

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

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

Sue Kelly  
Executive Deputy Commissioner

September 19, 2011

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 #11-44

Dear Mr. Melendez:

The State requests approval of the enclosed amendment #11-44 to the Title XIX (Medicaid) State Plan effective October 1, 2011 (Appendix I).

A summary of the plan amendment is provided in Appendix II. Copies of pertinent sections of enacted State statute are enclosed for your information (Appendix III).

In keeping with our continued agreement, this amendment is being sent to you prior to the end of the fourth quarter.

If you or your staff have any questions or need any assistance, please contact Karla Knuth, of my staff, at (518) 473-8822.

Sincerely,



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

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: <b>#11-44</b>	2. STATE <b>New York</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>October 1, 2011</b>	
5. TYPE OF PLAN MATERIAL (Check One):  <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: <b>1902(a)(10)(A)(ii)(XV) &amp; 1902(a)(10)(A)(ii)(XVI) of the Social Security Act</b>		7. FEDERAL BUDGET IMPACT: a. FFY 10/01/11-09/30/12 \$1.5 million b. FFY 10/01/12-09/30/13 \$1.5 million	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 2.6-A: Pages 12d, 12g, 12h, 12k Attachment 2.6A, Supplement 8b: Page 7</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>Attachment 2.6-A: Pages 12d, 12g, 12h, 12k</b>	
10. SUBJECT OF AMENDMENT: <b>Disregard Retirement Assets Such as 401(k) Plans and Increase Resource Standards for Medicaid Buy-In program for Working People with Disabilities (MBI-WPD) (FMAP = 50%)</b>			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: <b>New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237</b>	
13. TYPED NAME: <b>Jason A. Helgeson</b>			
14. TITLE: <b>Medicaid Director &amp; Deputy Commissioner Department of Health</b>			
15. DATE SUBMITTED: <b>September 19, 2011</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED:	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

**Appendix I**  
**2011 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Non-Institutional Services**  
**Amended SPA Pages**

State/Territory : New York

Citation	Condition or Requirement
1902(a)(10)(A) (ii)(XV) of the Act	(ii) Working Individuals with Disabilities - Basic Coverage Group - TWWIIA  In determining financial eligibility for working individuals with disabilities under this provision, the following standards and methodologies are applied:  <input type="checkbox"/> The agency does not apply any income or resource standard.  NOTE: If the above option is chosen, no further eligibility-related options should be elected.  <input checked="" type="checkbox"/> The agency applies the following income and/or resource standard(s):  Net available monthly income, using SSI methodology for a one-person or a two-person household, may not exceed 250 percent of the applicable Federal Poverty Level. Countable resources may not exceed [the Medically Needy resource level] <u>\$20,000</u> for a one-person or <u>\$30,000</u> for a two-person household.

TN#: #11-44

Approval Date: \_\_\_\_\_

Supersedes TN#: #08-10

Effective Date: \_\_\_\_\_

State/Territory: New York

Citation	Condition or Requirement
1902(a)(10)(A) (ii)(XV) of the Act (cont.)	<input type="checkbox"/> The agency does not disregard funds in retirement accounts.
	<input checked="" type="checkbox"/> The agency uses resource methodologies in addition to any indicated above that are more liberal than those used by the SSI program. More liberal resource methodologies are described in Supplement 8b to Attachment 2.6-A.
	<input type="checkbox"/> The agency uses the resource methodologies of the SSI program.
	<input type="checkbox"/> The agency uses methodologies for treatment of resources that are more restrictive than the SSI program. These more restrictive methodologies are described in Supplement 5 to Attachment 2.6-A.

TN#: #11-44

Approval Date: \_\_\_\_\_

Supersedes TN#: #03-11

Effective Date: \_\_\_\_\_

State/Territory: New York

Citation	Condition or Requirement
1902(a)(10)(A) (ii)(XVI) of the Act	<p>(iii) Working Individuals with Disabilities – Employed Medically Improved Individuals – TWWIIA</p> <p>In determining financial eligibility for employed medically improved individuals under this provision, the following standards and methodologies are applied:</p> <p><input type="checkbox"/> The agency does not apply any income or resource standard.</p> <p>NOTE: If the above option is chosen, no further eligibility-related options should be elected.</p> <p><input checked="" type="checkbox"/> The agency applies the following income and/or resource standard(s):</p> <p>Net available monthly income, using SSI methodology for a one-person or two-person household, may not exceed 250% of the applicable Federal Poverty Level. Countable resources may not exceed [the Medically Needy resource level] <u>\$20,000</u> for a one- person or <u>\$30,000</u> for a two-person household.</p>

TN#: #11-44

Approval Date: \_\_\_\_\_

Supersedes TN#: #08-10

Effective Date: \_\_\_\_\_

State/Territory: New York

Citation	Condition or Requirement
1902(a)(10)(A) (ii)(XVI) of the Act (cont.)	<p><input type="checkbox"/> The agency does not disregard funds in retirement accounts.</p> <p><input checked="" type="checkbox"/> The agency uses resource methodologies in addition to any indicated above that are more liberal than those used by the SSI program. More liberal resource methodologies are described in Supplement 8b to Attachment 2.6-A.</p> <p><input type="checkbox"/> The agency uses the resource methodologies of the SSI program.</p> <p><input type="checkbox"/> The agency uses methodologies for treatment of resources that are more restrictive than the SSI program. These more restrictive methodologies are described in Supplement 5 to Attachment 2.6-A.</p>

TN#: #11-44

Approval Date: \_\_\_\_\_

Supersedes TN#: #03-11

Effective Date: \_\_\_\_\_



**Appendix II**  
**2011 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Non-Institutional Services**  
**Summary**

**SUMMARY**  
**SPA #11-44**

This state plan amendment proposes an increase in the resource standards and the disregard of retirement accounts in determining eligibility for the Medicaid Buy-In program for Working People with Disabilities (MBI-WPD).

In accordance with 1902(a)(10)(A)(ii)(XV) and (XVI) of the Social Security Act (the Act), the State established a household resource level at the Medically Needy resource level for a one-person or two-person household for purposes of determining financial eligibility for the Medicaid Buy-In program for Working People with Disabilities (MBI-WPD). Social Services Law (SSL) Section 366(1)(a) (12) has been amended to increase the resource level for the Medicaid Buy-In for Working People with Disabilities (MBI-WPD) program to \$20,000 for a one-person household or \$30,000 for a two-person household.

Additionally, in accordance with the same section of the Act, the State established that resources would be defined as in paragraph (e) of subdivision two of section three hundred sixty-six-c of SSL, meaning retirement accounts were not disregarded in the methodology used in determining resource eligibility for the MBI-WPD program. Social Services Law Section 366(1)(a)(12) has been amended to disregard retirement accounts in determining resource eligibility for the MBI-WPD program, under the authority of 1902(a)(10)(A)(ii)(XV) and (XVI) and 1902(r)(2) of the Act.

**Appendix III**  
**2011 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Non-Institutional Services**  
**Authorizing Provisions**

S.2809-D/A-4009.D - Part H

§ 54. Subparagraph 12 of paragraph (a) of subdivision 1 of section 366 of the social services law, as amended by section 42-a of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(12) is a disabled person at least sixteen years of age, but under the age of sixty-five, who: would be eligible for benefits under the supplemental security income program but for earnings in excess of the allowable limit; has net available income that does not exceed two hundred fifty percent of the applicable federal income official poverty line, as defined and updated by the United States department of health and human services, for a one-person or two-person household, as defined by the commissioner in regulation; has household resources, as defined in paragraph (e) of subdivision two of section three hundred sixty-six-c of this title, other than retirement accounts, that do not exceed [~~the amount described in subparagraph four of paragraph (a) of subdivision two of this section~~] twenty thousand dollars for a one-person household or thirty thousand dollars for a two-person household, as defined by the commissioner in regulation; and contributes to the cost of medical assistance provided pursuant to this subparagraph in accordance with subdivision twelve of section three hundred sixty-seven-a of this title; for purposes of this subparagraph, disabled means having a medically determinable impairment of sufficient severity and duration to qualify for benefits under section 1902(a)(10)(A)(ii)(xv) of the social security act; or