

NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

JUN 2 8 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 #12-17

Dear Mr. Melendez:

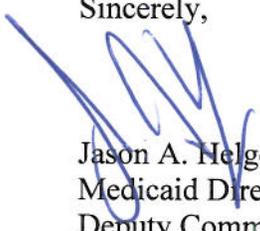
The State requests approval of the enclosed amendment #12-17 to the Title XIX (Medicaid) State Plan effective April 1, 2012 (Appendix I).

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 second quarter.

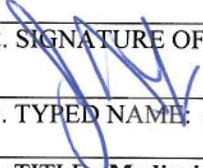
If you or your staff have any questions or need any assistance, please contact Karla Knuth, of my staff, at (518) 474-1673.

Sincerely,



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

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: #12-17	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): <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: Section 1902(a)(18) of the Social Security Act and 42 CFR 433.36		7. FEDERAL BUDGET IMPACT: a. FFY 04/01/12-09/30/12 \$0 b. FFY 10/01/12-09/30/13 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.17-A: Page 1		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.17-A: Page 1	
10. SUBJECT OF AMENDMENT: Eliminate the expanded definition of "estate" and define the term "estate" to include all real and personal property and other assets within an individual's estate and passing under the terms of a valid will or by intestacy. (FMAP = 50%)			
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: 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: JUN 2 8 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:			

Appendix I
2012 Title XIX State Plan
Second Quarter Amendment
Amended SPA Pages

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: New York

1. The State uses the following process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home:

See Supplement 4.17-A

2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under regulations at 42 CFR 433.36(f):

A son or daughter can establish that he or she has been providing care which permitted the individual to reside at home by submitting evidence that he or she made arrangements or actively participated in arranging for care, either directly or indirectly, full-time or part-time.

3. The State defines the terms below as follows:

- estate: includes all the individual's real and personal property and other assets passing under the terms of a valid will or by intestacy. [Pursuant to regulations adopted by the Commissioner of Health, which may be promulgated on an emergency basis, an individual's estate also includes any other property in which the individual has any legal title or interest at the time of death, including jointly held property, retained life estates, and interests in trusts, to the extent of such interests; provided, however, that a claim against a recipient of such property by distribution or survival shall be limited to the value of the property received or the amount of medical assistance benefits otherwise recoverable pursuant to Section 1902(a)(18) of the Social Security Act, whichever is less.]
- individual's home: the former principal place of residence owned by the permanently institutionalized individual or the deceased recipient.
- equity interest in the home: an individual's right to the use of and share in the proceeds from the sale of the property, as demonstrated by the presence of his/her name on the title.
- residing in the home for at least one or two years on a continuous basis: and evidence that the relative was in residence on a regular basis for the continuous one or two years.
- lawfully residing: the fact of the son or daughter's presence in the home as evidenced by postal, motor vehicle, or voting records or by the testimony of a neighbor or other party.

TN#: #12-17

Approval Date: _____

Supersedes TN#: #11-42

Effective Date: _____

Appendix II
2012 Title XIX State Plan
Second Quarter Amendment
Summary

Summary
SPA #12-17

This State Plan Amendment proposes to eliminate the expanded definition of "estate" and define the term "estate" to include all real and personal property and other assets included within an individual's estate and passing under the terms of valid will or by intestacy.

Appendix III
2012 Title XIX State Plan
Second Quarter Amendment
Authorizing Provisions

SPA #12-17

CHAPTER 56 OF THE LAWS OF 2012 – S.6256/A.9056

§ 56. Subdivision 6 of section 369 of the social services law, as amended by chapter 56 of the laws of 2012, is amended to read as follows:

For purposes of this section, the term "estate" means all real and personal property and other assets included within the individual's estate and passing under the terms of a valid will or by intestacy.