



# Department of Health

**KATHY HOCHUL**  
Governor

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

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

May 30, 2024

Mr. Ray Halbritter  
Nation Representative  
Oneida Indian Nation  
528 Patrick Road  
Verona, NY 13478

Dear Mr. Halbritter:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

[https://www.health.ny.gov/regulations/state\\_plans/tribal/](https://www.health.ny.gov/regulations/state_plans/tribal/)

We appreciate the opportunity to share this information with you and if there are any comments or concerns, please feel free to contact Regina Deyette, Medicaid State Plan Coordinator, Office of Health Insurance Programs at 518-473-3658.

Sincerely,

/S/

Amir Bassiri  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

cc: Sean Hightower  
US Dept. of Health and Human Services

Nancy Grano  
CMS Native American Contact

Michele Hamel  
NYSDOH American Indian Health Program



## Department of Health

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Commissioner

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

May 30, 2024

Chief Sidney Hill  
Onondaga Nation Territory –  
Administration  
Hemlock Road, Box 319-B  
Nedrow, NY 13120

Dear Chief Hill:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Medicaid Director  
Office of Health Insurance Programs

Enclosures

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

May 30, 2024

Bryan Polite  
Council of Trustees Chairman  
Shinnecock Indian Nation Tribal Office  
P.O. Box 5006  
Southampton, NY 11969-5006

Dear Mr. Polite:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Medicaid Director  
Office of Health Insurance Programs

Enclosures

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Commissioner

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

May 30, 2024

Chief Roger Hill, Council Chairman  
Tonawanda Seneca Indian Nation  
Administration Office  
7027 Meadville Road  
Basom, NY 14013

Dear Chief Hill:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Commissioner

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

May 30, 2024

Chief Tom Jonathan  
5226 Walmore Road  
Lewiston, NY 14092

Dear Chief Johnathan:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Medicaid Director  
Office of Health Insurance Programs

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

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

May 30, 2024

Chief Kenneth Patterson  
Tuscarora Indian Nation  
1967 Upper Mountain Road  
Lewiston, NY 14092

Dear Chief Patterson:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Office of Health Insurance Programs

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

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

May 30, 2024

Chief Harry Wallace  
Unkechaug Indian Territory  
207 Poospatuck Lane  
Mastic, NY 11950

Dear Chief Wallace:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Medicaid Director  
Office of Health Insurance Programs

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

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

May 30, 2024

Mr. Clint Halftown  
Nation Representative  
Cayuga Nation  
P.O. Box 803  
Seneca Falls, NY 13148

Dear Mr. Halftown:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Sincerely,

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Medicaid Director  
Office of Health Insurance Programs

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Commissioner

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

May 30, 2024

Chief Ronald Lafrance, Jr.  
Saint Regis Mohawk Tribe  
71 Margaret Terrance Memorial Way  
Akwesasne, NY, 13655

Dear Chief Lafrance:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Sincerely,

/S/

Amir Bassiri  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

cc: Sean Hightower  
US Dept. of Health and Human Services

Nancy Grano  
CMS Native American Contact

Michele Hamel  
NYSDOH American Indian Health Program



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Governor

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

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

May 30, 2024

Chief Beverly Cook  
St. Regis Mohawk Tribe  
71 Margaret Terrance Memorial Way  
Akwesasne, NY, 13655

Dear Chief Cook:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Sincerely,

/S/

Amir Bassiri  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

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US Dept. of Health and Human Services

Nancy Grano  
CMS Native American Contact

Michele Hamel  
NYSDOH American Indian Health Program



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

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

May 30, 2024

Latasha Austin  
Keeper of Records  
Unkechaug Indian Territory  
P.O. 86  
Mastic, NY 11950

Dear Ms. Austin:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Amir Bassiri  
Medicaid Director  
Office of Health Insurance Programs

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US Dept. of Health and Human Services

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

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

May 30, 2024

Eugene E. Cuffee II  
Sachem  
Shinnecock Indian Nation Tribal Office  
P.O. Box 5006  
Southampton, NY 11969-5006

Dear Mr. Cuffee:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Medicaid Director  
Office of Health Insurance Programs

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

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

May 30, 2024

Tim Twoguns  
Nation Representative  
Cayuga Nation  
P.O. Box 803  
Seneca Falls, NY 13148

Dear Mr. Twoguns:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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Medicaid Director  
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Enclosures

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Nancy Grano  
CMS Native American Contact

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

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

May 30, 2024

Gary Wheeler  
Nation Representative  
Cayuga Nation  
P.O. Box 803  
Seneca Falls, NY 13148

Dear Mr. Wheeler:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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

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

May 30, 2024

Maurice A. John Sr.  
President  
Seneca Nation of Indians  
P.O. Box 231  
Salamanca, NY 14779

Dear Mr. John Sr.:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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

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

May 30, 2024

Patricia Tarrant  
Executive Director  
American Indian Community House  
275 Madison Avenue  
Suite 2014  
New York, NY 10016

Dear Ms. Tarrant:

Pursuant to our tribal consultation policy, enclosed please find a summary of each proposed amendment to the New York State Plan. We encourage you to review the enclosed information and use the link below to also view the plan pages and Federal Public Notices for each proposal. Please provide any comments or request a personal meeting to discuss the proposed changes within two weeks of the date of this letter.

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SUMMARY  
SPA #24-0075

This State Plan Amendment proposes to provide a total of \$6 million in supplemental payments to support Adult Day Health Care and AIDS Adult Day Health Care program sites impacted by the COVID-19 pandemic. New York State will distribute these funds based on site spot capacity through a one-time lump sum payment on or before March 31, 2025.

DRAFT

New York  
2(b.1.1)

## 1905(a)(7) Home Health Care Services

Effective February 1, 2023, the State will distribute \$6 million to eligible Adult Day and AIDS Adult Day Health Centers in State Fiscal Year 2023 through a one-time supplemental payment. These funds have been made available through the American Rescue Act Plan Section 9817 as described in the New York State Spending Plan for Implementation of American Rescue Plan Act of 2021, Support for Adult Day Health Centers (ADHCs) and Social Adult Day Centers (SADCs) Reopening Initiative. The purpose of this supplemental payment is to support sites impacted by the COVID-19 pandemic. New York State will distribute these funds based on site spot capacity through a one-time lump sum payment on or before March 31, 2025 ~~September 30, 2023~~. This distribution methodology will result in proportionate payments, such as sites with higher capacity will receive a proportionally higher supplemental payment. Site spot capacity will be measured as the number of participants an open and operating site can serve on and after August 1, 2023.

Sites will be able to use these funds to support the following: workforce, transportation, effective person-centered care management strategies, community integration and emergency preparedness. Funding may not be used to supplant the level of State funds expended for Home and Community-Based Services (HCBS) for eligible individuals through programs in effect as of April 1, 2021.

To be eligible, sites must hold a valid operating certificate and be actively working toward or confirm their compliance to the HCBS Settings Rule and programmatic regulations as stated in the HCBS Final Rule Statewide Transition Plan. Sites must also submit an attestation of their intended use of funds and confirm funding will not be used for capital investments.

## Excluded sites:

- Sites which are closed.
  - Closed sites include those which do not have appropriate staff and are not planning to provide Adult Day Health Services under the Medical Model.
- Open sites are defined as those with the appropriate staff and are either actively providing services or have planned open date confirmed by August 1, 2023.
  - Sites that are not open before August 1, 2023 will not be eligible for supplemental payments.
  - Sites must also be open at the time which payments are distributed on or before March 31, 2025 ~~September 30<sup>th</sup>, 2023~~.
- Sites which do not have a valid Operating Certificate
- Sites which do not provide HCBS through the medical model of Adult Day Care Services.
- Sites which only provide the social model of Adult Day Care Services.
- Sites which do not submit an accepted attestation of their intended use of funds.
- Sites which do not confirm funds will not be used for capital investments.

TN #24-0075 Approval Date \_\_\_\_\_

Supersedes TN #23-0020 Effective Date April 1, 2024

14. Project Sponsor: Springwood, LLC. Project Facility: Bridgewater Golf Club, York Township, York County, Pa. Application for renewal of consumptive use of up to 0.099 mgd (30-day average) (Docket No. 20080307).

15. Project Sponsor and Facility: SWN Production Company, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20180307).

16. Project Sponsor and Facility: Wise Foods, Inc., Berwick Borough, Columbia County, Pa. Application for renewal of groundwater withdrawal of up to 0.860 mgd (30-day average) from Well PW-1 (Docket No. 19920502).

17. Project Sponsor: Wynding Brook Inc. Project Facility: Wynding Brook Golf Club, Turbot Township, Northumberland County, Pa. Application for renewal of consumptive use of up to 0.099 mgd (30-day average) (Docket No. 20080304).

Project Scheduled for Action Involving a Diversion:

18. Project Sponsor: Helix Ironwood, LLC. Project Facility: Ironwood Generating Station, South Lebanon Township, Lebanon County, Pa. Application for renewal of approval of an out-of-basin diversion of up to 4.500 mgd (peak day) (Docket No. 19980502).

Commission-Initiated Project Approval Modification

19. Project Sponsor: Knouse Foods Cooperative, Inc. Project Facility: Peach Glen Plant, Tyrone and Huntington Townships, Adams County, and Dickinson Township, Cumberland County, Pa. Conforming the grandfathered amount with the forthcoming determination for groundwater withdrawals (30-day averages) of up to 0.327 mgd combined from Wells 2, 4, 5, 7, 8, 9, 10, and 13, and up to 0.046 mgd from Well 13 (Docket No. 20040912).

Opportunity to Appear and Comment:

Interested parties may call into the hearing to offer comments to the Commission on any business listed above required to be the subject of a public hearing. Given the nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by e-mailing Jason Oyler at [joyler@srbc.net](mailto:joyler@srbc.net) prior to the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Access to the hearing via telephone will begin at 6:15 p.m. Guidelines for the public hearing are posted on the Commission's website, [www.srbc.net](http://www.srbc.net), prior to the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be the subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through <https://www.srbc.net/regulatory/public-comment/>. Comments mailed or electronically submitted must be received by the Commission on or before February 13, 2023, to be considered.

Authority: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: January 6, 2023.

Jason E. Oyler,

General Counsel and Secretary to the Commission

## 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 February 2023 will be conducted on February 8 and February 9 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.es.ny.gov/commission/>.

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

## PUBLIC NOTICE

Division of Criminal Justice Services  
DNA Subcommittee

Pursuant to Public Officers Law section 104, the Division of Criminal Justice Services gives notice of a meeting of the New York State DNA Subcommittee to be held on:

Date: February 3, 2023

Time: 9:00 a.m. - 11:00 a.m.

Primary Conference Site:

Empire State Development Corporation  
(ESDC)

633 3rd Ave.

37th Fl./Conference Rm.

New York, NY

*\*Identification and sign-in required*

Secondary/Video Conference Sites:

- 107 College Place, Life Sciences Bldg. 120, Syracuse, NY

- Shapiro Bldg., Rm. 5044, 70 Francis St., Boston, MA

Web Streaming information: The webcast information for this meeting will be posted on the Division of Criminal Justice website under the Newsroom, Open Meeting/Webcasts.

<https://www.criminaljustice.ny.gov/pio/openmeetings.htm>

\*Identification and sign-in is required at this location. For further information, or if you need a reasonable accommodation to attend this meeting, contact: [forensiclabs@dcjs.ny.gov](mailto:forensiclabs@dcjs.ny.gov), Division of Criminal Justice Services, Office of Forensic Services, 80 Swan St., Albany, NY 12210, (518) 457-1901

## PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for Long Term Care Adult Day Health services to comply with New York State's American Rescue Act Home and Community Based Service Spending Plan. The following changes are proposed:

### Long Term Care Services

Effective on or after February 1, 2023, the Department of Health will provide supplemental payments to Adult Day Health Centers and AIDS Adult Day Health Centers as described in the approved New York State American Rescue Act Home and Community Based Service Spending Plan under the Support for Adult Day Health Centers (ADHCs) and Social Adult Day Centers (SADCs) Reopening Initiative. Adult Day Health Centers and AIDS Adult Day Health Centers providing Home and Community Based services to Medicaid beneficiaries will be eligible for the American Rescue Act Section 9817 Home and Community Based Service Supplemental Payment after completing an attestation of fund use and sustainability. These payments will not be available for facilities which do not provide the medical model of services at Adult Day Health Centers and AIDS Adult Day Health Centers and those that do not complete an attestation. Facilities which only provide the social model of Adult Day Health are not eligible for this payment.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget is \$1,500,000 for state fiscal year 2022/2023 and \$4,500,000 for State fiscal year 2023/2024.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status). Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

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

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

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

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

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

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

**PUBLIC NOTICE**

Department of Health

Heightened Scrutiny Evidence Packets

In compliance with 42 CFR § 441.301(c)(5)(v), NYS DOH, Office of Aging and Long Term Care, Bureau of Quality Assurance and Surveillance Adult Day Healthcare Program (ADHCP) is pleased to announce that it will conduct a public comment period, to allow members of the public to provide comments on its Home and Community-Based Services (HCBS) Final Rule related Heightened Scrutiny evidence packet(s), developed by NYS DOH, Office of Aging and Long Term Care, Bureau of Quality Assurance and Surveillance - ADHCP and New York State entities that oversee HCBS. This is being done to maintain federal match funding for home and community-based service setting(s) that NYS DOH, Office of Aging and Long-Term Care, Bureau of Quality Assurance and Surveillance - ADHCP has determined can or will overcome the institutional (i.e., non-eligible for HCBS funding) presumption by Department of Health and Human Services (DHHS), on or before March 17, 2023. ADHCP is a non-residential setting and there are 115 ADHCPs statewide. All programs were temporarily closed due to the pandemic. To date, 49 Programs have reopened. Heightened Scrutiny is requested for 49 ADHCPs that self-reported having at least one registrant that receives Medicaid-funded home and community-based services in their setting that is located within the nursing home or in the grounds of a public institution. Interviews, record reviews and observations were conducted through virtual tours at each of the facilities from 2021-2022 to assess for Rule compliance and the need for remediation.

This notice further serves to open the 30-day public comment period that will close on February 24, 2023. In addition to this 30-day comment period where the public will be afforded the opportunity to provide written comments, the Bureau of Quality Assurance and Surveillance will receive written comments by contacting via email: ADHCP.HCBS@health.ny.gov and/or by mail: Bureau of Quality Assurance and Surveillance - ADHCP, Division of Nursing Homes and ICF/IID Surveillance, New York State Department of Health - 875 Central Avenue Albany, NY 12206.

Heightened Scrutiny Overview

In accordance with federal rules set forth by the Centers for Medicare & Medicaid Services (CMS), the New York State Department of Health for Adult Day Health Care Program (ADHCP) is

required to publish for public comment a list of Heightened Scrutiny settings that deliver Home and Community-Based Services (HCBS).

Strategies to Identify Settings

Heightened Scrutiny is a review of certain settings that, according to CMS, are presumed to be institutional in nature but do, in fact, demonstrate qualities of home and community-based settings. The ADHCP, which is a non-residential setting, conducted a series of program self-assessments based on “CMS Exploratory Questions to Assist States in the Assessment of Non-Residential Settings” against the standards of the HCBS Final Rule. NYS DOH assessed all reopened programs (post pandemic) for HCBS compliance through Self-Assessment Surveys, record reviews, virtual site reviews including interviews of staff, reviewing pictures of the buildings and signage to the program, checking program addresses for accuracy and google maps images of locations.

Strategies to Review Settings

NYS DOH worked with the providers of settings requiring a Heightened Scrutiny review to achieve HCBS compliance or to develop a plan to achieve HCBS compliance. Reviews conducted by DOH included but were not limited to record reviews, registrant/staff interviews, and observations made during virtual tour of all reopened programs. Each standard of the HCBS Final rule was analyzed, discussed with the facility management and staff. Programs that needed remediation were identified. General guidance and training were provided to program staff to meet compliance. Policies and procedures and any remediation completed by the program to meet compliance were filed within the program’s file for reference.

Heightened Scrutiny Categories and Summary

CMS has identified three categories/prongs of settings that are presumed to have qualities of an institution. The categories are described below as well as the number of settings in each category that have been identified by OPWDD as requiring a Heightened Scrutiny review.

Heightened Scrutiny Prong	Number of sites
Prong 1 - Settings in this category are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.	30
Prong 2 - Settings in this category are located in a building located on the grounds of, or immediately adjacent to, a public institution.	6
Prong 3 - Settings in this category may have the effect of isolating individuals from the broader community.	13

Process for Applying CMS Feedback on Specific Settings

Heightened Scrutiny summaries, including public comment and supporting evidence, may later be selected for review by CMS as a part of a random sample. NYS DOH will use any feedback from the CMS random sample review to inform whether it is applicable to similarly situated settings and additional review and/or if remediation of settings not included in the CMS review sample is necessary.

Numbered List of Settings

The following is a list of all reopened ADHCPs identified and categorized as requiring Heightened Scrutiny, including the ADHCP’s prong. A summary of how each setting has or will overcome the presumption that it is an institution, and the state’s plan for oversight of remediation to ensure compliance with the settings criteria by the end of the transition period may be viewed on the NYS DOH ADHCP - Heightened Scrutiny Evidence Packets website at: [https://health.ny.gov/facilities/nursing/public\\_notice/heightened\\_scrutiny/](https://health.ny.gov/facilities/nursing/public_notice/heightened_scrutiny/)

#Facility Name Prong

- 1 ADHCP #1 3
- 2 ADHCP #2 1
- 3 ADHCP #3 2
- 4 ADHCP #4 2
- 5 ADHCP #5 3
- 6 ADHCP #6 2

# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

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

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

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

## PUBLIC NOTICE

Division of Criminal Justice Services  
Commission on Forensic Science

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

Date: March 10, 2023  
Time: 9:00 a.m. - 1:00 p.m.  
Conference Sites:

Division of Criminal Justice Services  
Alfred E. Smith Office Bldg.  
CrimeStat Rm. 118  
80 S. Swan St.  
Albany, NY

Empire State Development Corporation  
(ESDC)  
633 3rd Ave.  
37th Fl./Conference Rm.  
New York, NY

\*Identification and sign-in required

Web Streaming information: The webcast information for this meeting will be posted on the Division of Criminal Justice website under the Newsroom, Open Meeting/ Webcasts.

<https://www.criminaljustice.ny.gov/pio/openmeetings.htm>

## PUBLIC NOTICE

Office of General Services

Pursuant to Section 33 of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the New York State Department of Transportation has determined that:

Address: Nepperhan Avenue, Yonkers, NY 10703  
Surplus Property Case No.: 08-III-8192  
Project Identification Number (PIN): 8076.00.223  
Proceeding Number: None  
Project: Nepperhan Avenue Arterial  
City of Yonkers, Westchester County  
Map 383, Parcel 386

a.072 + acre lot, 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, Esq., Office of General Services, Legal Services, 36th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831, (518) 473-4973 fax

## PUBLIC NOTICE

Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to comply with New York State's American Rescue Act Home and Community Based Service Spending Plan. The following changes are proposed:

### Non-Institutional Services

The following is a clarification to the January 25, 2023, noticed provision to provide supplemental payments to Adult Day Health Centers and AIDS Adult Day Health Centers as described in the approved New York State American Rescue Act Home and Community Based Service Spending Plan under the Support for Adult Day Health Centers (ADHCs) and Social Adult Day Centers (SADCs) Reopening Initiative. With clarification, this revises the category to "Non-Institutional Services". There is no change to the previously noticed fiscals.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status). Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

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

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

Kings County, Fulton Center

114 Willoughby Street  
Brooklyn, New York 11201

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

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

*For further information and to review and comment, please contact:*  
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 Essential Plan Expansion

In compliance with 31 CFR 33.112 and 45 CFR 155.1312, notice is hereby provided that the New York State Department of Health (the State) intends to submit a Section 1332 State Innovation Waiver to the Centers for Medicare & Medicaid Services (CMS) in the Department of Health and Human Services (HHS) and the Department of Treasury (Treasury) for the expansion of the Essential Plan. This notice serves to open the 30-day public comment period on February 9, 2023, which closes on March 11, 2023.

#### Waiver Summary and Objectives

The State is requesting approval of the 1332 Waiver to expand Essential Plan coverage beyond the current eligible populations to include residents with incomes up to 250% of the FPL. Through this expansion of Essential Plan coverage, the State seeks to reduce the uninsured population in New York by increasing access to high quality, affordable health insurance for low- and moderate-income individuals.

Currently, the Essential Plan is federally designated as a Basic Health Program (BHP) under Section 1331 of the Affordable Care Act (ACA). The Essential Plan provides enrollees with comprehensive coverage with no premiums, no deductibles, and low-cost sharing. Essential Plan eligibility is currently limited to individuals who would have been eligible for state-only Medicaid prior to 2016 and individuals with incomes above the Medicaid ceiling and up to 200% of the FPL, ages 19 – 64, who would otherwise be eligible to purchase Qualified Health Plans (QHPs) and receive premium tax credits (PTCs) on the Exchange (NY State of Health).

Under the Waiver, the State is requesting to establish an identical Essential Plan program for currently eligible populations under Section 1332 Waiver authority, instead of Section 1331 of the ACA, with expanded eligibility to the new population. The Essential Plan under Section 1332 Waiver authority would continue to include coverage of all Essential Health Benefits (EHBs). The State is also requesting continued use of the BHP Trust Fund for the population traditionally eligible for the BHP under Section 1331 of the ACA.

#### Why is the Waiver Needed?

The State is not legally able to expand eligibility of the Essential Plan to new consumers under Section 1331 of the ACA. The Waiver is required to grant the State the federal authority necessary to expand Essential Plan coverage under Section 1332. To carry out its waiver plan, New York proposes to waive section 36B of the Internal Revenue Code, which creates the ACA's premium tax credit, as permitted under section 1332(a)(2) and will waive any other provisions the Departments deem necessary to implement this waiver plan. Waiving this provision is integral to the waiver plan and to eligibility for pass-through funding.

#### Waiver Impact

The change in federal authority for the Essential Plan from Section 1331 to Section 1332 will not have administrative or operational impacts for current Essential Plan consumers. All consumers enrolled in the Essential Plan with incomes up to 200% of FPL will continue to

have no premiums, no deductibles, and current maximum out-of-pocket contribution levels. New consumers under the Waiver with incomes between 200% and 250% of the FPL will have \$15 monthly premiums, no deductibles, and low out-of-pocket costs. These premium and cost sharing requirements are lower than the cost sharing available in the QHP marketplace. Additionally, eligibility and enrollment processes for current Essential Plan consumers will not change under the waiver. Consumers will continue to apply for and enroll in the Essential Plan and QHPs through the NY State of Health. New consumers in the Essential Plan will experience the same eligibility and enrollment processes that current consumers with incomes up to 200% of the FPL currently experience.

New York's 1332 Waiver is expected to generate substantial savings for the State and federal governments, while expanding coverage to additional of New Yorkers. The State is requesting that the BHP funding and the savings from foregone premium tax credits be passed through to the State to continue to fund the Essential Plan for the duration of the Waiver. The State projects that the federal pass-through will fully fund the expansion of the Essential Plan to the new eligibility group with no additional funding required from the State for the duration of the Waiver. The State is requesting continued access to the current Essential Plan Trust Fund balance under the Waiver, which will not increase the federal deficit, but will enhance benefits and lower costs for traditionally BHP eligible individuals.

The 1332 Waiver is projected to meet the four ACA Section 1332 guardrails of scope of coverage, affordability, comprehensiveness of coverage, and federal deficit neutrality.

#### Essential Plan Expansion 1332 Waiver Submission and Review of Public Comments

A draft of the waiver is available for review on the Department of Health's website at: <https://info.nystateofhealth.ny.gov/1332>. For individuals with limited online access and/or who require special accommodation, please call (518) 486-9102 to access paper copies.

The State will accept written comments through March 11, 2023. *Individuals wishing to provide written comments may submit them online here: or by mail at:* State of Health, 1332 Waiver Application, Empire State Plaza, Corning Tower, Rm. 2580, Albany, NY 12237

All comments must be submitted electronically or postmarked by March 11, 2023.

The State will consider all comments received and include a summary of the comments in the final 1332 Waiver Application submitted to the Departments.

## PUBLIC NOTICE

Department of State  
F-2022-0913  
Date of Issuance – March 1, 2023

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

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2022-0913, the applicant, Frank Melville Memorial Foundation, is proposing to hydraulically dredge both freshwater ponds, approx. 4' deep in South Pond and 2' deep in North Pond, to remove approx. 14,000 cubic yards total. Spoils to be dewatered on site in nearby upland area and then disposed of in the permitted site. This project is located at Old Field Road, Town of Brookhaven, Suffolk County, North and South Mill Ponds.

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/>

SUMMARY  
SPA #24-0076

This State Plan Amendment proposes to provide a total of \$40 million in supplemental payments to support Assisted Living Program sites impacted by the COVID-19 pandemic. New York State will distribute these funds based on unique members served at each program site through a one-time lump sum payment on or before March 31, 2025.

DRAFT





# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

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

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

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

## PUBLIC NOTICE Department of Health

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

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to comply with New York State's American Rescue Act Home and Community Based Service Spending Plan. The following changes are proposed:

### Non-Institutional Services

Effective on or after June 1, 2023, the Department of Health will provide supplemental payments to Assisted Living Programs as described in the approved New York State American Rescue Act Home and Community Based Service Spending Plan under the Improve and Support the Assisted Living Program (ALP) Workforce initiative. Assisted Living Programs providing Home and Community Based services to Medicaid beneficiaries will be eligible for the American Rescue Act Section 9817 Home and Community Based Service Supplemental Payment after completing an attestation of fund use and sustainability. These payments will not be available for programs that do not complete an attestation or for programs who have already received funds through another New York State American Rescue Act Plan initiative.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2023-2024 is \$40 million.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status). Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

New York County

250 Church Street  
New York, New York 10018

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

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

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

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

*For further information and to review and comment, please contact:*  
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](mailto: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 and institutional services to comply with enacted statutory provisions. The following changes are proposed:

The following is a clarification to the June 29, 2022, noticed provision for Comprehensive Psychiatric Emergency Program (CPEP) including fees paid for full emergency visits, triage and referral visits and extended observation bed services.

### Non-Institutional Services

With clarification, the estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2022-2023 is \$14.5 million. Medicaid expenditures attributable to state fiscal year 2023-2024 and 2024-2025 are \$19.3 million each.

### Institutional Services

With clarification, the estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2022-2023 is \$0.53 million. Medicaid expenditures attributable to state fiscal year 2023-2024 and 2024-2025 are \$0.7 million each.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status). Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

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

## PUBLIC NOTICE

Department of State  
F-2023-0215

Date of Issuance – May 17, 2023

New York County  
250 Church Street  
New York, New York 10018Queens County, Queens Center  
3220 Northern Boulevard  
Long Island City, New York 11101Kings County, Fulton Center  
114 Willoughby Street  
Brooklyn, New York 11201Bronx County, Tremont Center  
1916 Monterey Avenue  
Bronx, New York 10457Richmond 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 State  
F-2023-0183

Date of Issuance – May 17, 2023

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

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2023-0183, John and Alessandra Graziano, propose to construct a 4' x 77' raised walkway from the upland property to MHW; construct a 4' x 100' open pile fixed pier from MHW to the shoreline beyond the wetland grasses. Install a 3' x 24' ramp and 8' x 16' float that will be chocked 2.5' above the bay bottom. Secure float with four float anchor piles and install two safety ladders 94 Old Field Road in the Town of Brookhaven, Suffolk County and on Conscience Bay.

The stated purpose of the proposed action is to “in order to access the shore of Conscience Bay”.

The applicant’s consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/05/f-2023-0183.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or June 16, 2023.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

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

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

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2023-0215, Karen Bustamante, proposes to reface 102' bulkhead w/ timber sheets nailed to existing, 8" higher. Replace boardwalk landward. Replace and extend existing 4' x 30' walkway by 20' to 50' to reach adequate water depths. Relocate mooring piles and install 4-pile lift along west side of pier. Clamshell dredge a 10' wide area along bulkhead to -3' MLW for 15cy and place behind bulkhead at 26 Captree Island Road in the Town of Babylon, Suffolk County, Great South Bay.

The stated purpose of the proposed action is to “Shoreline stabilization”.

The applicant’s consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/05/f-2023-0215.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or June 16, 2023.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

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

## PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2023-0237 in the Matter of Envirospace Architecture, Gregg C. Deangelis, 451 E. Boston Post Road, Mamaroneck, NY 10543, for a variance concerning safety requirements, including exhaust discharge. Involved is a 16 unit condominium located at 585 Main Street, Town of North Castle, NY 10504, County of Westchester, State of New York.

2023-0238 in the Matter of JP Morgan Chase & Company, John Donofrio, 383 Madison Avenue, Level C2, New York, NY 10017, for a variance concerning safety requirements, including fire risk assessment. Involved is an airport hangar located at 73 Tower Road, Town of West Harrison, NY 10604, County of Westchester, State of New York.

2023-0239 in the Matter of Cynthia Willis, 27 Hart Drive, Poughkeepsie, NY 12603, for a variance concerning safety requirements, including ceiling height. Involved is a one family dwelling located at