NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

May 22, 2012

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 #11-89
Non-Institutional Services

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #11-89 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective April 1, 2012 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

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

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 on December 14, 2011, is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions and the standard access questions are also enclosed (Appendix V and VI, respectively).

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

Sincerely,

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

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: **11-89**	2. STATE **New York**
	3. PROGRAM IDENTIFICATION: **TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)**	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE **April 1, 2012**	

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

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

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

6. FEDERAL STATUTE/REGULATION CITATION: **Section 1902(a) of the Social Security Act, and 42 CFR 447**	7. FEDERAL BUDGET IMPACT: a. FFY **04/01/12-09/30/12 $426,165** b. FFY **10/01/12-09/30/13 $852,329**
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: **Attachment 3.1-A Supplement Page 3(c)** **Attachment 3.1-B Supplement Page 3(c)**	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: **Attachment 3.1-A Supplement Page 3(c)** **Attachment 3.1-B Supplement Page 3(c)**

10. SUBJECT OF AMENDMENT:
Definition of Terminal Illness
(FMAP = 50%)

11. GOVERNOR'S REVIEW *(Check One)*:
☒ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:	16. RETURN TO: **New York State Department of Health** **Corning Tower** **Empire State Plaza** **Albany, New York 12237**
13. TYPED NAME: **Jason A. Helgerson**	
14. TITLE: **Medicaid Director & Deputy Commissioner Department of Health**	
15. DATE SUBMITTED: May 22, 2012	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED:
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME:	22. TITLE:

23. REMARKS:

FORM HCFA-179 (07-92)

Appendix I
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Amended SPA Pages

Rehabilitative Services (cont.)

"Off-site" services shall be provided to developmentally disabled persons whose therapeutic requirements are most effectively satisfied in an appropriate environment that is specific to the treatment needs of the developmentally disabled individual. Such services shall be provided by persons authorized pursuant to NYCRR Title 14 Part 679. "Off-site" services shall not be provided at the location of a clinic certified by NYCRR Title 14 Part 679.

18. Limitations on Hospice Services:

Hospice services are provided to individuals who are certified by a physician as being terminally ill, with a life expectancy of approximately [six] twelve months or less.

Recipients must sign an informed consent electing hospice over conventional care, subject to periodic review.

Services provided are palliative in nature as opposed to curative: Services include supportive medical, social, emotional, and spiritual services to terminally ill individuals as well as emotional support for family members. Hospice services may be delivered at home, in a nursing home or in a hospice residence.

Recipients who elect hospice care waive all rights to Medicaid reimbursement made on their behalf for the duration of the election of any services covered under the Medicaid State Plan that are related to the treatment of the terminal condition for which hospice care was elected, or a related condition.

Hospice services provider qualifications are provided for registered professional nurse, home health aide, physical therapist, occupational therapist, speech pathologist, personal care aide, housekeeper/homemaker, pastoral care coordinator, social worker, nutritionist, audiologist, and respiratory therapist, personal care aid, housekeeper/homemaker, pastoral care coordinator, social workers, nutritionist, audiologist, and respiratory therapist.

Registered professional nurse shall mean a person who is licensed and currently registered as a registered professional nurse pursuant to Article 139 of the New York State Education Law.

Rehabilitative Services (cont.)

"Off-site" services shall be provided to developmentally disabled persons whose therapeutic requirements are most effectively satisfied in an appropriate environment that is specific to the treatment needs of the developmentally disabled individual. Such services shall be provided by persons authorized pursuant to NYCRR Title 14 Part 679. "Off-site" services shall not be provided at the location of a clinic certified by NYCRR Title 14 Part 679.

18. Limitations on Hospice Services:

Hospice services are provided to individuals who are certified by a physician as being terminally ill, with a life expectancy of approximately [six] twelve months or less.

Recipients must sign an informed consent electing hospice over conventional care, subject to periodic review.

Services provided are palliative in nature as opposed to curative: Services include supportive medical, social, emotional, and spiritual services to terminally ill individuals as well as emotional support for family members. Hospice services may be delivered at home, in a nursing home or in a hospice residence.

Recipients who elect hospice care waive all rights to Medicaid reimbursement made on their behalf for the duration of the election of any services covered under the Medicaid State Plan that are related to the treatment of the terminal condition for which hospice care was elected, or a related condition.

Hospice services provider qualifications are provided for registered professional nurse, home health aide, physical therapist, occupational therapist, speech pathologist, personal care aide, housekeeper/homemaker, pastoral care coordinator, social worker, nutritionist, audiologist, and respiratory therapist, personal care aid, housekeeper/homemaker, pastoral care coordinator, social workers, nutritionist, audiologist, and respiratory therapist.

Registered professional nurse shall mean a person who is licensed and currently registered as a registered professional nurse pursuant to Article 139 of the New York State Education Law.

Appendix II
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Summary

Summary
SPA #11-89

This state plan amendment proposes to implement an expanded definition of terminal illness such that an individual who is certified by a physician as terminally ill with a life expectancy of twelve months or less is eligible to elect the hospice benefit effective April 1, 2012. Presently, hospice services are available to individuals who are certified by a physician as terminally ill, with a life expectancy of approximately six months or less. This amendment will expand access to hospice services and improve patient care. Additionally, overall Medicaid expenditures could be realized through reducing higher cost treatment modalities at the end of life.

Appendix III
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Authorizing Provisions

CHAPTER 441, LAWS OF NEW YORK, 2011 – S. 5554/A. 07650

§ 1. Section 4002 of the public health law is amended by adding a new subdivision 5 to read as follows:

5. "Terminally ill" means an individual has a medical prognosis that the individual's life expectancy is approximately one year or less if the illness runs its normal course.

§ 2. Subdivision 3 of section 4008 of the public health law, as added by chapter 416 of the laws of 1983, is amended to read as follows:

3. Subject to the provisions of this section and section four thousand ten of this article, contractual agreements between a hospice and other providers of other care and services shall not be prohibited, and a hospice may employ and enter into contracts with any licensed healthcare professional or any lawful combination thereof in relation to services provided by the hospice under this article, provided that the hospice maintains full responsibility for the planning, coordination and quality of such services and the adherence to the plan of care established for the patients.

§ 3. This act shall take effect immediately.

Summary of Express Terms (Proposed Regulation)

(Attach to PRT)

This rule amends Sections 700.2 and 717.3, Part 793 and Part 794 of Title 10 (Health) of NYCRR, the operational rules for hospices approved to provide services in New York State under Article 40 of the Public Health Law. The changes being proposed will make state regulations consistent with the federal conditions of participation/rules which were revised and implemented on December 3, 2008, as well as with Bill A7650 signed by the Governor on August 17, 2011.

Section 700.2 (Definitions) is amended to define hospice patient as a person in the terminal state of illness with a life expectancy of 12 months or less (instead of 6 months or less) who has voluntarily requested admission and been accepted into a hospice for which the department has issued a certificate of approval.

Section 717.3 (Patient and service areas in hospice inpatient facilities and units) is amended to reduce maximum room capacity from four to two patients as required by new federal rules.

Section 793.1 (Patient Rights) sets forth patient rights for hospice patients and requires alleged violations of mistreatment, neglect or abuse to be investigated and reported to the State, if verified.

Section 793.2 (Eligibility, Election, Admission and Discharge) sets forth provisions for determining eligibility for and admitting persons into a hospice program as well as requirements for discharging a hospice patient.

Section 793.3 (Initial and Comprehensive Assessment) requires hospices to complete initial and comprehensive assessments and reassessments within specified time periods and identifies the information required in such assessments.

Section 793.4 (Patient Plan of Care, Interdisciplinary Group and Coordination of Care) defines the interdisciplinary group members responsible for management of hospice care, identifies the responsibilities of the group, and lists the information required in the hospice plan of care.

Section 793.5 (Quality Assessment and Performance Improvement) sets forth requirements for the hospice quality assessment and performance improvement program. Hospices will be required to track performance indicators and conduct performance improvement projects.

Section 793.6 (Infection Control) sets forth requirements for management of an infection control program including policies and procedures for preventing and managing persons exposed to blood borne pathogens and appropriate training of staff.

Section 793.7 (Staff and Services) identifies the types of personnel a hospice is expected to employ and their responsibilities. This section also clarifies employment options (direct or contract), qualifications and supervision requirements strengthening the onsite supervision home health aide requirement.

Section 794.1 (Governing Authority) lists the responsibilities of the governing authority. It also sets forth requirements for a patient complaint investigation process and emergency plan. This section also requires hospices to obtain and maintain a Health Commerce System account as a communication link with the Department of Health.

Section 794.2 (Contracts) sets forth contract requirements between the hospice and individual, facility or agency providers delivering services on behalf of the hospice. This section also specifies requirements for management contract and explains those responsibilities that may not be delegated by the governing body.

Section 794.3 (Personnel) sets forth personnel requirements including health requirements, identification and reference checks, maintenance and content of personnel records, job descriptions and orientation, performance appraisal and inservice education.

Section 794.4 (Clinical Record) sets forth requirements for maintenance and content of clinical records. Record retention standards are also included in this section.

Section 794.5 (Short Term Inpatient Service) sets forth structural and operational standards for the provision of short term inpatient service by the hospice. Physical plant, staffing, quality of life and patient comfort measures are addressed. This section also sets forth operational requirement for management and coordination of care.

Section 794.6 (Hospice Residence Service) sets forth requirements for hospice residences, when a hospice chooses to offer a hospice operated home to a hospice patient without a suitable home in which to receive services.

Section 794.7 (Leases) sets forth information which must be included in a lease agreement between a hospice and an inpatient setting or hospice residence.

Section 794.8 (Hospice Care Provided to Residents of a Skilled Nursing Facility (SNF) or Intermediate Care Facility for the Mentally Retarded (ICFMR)) identifies responsibilities of the hospice and the facility when a resident elects the hospice benefit. Services expected to be provided by the hospice and the facility are clarified, and development and implementation of collaborative plans of care and care coordination between the two entities is required.

Section 794.9 (Records and Reports) identifies those records which must be maintained by the hospice, and the retention timeframes. This section also specifies reports which must be submitted to the Department of Health.

Appendix IV
2011 Title XIX State Plan
Fourth Quarter Amendment
Non-Institutional Services
Public Notice

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

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

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

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

PUBLIC NOTICE

Department of Environmental Conservation

Comment Period Extension
High-Volume Hydraulic Fracturing

The New York State Department of Environmental Conservation is extending the public comment period for: the proposed addition of 6 NYCRR Parts 52, 560 and 750-3; revisions to 6 NYCRR Parts 190, 550-556, and 750-1; and the related Revised Draft Supplemental Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program. The comment period will close at 5:00 p.m., January 11, 2012. A Notice of Proposed Rule Making and Hearings were previously published in the September 28, 2011 issue of the State Register and the Environmental Notice Bulletin.

Comments should be addressed to: Attn: dSGEIS Comments, Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-6510, via web: http://www.dec.ny.gov/energy/76838.html

For more information, contact: Eugene J. Leff, Deputy Commissioner, (518) 402-8044

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 hospice services to amend the definition of terminal illness to expand access to hospice benefits. The following significant change is proposed:

Definition of Terminal Illness

- Effective April 1, 2012, regulations will be established to allow persons who are certified terminally ill by a physician, with a life expectancy of 12 months or less, to qualify for hospice services. Hospice remains a voluntary State Plan benefit and individuals must elect the benefit upon being certified terminally ill. The current requirement is a terminal prognosis of six months or less.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative for the state fiscal year 2012/13 is $1,704,658.

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

In addition, copies of the proposed state plan amendment will be on file and available for public review in each 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: Rebecca Fuller Gray, Deputy Director, Department of Health, Office of Health Systems Management, Division of Home & Community Based Services, 875 Central Ave., Albany, NY 12206, (518) 408-1638, fax (518) 408-1636

PUBLIC NOTICE

Department of State

A meeting of the New York State Appearance Enhancement Advisory Committee will be held on Wednesday, December 21, 2011 at 10:30 a.m. at the New York State Department of State, Alfred E. Smith State Office Building, 80 South Swan Street, 10th Floor Conference Room, Albany, NY and 123 William Street, 19th Floor Conference Room, New York, NY.

Should you require further information, please contact Carol Fansler at carol.fansler@dos.state.ny.us or 518-486-3857. Please always consult the Department of State website (http://www.dos.ny.gov/about/calendar.html) on the day before the meeting to make sure the meeting has not been rescheduled.

Appendix V
2012 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Responses to Standard Funding Questions

NON-INSTITUTIONAL SERVICES
State Plan Amendment #11-89

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: This is not applicable because hospice services are not held to the UPL demonstration.

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 hospice services is cost-based and follows federal guidance. 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. Section 1905(aa) of the Act provides for a "disaster-recovery FMAP" increase effective no earlier than January 1, 2011. Under section 1905(cc) of the Act, the increased FMAP under section 1905(aa) of the Act is not 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.

   Response: This provision is not applicable as this SPA does not qualify for such increased FFP.

4. **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:

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

Response: In New York State, Indian Health Programs and Urban Indian Organizations do not furnish hospice services; therefore, solicitation of advice on this issue was not applicable. However, as detailed in SPA #11-06, which was approved by CMS on 8/4/11, information relating to this SPA was shared with the tribal leaders and clinic administrators. Copies of the notifications are enclosed.