASSPECIFIED:

12. TYPED NAME
Amir Bassiri

13. TITLE
Medicaid Director

14. DATE SUBMITTED
June 28, 2024

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
2024 Title XIX State Plan
Second Quarter Amendment
Amended SPA Pages

Appendix II
2024 Title XIX State Plan
Second Quarter Amendment
Summary

SUMMARY
SPA #24-0055

This State Plan Amendment proposes to implement a 2.84 percent Cost of Living Adjustment to the reimbursement fees paid to reimburse Comprehensive Psychiatric Emergency Program (CPEP) extended observation bed (EOB) services, effective April 1, 2024.

Appendix III
2024 Title XIX State Plan
Second Quarter Amendment
Authorizing Provisions

Authorizing Provisions (24-0055)

Part FF of Chapter 57 of the Laws of 2024

16 Section 1. 1. Subject to available appropriations and approval of the
17 director of the budget, the commissioners of the office of mental
18 health, office for people with developmental disabilities, office of
19 addiction services and supports, office of temporary and disability
20 assistance, office of children and family services, and the state office
21 for the aging (hereinafter "the commissioners") shall establish a state
22 fiscal year 2024-2025 cost of living adjustment (COLA), effective April
23 1, 2024, for projecting for the effects of inflation upon rates of
24 payments, contracts, or any other form of reimbursement for the programs
25 and services listed in subdivision five of this section. The COLA estab-
26 lished herein shall be applied to the appropriate portion of reimbursa-
27 ble costs or contract amounts. Where appropriate, transfers to the
28 department of health (DOH) shall be made as reimbursement for the state
29 share of medical assistance.

30 2. Notwithstanding any inconsistent provision of law, subject to the
31 approval of the director of the budget and available appropriations
32 therefore, for the period of April 1, 2024 through March 31, 2025, the
33 commissioners shall provide funding to support a two and eight-tenths
34 and four-hundredths percent (2.84%) cost of living adjustment under this
35 section for all eligible programs and services as determined pursuant to
36 subdivision five of this section.

37 3. Notwithstanding any inconsistent provision of law, and as approved
38 by the director of the budget, the 2.84 percent cost of living adjust-
39 ment (COLA) established herein shall be inclusive of all other cost of
40 living type increases, inflation factors, or trend factors that are

41 newly applied effective April 1, 2024. Except for the 2.84 percent cost
42 of living adjustment (COLA) established herein, for the period commenc-
43 ing on April 1, 2024 and ending March 31, 2025 the commissioners shall
44 not apply any other new cost of living adjustments for the purpose of
45 establishing rates of payments, contracts or any other form of
46 reimbursement. The phrase "all other cost of living type increases,
47 inflation factors, or trend factors" as defined in this subdivision

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1 shall not include payments made pursuant to the American Rescue Plan Act
2 or other federal relief programs related to the Coronavirus Disease 2019
3 (COVID-19) pandemic public health emergency. This subdivision shall not
4 prevent the office of children and family services from applying addi-
5 tional trend factors or staff retention factors to eligible programs and
6 services under paragraph (v) of subdivision five of this section.

7 4. Each local government unit or direct contract provider receiving
8 the cost of living adjustment established herein shall use such funding
9 to provide a targeted salary increase of at least one and seven-tenths
10 percent (1.7%) to eligible individuals in accordance with subdivision
11 six of this section. Notwithstanding any inconsistent provision of law,
12 the commissioners shall develop guidelines for local government units
13 and direct contract providers on implementation of such targeted salary
14 increase.

15 5. Eligible programs and services. (i) Programs and services funded,
16 licensed, or certified by the office of mental health (OMH) eligible for
17 the cost of living adjustment established herein, pending federal
18 approval where applicable, include: office of mental health licensed
19 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of
20 the office of mental health regulations including clinic, continuing day

21 treatment, day treatment, intensive outpatient programs and partial
22 hospitalization; outreach; crisis residence; crisis stabilization,
23 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric
24 emergency program services; crisis intervention; home based crisis
25 intervention; family care; supported single room occupancy; supported
26 housing; supported housing community services; treatment congregate;
27 supported congregate; community residence - children and youth;
28 treatment/apartment; supported apartment; community residence single
29 room occupancy; on-site rehabilitation; employment programs; recreation;
30 respite care; transportation; psychosocial club; assertive community
31 treatment; case management; care coordination, including health home
32 plus services; local government unit administration; monitoring and
33 evaluation; children and youth vocational services; single point of
34 access; school-based mental health program; family support children and
35 youth; advocacy/support services; drop in centers; recovery centers;
36 transition management services; bridger; home and community based waiver
37 services; behavioral health waiver services authorized pursuant to the
38 section 1115 MRT waiver; self-help programs; consumer service dollars;
39 conference of local mental hygiene directors; multicultural initiative;
40 ongoing integrated supported employment services; supported education;
41 mentally ill/chemical abuse (MICA) network; personalized recovery
42 oriented services; children and family treatment and support services;
43 residential treatment facilities operating pursuant to part 584 of title
44 14-NYCRR; geriatric demonstration programs; community-based mental
45 health family treatment and support; coordinated children's service
46 initiative; homeless services; and promises zone.

47 (ii) Programs and services funded, licensed, or certified by the
48 office for people with developmental disabilities (OPWDD) eligible for
49 the cost of living adjustment established herein, pending federal

50 approval where applicable, include: local/unified services; chapter 620
51 services; voluntary operated community residential services; article 16
52 clinics; day treatment services; family support services; 100% day
53 training; epilepsy services; traumatic brain injury services; hepatitis
54 B services; independent practitioner services for individuals with
55 intellectual and/or developmental disabilities; crisis services for
56 individuals with intellectual and/or developmental disabilities; family

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1 care residential habilitation; supervised residential habilitation;
2 supportive residential habilitation; respite; day habilitation; prevoca-
3 tional services; supported employment; community habilitation; interme-
4 diate care facility day and residential services; specialty hospital;
5 pathways to employment; intensive behavioral services; community transi-
6 tion services; family education and training; fiscal intermediary;
7 support broker; and personal resource accounts.
8 (iii) Programs and services funded, licensed, or certified by the
9 office of addiction services and supports (OASAS) eligible for the cost
10 of living adjustment established herein, pending federal approval where
11 applicable, include: medically supervised withdrawal services - residen-
12 tial; medically supervised withdrawal services - outpatient; medically
13 managed detoxification; medically monitored withdrawal; inpatient reha-
14 bilitation services; outpatient opioid treatment; residential opioid
15 treatment; KEEP units outpatient; residential opioid treatment to absti-
16 nence; problem gambling treatment; medically supervised outpatient;
17 outpatient rehabilitation; specialized services substance abuse
18 programs; home and community based waiver services pursuant to subdivi-
19 sion 9 of section 366 of the social services law; children and family
20 treatment and support services; continuum of care rental assistance case

21 management; NY/NY III post-treatment housing; NY/NY III housing for
22 persons at risk for homelessness; permanent supported housing; youth
23 clubhouse; recovery community centers; recovery community organizing
24 initiative; residential rehabilitation services for youth (RRSY); inten-
25 sive residential; community residential; supportive living; residential
26 services; job placement initiative; case management; family support
27 navigator; local government unit administration; peer engagement; voca-
28 tional rehabilitation; support services; HIV early intervention
29 services; dual diagnosis coordinator; problem gambling resource centers;
30 problem gambling prevention; prevention resource centers; primary
31 prevention services; other prevention services; and community services.

32 (iv) Programs and services funded, licensed, or certified by the
33 office of temporary and disability assistance (OTDA) eligible for the
34 cost of living adjustment established herein, pending federal approval
35 where applicable, include: nutrition outreach and education program
36 (NOEP).

37 (v) Programs and services funded, licensed, or certified by the office
38 of children and family services (OCFS) eligible for the cost of living
39 adjustment established herein, pending federal approval where applica-
40 ble, include: programs for which the office of children and family
41 services establishes maximum state aid rates pursuant to section 398-a
42 of the social services law and section 4003 of the education law; emer-
43 gency foster homes; foster family boarding homes and therapeutic foster
44 homes; supervised settings as defined by subdivision twenty-two of
45 section 371 of the social services law; adoptive parents receiving
46 adoption subsidy pursuant to section 453 of the social services law; and
47 congregate and scattered supportive housing programs and supportive
48 services provided under the NY/NY III supportive housing agreement to
49 young adults leaving or having recently left foster care.

50 (vi) Programs and services funded, licensed, or certified by the state
51 office for the aging (SOFA) eligible for the cost of living adjustment
52 established herein, pending federal approval where applicable, include:
53 community services for the elderly; expanded in-home services for the
54 elderly; and wellness in nutrition program.

55 6. Eligible individuals. Support staff, direct care staff, clinical
56 staff, and non-executive administrative staff in programs and services

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1 listed in subdivision five of this section shall be eligible for the
2 1.7% targeted salary increase established pursuant to subdivision four
3 of this section.

4 (a) For the office of mental health, office for people with develop-
5 mental disabilities, and office of addiction services and supports,
6 support staff shall mean individuals employed in consolidated fiscal
7 report position title codes ranging from 100 to 199; direct care staff
8 shall mean individuals employed in consolidated fiscal report position
9 title codes ranging from 200 to 299; clinical staff shall mean individ-
10 uals employed in consolidated fiscal report position title codes ranging
11 from 300 to 399; and non-executive administrative staff shall mean indi-
12 viduals employed in consolidated fiscal report position title codes 400,
13 500 to 599, 605 to 699, and 703 to 799. Individuals employed in consol-
14 idated fiscal report position title codes 601 to 604, 701 and 702 shall
15 be ineligible for the 1.7% targeted salary increase established herein.

16 (b) For the office of temporary and disability assistance, office of
17 children and family services, and the state office for the aging, eligi-
18 ble support staff, direct care staff, clinical staff, and non-executive
19 administrative staff titles shall be determined by each agency's commis-
20 sioner.

21 7. Each local government unit or direct contract provider receiving
22 funding for the cost of living adjustment established herein shall
23 submit a written certification, in such form and at such time as each
24 commissioner shall prescribe, attesting how such funding will be or was
25 used to first promote the recruitment and retention of support staff,
26 direct care staff, clinical staff, non-executive administrative staff,
27 or respond to other critical non-personal service costs prior to
28 supporting any salary increases or other compensation for executive
29 level job titles.

30 8. Notwithstanding any inconsistent provision of law to the contrary,
31 agency commissioners shall be authorized to recoup funding from a local
32 governmental unit or direct contract provider for the cost of living
33 adjustment established herein determined to have been used in a manner
34 inconsistent with the appropriation, or any other provision of this
35 section. Such agency commissioners shall be authorized to employ any
36 legal mechanism to recoup such funds, including an offset of other funds
37 that are owed to such local governmental unit or direct contract provid-
38 er.

39 § 2. This act shall take effect immediately and shall be deemed to
40 have been in full force and effect on and after April 1, 2024.

§ 7.09 Powers of the office and commissioner; how exercised.

(a) The commissioner shall exercise all powers vested in the office.
He may delegate any function, power, or duty assigned to him or to the
office of mental health to a director of a facility operated by such
office or to any other officer or employee of such office, unless
otherwise provided by law. He may enter into agreements with the
executive director of the justice center for the protection of people

with special needs or the other commissioners of the department in order to ensure that programs and services are provided for all of the mentally disabled.

(b) The commissioner may adopt regulations necessary and proper to implement any matter under his jurisdiction. Proposed rules and regulations shall be submitted at least sixty days prior to action thereon to the mental health services council for its advice, in accordance with section 7.05 of this chapter, unless the commissioner finds that the public health, safety or general welfare requires that such submission be dispensed with.

Mental Hygiene (MHY) CHAPTER 27, TITLE E, ARTICLE 31

§ 31.04 Regulatory powers of the commissioner.

(a) The commissioner shall have the power to adopt regulations to effectuate the provisions and purposes of this article, including, but not limited to, the following:

1. establishing classes of operating certificates based upon such factors as physical plant, program, and staff.
2. setting standards of quality and adequacy of facilities, equipment, personnel, services, records, and programs for the rendition of services for the mentally disabled pursuant to an operating certificate.
3. specifying a definite period for which the operating certificate will be in effect for each class.

* 4. establishing procedures for the issuance, amendment, and renewal of operating certificates, including temporary operating certificates, and for the suspension or revocation of operating certificates. Such procedures shall specify that no application for the issuance or renewal of an operating certificate for a hospital, which is operated as part of a hospital as defined in article twenty-eight of the public health law, shall be effective until such hospital is granted approval to admit patients in emergencies for immediate observation, care and treatment in accordance with section 9.39 or 9.40 of this chapter, provided that the commissioner shall waive this requirement for two year periods upon his determination that (i) there is no need for additional beds for emergency psychiatric admissions in the local geographic area, (ii) the hospital lacks the physical capacity to reasonably accommodate such emergency admissions without extensive structural changes, (iii) the hospital does not and reasonably could not provide the scope of services necessary to assure adequate and appropriate psychiatric care and treatment for patients in emergency situations, or (iv) the hospital has agreed to accept referrals of involuntary psychiatric patients under an emergency admissions system which has been approved by the commissioner. Provided, however, nothing in this paragraph shall be interpreted to require a hospital without an onsite emergency room to accept patients in need of emergency observation, care and treatment.

* NB Effective until July 1, 2024

* 4. establishing procedures for the issuance, amendment, and renewal of operating certificates, including temporary operating certificates, and for the suspension or revocation of operating certificates. Such procedures shall specify that no application for the issuance or renewal

of an operating certificate for a hospital, which is operated as part of a hospital as defined in article twenty-eight of the public health law, shall be effective until such hospital is granted approval to admit patients in emergencies for immediate observation, care and treatment in accordance with section 9.39 of this chapter, provided that the commissioner shall waive this requirement for two year periods upon his determination that (i) there is no need for additional beds for emergency psychiatric admissions in the local geographic area, (ii) the hospital lacks the physical capacity to reasonably accommodate such emergency admissions without extensive structural changes, (iii) the hospital does not and reasonably could not provide the scope of services necessary to assure adequate and appropriate psychiatric care and treatment for patients in emergency situations, or (iv) the hospital has agreed to accept referrals of involuntary psychiatric patients under an emergency admissions system which has been approved by the commissioner. Provided, however, nothing in this paragraph shall be interpreted to require a hospital without an onsite emergency room to accept patients in need of emergency observation, care and treatment.

* NB Effective July 1, 2024

5. setting for the operation of certified family care homes standards governing adequacy of the building and equipment, fire protection, safety, sanitation, food service, programs for the rendition of service, recreation and religious participation, medical services, personnel, insurance, record keeping procedures and statistical records as well as appropriate standards governing or precluding ownership of more than one such home.

6. establishing criteria for use by staff of department facilities, social services officials and directors of local governmental units for determining the appropriateness of referring patients to family care homes, other community residences and residential care centers for adults.

7. establishing criteria for determining the public need for family care homes, other community residences and residential care centers for adults in each geographical area of the state.

8. establishing a schedule of fees for the purpose of processing applications for the issuance of operating certificates. All fees pursuant to this section shall be payable to the office for deposit into the general fund.

Mental Hygiene (MHY) CHAPTER 27, TITLE E, ARTICLE 31

**** § 31.27 Comprehensive psychiatric emergency programs.**

(a) As used in this section:

(1) "Commissioner" means the commissioner of mental health.

(2) "Crisis intervention services" means services provided in an emergency room located within a general hospital, which shall include but not be limited to: psychiatric and medical evaluations and assessments; prescription or adjustment of medication, counseling, and other stabilization or treatment services intended to reduce symptoms of mental illness when appropriate.

(3) "Crisis outreach services" means psychiatric emergency services provided outside an emergency room setting including evaluation, assessment and stabilization services; crisis reduction services; referral services; and other psychiatric emergency services.

(5) "Extended observation bed" means an inpatient bed which is in or adjacent to an emergency room located within a general hospital or satellite facility approved by the commissioner, designed to provide a safe environment for an individual who, in the opinion of the examining physician, requires extensive evaluation, assessment, or stabilization of the person's acute psychiatric symptoms, except that, if the commissioner determines that the program can provide for the privacy and safety of all patients receiving services in a hospital, he or she may approve the location of one or more such beds within another unit of the hospital.

(6) "General hospital" shall be defined as in article twenty-eight of the public health law.

(9) "Psychiatric emergency services" means services designed to stabilize and, when possible, reduce acute psychiatric symptoms of an individual who appears to be mentally ill and in crisis.

(10) "Triage and referral services" means services designed to provide preliminary diagnosis, assessment and evaluation of individuals served by a comprehensive psychiatric emergency program in order to direct such person to those services which appropriately address their needs.

(11) "Voluntary agency" shall be defined as in section 41.03 of this

chapter.

(12) "Satellite facility" means a medical facility providing psychiatric emergency services that is managed and operated by a general hospital who holds a valid operating certificate for a comprehensive psychiatric emergency program and is located away from the central campus of the general hospital.

(b) (1) The commissioner may license the operation of comprehensive psychiatric emergency programs by general hospitals which are operated by state or local governments or voluntary agencies. The provision of such services in general hospitals may be located either within the state or, with the approval of the commissioner and the director of the budget and to the extent consistent with state and federal law, in a contiguous state. The commissioner is further authorized to enter into interstate agreements for the purpose of facilitating the development of programs which provide services in another state. A comprehensive psychiatric emergency program shall serve as a primary psychiatric emergency service provider within a defined catchment area for persons in need of psychiatric emergency services including persons who require immediate observation, care and treatment in accordance with section 9.40 of this chapter. Each comprehensive psychiatric emergency program shall provide or contract to provide psychiatric emergency services twenty-four hours per day, seven days per week, including but not limited to: crisis intervention services, crisis outreach services, extended observation beds, and triage and referral services.

(2) The commissioner of mental health shall require that each comprehensive psychiatric emergency program submit a plan. The plan must

be approved by the commissioner prior to the issuance of an operating certificate pursuant to this article. Each plan shall include: (i) a description of the program's catchment area; (ii) a description of the program's psychiatric emergency services, including but not limited to crisis intervention services, crisis outreach services, extended observation beds, and triage and referral services, whether or not provided directly or through agreement with other providers of services; (iii) agreements or affiliations with hospitals, as defined in section 1.03 of this chapter, to receive and admit persons who require inpatient psychiatric services; (iv) agreements or affiliations with general hospitals to receive and admit persons who have been referred by the comprehensive psychiatric emergency program and who require medical or surgical care which cannot be provided by the comprehensive psychiatric emergency program; (v) a description of local resources available to the program to prevent unnecessary hospitalizations of persons, which shall include agreements with local mental health, health, substance abuse, alcoholism or alcohol abuse, developmental disabilities, or social services agencies to provide appropriate services; (vi) a description of the program's linkages with local police agencies, emergency medical services, ambulance services, and other transportation agencies; (vii) a description of local resources available to the program to provide appropriate community mental health services upon release or discharge, which shall include case management services and agreements with state or local mental health and other human service providers; (viii) written criteria and guidelines for the development of appropriate discharge planning for persons in need of post emergency treatment or services; (ix) a statement indicating that the program has been included in an approved local services plan developed pursuant to article forty-one of this chapter for each local government located within the program's

catchment area; and (x) any other information or agreements required by the commissioner.

(c) Each comprehensive psychiatric emergency program shall have at least one physician, who is a member of the psychiatric staff of the program, on duty and available at all times, provided, however, the commissioner may promulgate regulations to permit the issuance of a waiver of this requirement when the volume of service of a program does not require such level of staff coverage.

(d) The commissioner shall promulgate regulations to establish a maximum number and location of extended observation beds which may be provided in a program, including provisions to maximize the privacy and safety of all patients receiving services in the hospital in which such extended observation beds are located.

(e) The commissioner may prevent new presentations and admissions from entering a comprehensive psychiatric emergency program when the commissioner concludes that the ability of the program to deliver quality services would be jeopardized. Before reaching such a conclusion, the commissioner shall consider the effect presenting new presentations and admissions may have on other hospital emergency rooms which provide psychiatric emergency services, and the commissioner shall review the continued necessity for such prevention at least once every twenty-four hours.

(f) The commissioner and the commissioner of health shall enter into a cooperative agreement to govern the operation of comprehensive psychiatric emergency programs including visitation, inspection and

supervision of such programs, enforcement of the conditions of operating certificates issued by the office of mental health and the department of health, and the protection of the confidentiality of clinical information regarding patients at such programs.

(g) The office of mental health, the department of social services and the department of health shall establish a uniform system by which general hospitals which operate comprehensive psychiatric emergency programs shall report the cost of operating such programs.

(h) Notwithstanding any other provision of law, nothing in this section shall be interpreted to create an entitlement for any individual to receive psychiatric emergency services in a comprehensive psychiatric emergency program.

Mental Hygiene (MHY) CHAPTER 27, TITLE E, ARTICLE 43

§ 43.02 Rates or methods of payment for services at facilities subject

to licensure or certification by the office of mental health, the office for people with developmental disabilities or the office of alcoholism and substance abuse services.

(a) Notwithstanding any inconsistent provision of law, payment made by government agencies pursuant to title eleven of article five of the social services law for services provided by any facility licensed by the office of mental health pursuant to article thirty-one of this chapter or certified by the office of alcoholism and substance abuse services pursuant to this chapter to provide inpatient chemical dependence services, as defined in section 1.03 of this chapter, shall be at rates or fees certified by the commissioner of the respective office and approved by the director of the division of the budget,

provided, however, the commissioner of mental health shall annually certify such rates or fees which may vary for distinct geographical areas of the state and, provided, further, that rates or fees for service for inpatient psychiatric services or inpatient chemical dependence services, at hospitals otherwise licensed pursuant to article twenty-eight of the public health law shall be established in accordance with section two thousand eight hundred seven of the public health law and, provided, further, that rates or fees for services provided by any facility or program licensed, operated or approved by the office for people with developmental disabilities, shall be certified by the commissioner of health; provided, however, that such methodologies shall be subject to approval by the office for people with developmental disabilities and shall take into account the policies and goals of such office.

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

(c) The commissioner of the office of mental health, the commissioner of the office for people with developmental disabilities and the commissioner of the office of alcoholism and substance abuse services

shall adopt rules and regulations to effectuate the provisions of this section. Such rules and regulations shall include, but not be limited to, provisions relating to:

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

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

**Appendix IV
2024 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

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 Civil Service

Pursuant to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for April 2024 will be conducted on April 17 and April 18 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at: <https://www.cs.ny.gov/commission/>

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. 1, Albany, NY 12239 (518) 473-6598

PUBLIC NOTICE Office of General Services

Pursuant to section 30-a of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the Department of Environmental Conservation has determined that:

Address: .21 acres of land, Plank Road
Berlin, NY
Rensselaer County

.21 ± acres of land, known as a portion of the Cowee State Forest, is surplus and no longer useful or necessary for state program purposes and has abandoned the property to the Commissioner of General Services for sale or other disposition as Unappropriated State land.

For further information, please contact: Frank Pallante, Office of General Services, Legal Services, 36th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831

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 the 2024-2025 proposed executive budget. The following changes are proposed:

All Services

Effective on or after April 1, 2024, the Department of Health will adjust rates statewide to reflect a 1.5% 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, Comprehensive Psychiatric Emergency Program, including Extended Observation Beds, 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, 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 2024-2025 is \$25.1 million.

Non-Institutional Services

Effective on or after April 1, 2024, noticed provision for a rate change regarding Emergency Medical Services will be revised. All such Emergency Medical Services will be paid established fees for ambulance services providing treatment in place (TIP) without transport, a base fee without a mileage charge. This change will reduce unnecessary Emergency Department (ED) trips, thus relieving ED wait times, improving overall ED and EMS care and reducing Medicaid costs.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is (\$1.2 million).

Effective on or after April 1, 2024, the reimbursement rate for Early Intervention services will increase by 5%. These rates are being increased to address capacity issues that municipalities are facing statewide.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is \$12 million.

Effective on or after April 1, 2024, rates of payment for Early and Periodic Screening Diagnosis and Treatment (EPSDT) related to behavioral health services provided by Health Facilities licensed under Article 29-I of the Public Health Law to individuals under age 21 years, will be increased to account for enhanced programmatic requirements related to delivery of care in Qualified Residential Treatment Facilities.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is \$18 million.

Effective on April 1, 2024, conflicts of interest between Consumer Directed Personal Assistance Program (CDPAP) CDPAP Fiscal Intermediaries (FIs) and Licensed Home Care Service Agencies (LHCASAs) will be eliminated.

Effective on October 1, 2024, consumer self-direction will be required in the CDPAP program, and proposed regulation authority relating to quality-of-care standards and labor protections for the CDPAP and Personal Care programs shall take effect.

Effective on or after January 1, 2025, FI procurement will be repealed and replaced with an authorization process.

Effective on or after April 1, 2025, conflicts of interest between CDPAP Fis, Managed Long-term Care Plans (MLTCs), and Health Maintenance Organizations will be eliminated.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to these initiatives contained in the budget for state fiscal year 2025 is (\$200 million) and for state fiscal year 2026 is (\$400 million).

Long Term Care Services

Effective on or after April 1, 2024, the case mix adjustment from the operating component of the rates for skilled nursing facilities shall remain unchanged from the July 2023 rates during the development and until full implementation of a new case mix methodology in accordance with Federal acuity data.

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

Effective on or after April 1, 2024 and each SFY thereafter, the Department proposes to reduce funding associated with residential health care facilities' capital reimbursement by 10 percent.

The estimated net aggregate decrease in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is (\$57 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. 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: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, spa_inquiries@health.ny.gov

PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for Long Term Care Services as authorized by § 2826 of New York Public Health Law. The following changes are proposed:

Long Term Care Service

Effective on or after April 1, 2024, the Department of Health proposes to amend the Title XIX (Medicaid) State Plan for long term care services related to temporary rate adjustments to long term care providers that are undergoing closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are authorized by current State statutory and regulatory provisions. The temporary rate adjustments will be reviewed and approved by the CINERGY Collaborative.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2024-2025 is \$30 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. 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:

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250 Church Street
New York, New York 10018

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Long Island City, New York 11101

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

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

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

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, spa_inquiries@health.ny.gov

PUBLIC NOTICE

Department of Health

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

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

Non-Institutional Services

Effective on or after April 1, 2024, this amendment proposes to revise the payment eligibility criteria, for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs), that are eligible for the Alternative Payment Methodology (APM) which provides for an additional payment annually to preserve and improve beneficiary

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 pursuant to the enacted 2024-2025 executive budget. The following clarifications are proposed:

All Services

The following is a clarification to the March 27th, 2024 noticed proposal to adjust rates of payments statewide to reflect a 1.5 percent (1.5%) Cost of Living Adjustment. With clarification, this increase will now be 2.84 percent (2.84%) and relating to 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, Comprehensive Psychiatric Emergency Program, including Extended Observation Beds, 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, 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 2024-2025 is \$49.9 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. 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
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New York, New York 10018

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Long Island City, New York 11101

Kings County, Fulton Center
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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
Division of Finance and Rate Setting
99 Washington Ave
One Commerce Plaza
Suite 1432
Albany, New York 12210
spa_inquiries@health.ny.gov

Appendix V
2024 Title XIX State Plan
Second Quarter Amendment
Responses to Standard Funding Questions

INSTITUTIONAL SERVICES
State Plan Amendment #24-0055

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-A 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 or is funded by an IGT transferred from the counties.

Payment Type	Non-Federal Share Funding	4/1/24 – 3/31/25	
		Non-Federal	Gross
Hospital Inpatient Normal Per Diem	General Fund; Special Revenue Funds; County Contribution	\$2.355B	\$4.711B
Residential Treatment Facilities Normal Per Diem	General Fund; County Contribution	\$51M	\$103M
Hospital Inpatient Supplemental	General Fund	\$142M	\$284M
Indigent Care Pool	General Fund; Special Revenue Funds	\$300M	\$600M
Voluntary UPL	General Fund	\$170M	\$339M
Indigent Care Pool Adjustment	General Fund; IGT	\$206M	\$412M
Disproportionate Share Program	General Fund; IGT	\$1,026M	\$2,051M
State Public Inpatient UPL	General Fund	(\$3M)	(\$5M)
Non-State Government Inpatient UPL	IGT	\$210M	\$421M
Totals		\$4.457B	\$8.915B

- 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. Special Revenue Funds:

- 1) Health Care Reform Act (HCRA) Resource Fund: as authorized in section 92-dd of New York State Finance Law and was established in 1996, pursuant to New York State Public Health Law 2807-j and 2807-s (surcharges), 2807-c (1 percent), and 2807-d-1 (1.6 percent). HCRA resources include:
 - Surcharge on net patient service revenues for Inpatient Hospital Services.
 - The rate for commercial payors is 9.63 percent.
 - The rate for governmental payors, including Medicaid, is 7.04 percent.
 - Federal payors, including Medicare, are exempt from the surcharge.
 - 1 percent assessment on General Hospital Inpatient Revenue.
 - 1.6 percent Quality Contribution on Maternity and Newborn (IP) Services.

- 2) Health Facility Cash Assessment Program (HFCAP) Fund: Pursuant to New York State Public Health Law 2807-d, the total state assessment on each hospital's gross receipts received from all patient care services and other operating income, excluding gross receipts attributable to payments received pursuant to Title XVIII of the federal Social Security Act (Medicare), is 0.35 percent.

NOTE: New York's Health Care taxes are either broad based and uniform (as in all HFCAP assessments except for the Personal Care Provider Cash Assessment) or have a specific exemption known as the "D'Amato provision (Federal PHL section 105-33 4722 (c))" which allows the HCRA surcharges to exist in their current format. The single tax which has been determined by the State to be an impermissible provider tax is the HFCAP charge on Personal Care Providers. The State does not claim any Federal dollars for the surcharge collected in this manner in order to comply with all Federal provider tax rules.

C. 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:

Entity	Annual Amount
New York City	\$5.210B

Suffolk County	\$243M
Nassau County	\$231M
Westchester County	\$215M
Erie County	\$205M
Rest of State (53 Counties)	\$1.260B
Total	\$7.364B

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. Each deposit received is reviewed and compared to the amount each county is responsible to contribute to the Medicaid program to verify the county funds received are eligible for Medicaid expenses.

D. IGT Funding:

New York State requests the transfer of the IGT amounts from entities prior to the release of payments to the providers. The entities transferring IGT amounts are all units of government, and the nonfederal share is derived from state or local tax revenue funded accounts only. The providers keep and retain Medicaid payments. Please note that entities have taxing authority, and the State does not provide appropriations to the entities for IGTs.

Provider	Entity Transferring IGT Funds	4/1/24-3/31/25 IGT Amount
Bellevue Hospital Center	New York City	\$14M
Coney Island Hospital	New York City	\$1M
City Hospital Center at Elmhurst	New York City	\$6M
Harlem Hospital Center	New York City	\$30M
Henry J Carter Spec Hospital	New York City	(\$8M)
Jacobi Medical Center	New York City	\$3M
Kings County Hospital Center	New York City	(\$32M)
Lincoln Medical & Mental Health Center	New York City	\$30M
Metropolitan Hospital Center	New York City	\$78M
North Central Bronx Hospital	New York City	(\$28M)
Queens Hospital Center	New York City	(\$4M)
Woodhull Medical and Mental Health Center	New York City	\$65M
Erie County Medical Center	Erie County	\$118M
Lewis County General Hospital	Lewis County	\$9M
Nassau County Medical Center	Nassau County	\$76M
Westchester County Medical Center	Westchester County	\$362M

Wyoming County Community Hospita	Wyoming County	\$8M
NYC Health + Hospitals	New York City	\$210M
Total		\$938M

- 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: Please see list of supplemental payments below:

Payment Type	Private	State Government	Non-State Government	4/1/24-3/31/25 Gross Total
Indigent Care Pool/Voluntary UPL \$339M Guarantee	\$816M	\$7M	\$116M	\$939M
Indigent Care Pool Adjustment	\$0	\$134M	\$278M	\$412M
Disproportionate Share Program	\$0	\$877M	\$1.174B	\$2.051B
Vital Access Program	\$284M	\$0	\$0	\$284M
State Public Inpatient UPL	\$0	(\$5M)	\$0	(\$5M)
Non-State Government Inpatient UPL	\$0	\$0	\$421M	\$421M
Total	\$1.100B	\$1.012B	\$1.989B	\$4.101B

The Medicaid payments under this State Plan Amendment are not supplemental 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 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 inpatient UPL demonstration utilizes cost-to-payment and payment-to-payment methodologies to estimate the upper payment limit for each class of providers. The Medicaid payments under this State Plan Amendment will be included in the 2024 inpatient UPL when it is submitted to CMS.

- 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.