

NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

December 27, 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
New York, New York 10278

RE: SPA #12-12

Dear Mr. Melendez:

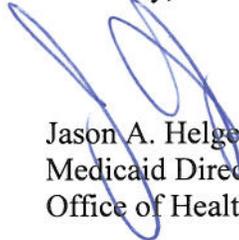
The State requests approval of the enclosed amendment #12-12 to the Title XIX (Medicaid) State Plan effective November 1, 2012 (Appendix I).

A summary of the plan amendment is provided in Appendix II. Copies of pertinent sections of proposed 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) 474-1673.

Sincerely,



Jason A. Helgerson
Medicaid Director
Office of Health Insurance Programs

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: #12-12 (Previously SPA 11-40)	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 November 1, 2012	
5. TYPE OF PLAN MATERIAL (<i>Check One</i>): <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 (<i>Separate Transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION: 1902 (a)(10)(A)(ii)(XXI), 1902 (ii), 1902(C), 1905(a)(4)(c)		7. FEDERAL BUDGET IMPACT: a. FFY 07/01/12-09/30/12 \$ 2.0 Million b. FFY 10/01/12-09/30/13 \$ 2.8 Million	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 2.2-A: Page 23g Attachment 3.1-A: Page 2 Attachment 3.1-B: Page 2 Supplement 8A to Attachment 2.6-A: Pages 3, 3a		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Attachment 2.2-a: Page 23g Attachment 3.1-A: Page 2 Attachment 3.1-B: Page 2 Supplement 8A to Attachment 2.6-A: Pages 3, 3a	
10. SUBJECT OF AMENDMENT: Family Planning Benefit Program as a State Plan Service (FMAP = 90% 7/1/12 forward)			
11. GOVERNOR'S REVIEW (<i>Check One</i>): <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 Bureau of HCRA Oper & Financial Analysis 99 Washington Ave – One Commerce Plaza Suite 810 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: December 27, 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
Fourth Quarter Amendment
Non-Institutional Services
Amended SPA Pages

New York
Page 23g

B. Optional Groups Other Than the Medically Needy (Continued)

Citation: 1902(a)(10)(A)(ii)(XXI) and 1902(ii)

Individuals who are *not* pregnant and whose income does not exceed the State established income standard of 200% of the Federal Poverty Level. This amount does not exceed the highest income limit for pregnant women in this State Plan, which is 200% of the Federal Poverty Level.

In determining eligibility for this group, the State considers only the income of the applicant or recipient.

In determining eligibility for this group, the State will apply the income disregards listed in Supplement 8A to Attachment 2.6-A of the State Plan.

Note: Services are limited to family planning services and family planning-related services as described in section 4.c.ii of Attachment 3.1-A of the State Plan.

Citation: 1920C - Presumptive Eligibility for Family Planning:

The State provides a period of presumptive eligibility for family planning services to individuals determined by a qualified entity, based on preliminary information from the individual, described in the group the State has elected to make eligible under the above option.

The period of presumptive eligibility ends on the earlier of the date a formal determination of Medicaid eligibility is made under 1902(a)(10)(A)(ii)(XXI), or, when no application has been filed, the last day of the month following the month during which the qualified entity determines the individual presumptively eligible.

In addition to family planning services, the State covers family planning-related services to such individuals during the period of presumptive eligibility.

TN #12-12

Approval Date _____

Supersedes TN New

Effective Date _____

**New York
Page 3**

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

[State: New York State Department of Health]

**MORE LIBERAL METHODS OF TREATING INCOME
UNDER SECTION 1902 (r) (2) OF THE ACT**

Section 1902 (f) State Non-Section 1902(f)State

1. [Disregard deemed] Deemed income of parents is disregarded in determining eligibility for pregnant women [under] described in 1902(a)(10)(A)(i)(IV) and for pregnant women and infants eligible under 1902(a)(10)(A)(ii)(IX) of the Act through disregard number two below.
2. In determining eligibility for pregnant women and infants under age 1, as referenced under Section 1902(a)(10)(A)(ii)(IX), disregard the difference between 185% and 200% of the Federal Poverty Level by family size as revised annually in the Federal Register.
3. In determining eligibility for children under age 21 for whom kinship guardianship assistance payments are made on behalf of or who are in the care and custody of the local social services district commissioner or in the care and custody of the Commissioner of the Office of Children and Family Services, as authorized by Sections 1902(a)(10)(A)(ii)(I) and 1905(a)(i) of the Act and by 42 CFR Section 435.222(b)(1) and as described in the Optional Groups Other Than the Medically Needy section of Attachment 2.2-A, disregard all income.

TN#: 12-12

Approval Date: _____

Supersedes TN#: 11-02

Effective Date: _____

**New York
Page 2**

[State/Territory: New York]

**AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE [CATEGORICALLY] MEDICALLY NEEDY**

1. Inpatient hospital services other than those provided in an institution for mental diseases.
 Provided: No limitations With limitations*
2. a. Outpatient hospital services.
 Provided: No limitations With limitations*
- b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.
 Provided: No limitations With limitations*
 Not provided.
- c. Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 4231 of the State Medicaid Manual (HCFA-Pub. 45-4).
 Provided: No limitations With limitations*
- d. Ambulatory services offered by a health center receiving funds under section 329, 330, or 340 of the Public Health Service Act to a pregnant woman or individual under 18 years of age.
 Provided: No limitations With limitations*
3. Other laboratory and x-ray services.
 Provided: No limitations With limitations*
4. a. Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.
 Provided: No limitations With limitations*
- b. Early and periodic screening, diagnostic and treatment services for individuals under 21 years of age, and treatment of conditions found.
 Provided: No limitations With limitations*
 Not provided.
- c. Family planning services and supplies for individuals of childbearing age.
 Provided: No limitations With limitations*

*4(b) limited to federal requirements under 1905(a) per section 1905(r) per PM 90-2.

*Description provided on attachment.

TN #12-12

Approval Date _____

Supersedes TN #91-75

Effective Date _____

New York
Page 2

AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

4.a. Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Provided: No limitations With limitations* Not provided

4.b. Early and periodic screening, diagnostic and treatment services for individuals under 21 years of age, and treatment of conditions found.*

4.c.i. Family planning services and supplies for individuals of child-bearing age and for individuals eligible pursuant to Attachments 2.2-A and 2.2-B, if this eligibility option is elected by the State.

Provided: No limitations With limitations* Not provided

4.c.ii. Family planning-related services provided under the above State Eligibility Option.

5.a. Physicians' services whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere.

Provided: No limitations With limitations* Not provided

i. Lactation counseling services.

Provided: No limitations With limitations* Not provided

5.b. Medical and surgical services furnished by a dentist (in accordance with section 1905(a)(5)(B) of the Act).

Provided: No limitations With limitations* Not provided

6. Medical care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law.

a. Podiatrists' services.

Provided: No limitations With limitations* Not provided

*4(b) limited to federal requirements under 1905(a) per section 1905(r) per PM 90-2.

* Description provided on attachment.

TN #12-12

Approval Date _____

Supersedes TN #12-16

Effective Date _____

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

SUMMARY
SPA #12-12

This State Plan Amendment proposes to revise the State Plan to add a new eligibility category for individuals who receive family planning benefits only. The individuals who would be included in this group must reside in New York State, have U.S. Citizenship or satisfactory immigration status and have income equal to or less than 200 percent of the Federal Poverty Level. Additionally, for applicant/recipient children under the age of 21, only the applying individual's income will be countable when the applying child requests confidentiality, has a good cause reason not to provide the parental income information or is otherwise unable to obtain parental income information. This proposal also includes selection of the state option to provide presumptive eligibility for family planning services to individuals who appear to meet the initial criteria for the Family Planning Benefit Program.

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

CHAPTER 59 OF THE LAWS OF 2011
S.2809-D/A-4009.D - Part H - Enacted Law

§ 88. Subparagraph 11 of paragraph (a) of subdivision 1 of section 366 of the social services law, as amended by section 1-h of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(11) for purposes of receiving family planning services eligible for reimbursement by the federal government at a rate of ninety percent, is not otherwise eligible for medical assistance and whose income is two hundred percent or less of the comparable federal income official poverty line (as defined and annually revised by the United States department of health and human services); provided, however, that such ninety percent limitation shall not apply to those services identified by the commissioner of health as services, including treatment for sexually transmitted diseases, generally performed as part of or as a follow-up to a service eligible for such ninety percent reimbursement; provided further that the commissioner of health is authorized to establish criteria for presumptive eligibility for services provided pursuant to this subparagraph in accordance with all applicable requirements of federal law or regulation pertaining to such eligibility. The commissioner of health shall submit whatever waiver applications as may be necessary to receive federal financial participation for services provided under this subparagraph and the provisions of this subparagraph shall be effective if and so long as such federal financial participation shall be available; or

Minimizing Adverse Impact:

There will be no adverse impact on rural areas as a result of the proposed regulations.

Rural Area Participations:

For purposes of the regulation drafting process, input was sought from hospital associations, provider associations and advocacy organizations throughout the State as well as the Consumer Advisory Committee required by the statute.

Job Impact Statement**Nature of Impact:**

The regulations should have no substantial impact on jobs and employment opportunities.

Categories and Numbers Affected:

None.

Regions of Adverse Impact:

None.

Minimizing Adverse Impact:

None.

Self-Employment Opportunities:

None.

**EMERGENCY
RULE MAKING**

Presumptive Eligibility for Family Planning Benefit Program

I.D. No. HLT-52-12-00006-E

Filing No. 1215

Filing Date: 2012-12-07

Effective Date: 2012-12-07

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 360-3.7 of Title 18 NYCRR.

Statutory authority: Social Services Law, section 366(1)

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: Chapter 59 of the Laws of 2011 enacted a number of proposals recommended by the Medicaid Redesign Team established by the Governor to reduce costs and increase quality and efficiency in the Medicaid program. The changes to SSL section 366(1) that require the Department, by regulation, to implement criteria for presumptive eligibility for the Family Planning Benefit Program, took effect April 1, 2011. Paragraph (t) of section 111 of Part H of Chapter 59 authorizes the Commissioner to promulgate, on an emergency basis, any regulations needed to implement such law. The Commissioner has determined it necessary to file these regulations on an emergency basis.

Subject: Presumptive Eligibility for Family Planning Benefit Program.

Purpose: To set criteria for the Presumptive Eligibility for Family Planning Benefit Program.

Text of emergency rule: Section 360-3.7 is amended to add a new subdivision (e) to read as follows:

(e) *Presumptive eligibility for coverage of family planning benefit program (FPBP) services.*

(1) *An individual will be presumed eligible to receive the MA care, services and supplies listed in paragraph (8) of this subdivision when a qualified provider determines, on the basis of preliminary information, that the individual's family income does not exceed 200 percent of the Federal poverty line applicable to a family of the same size.*

(2) *For purposes of this subdivision, the individual's family income will be determined according to section 360-4.6 of this Part relating to financial eligibility for MA. The resources of the individual's family will not be considered in determining the individual's presumptive eligibility for coverage of FPBP services.*

(3) *For purposes of this subdivision, an individual's family includes the individual, any legally responsible relatives and any legally dependent relatives with whom he or she resides. In determining eligibility for children under 21, parental income is disregarded when the child requests confidentiality, has good cause not to provide or is otherwise unable to obtain parental income information.*

(4) *As used in this subdivision, the term qualified provider means a provider who:*

(i) *is eligible to receive payment under the MA program;*

(ii) *provides family planning services, treatment and supplies; and*

(iii) *has been found by the department to be capable of making presumptive eligibility determinations based on family income.*

(5) *An individual who has been determined presumptively eligible for coverage of FPBP services must submit a FPBP application to the social services district in which he or she resides, or to the department or its agent, by the last day of the month following the month in which a qualified provider determined him or her to be presumptively eligible.*

(6) *A qualified provider that has determined an individual to be presumptively eligible for coverage of FPBP services must:*

(i) *on the day the qualified provider determines the individual to be presumptively eligible, inform the individual that a FPBP application must be submitted to the social services district in which he or she resides, or to the department or its agent, by the last day of the following month in order to continue presumptive eligibility until the day his or her FPBP eligibility is determined;*

(ii) *assist the individual to complete the FPBP application and submit the application on his or her behalf; and*

(iii) *within five business days after the day the qualified provider determines the individual to be presumptively eligible, notify the social services district in which the individual resides, or the department or its agent, of its presumptive eligibility determination on forms the department develops or approves.*

(7) *The period of presumptive eligibility for coverage of FPBP services begins on the day a qualified provider determines the individual to be presumptively eligible. If the individual submits a FPBP application to the social services district in which he or she resides, or to the department or its agent, by the last day of the following month, the period of presumptive eligibility continues through the day the individual's eligibility for FPBP is determined; if the individual fails to submit such an application, the period of presumptive eligibility continues through the last day of the following month.*

(8) *An individual found presumptively eligible pursuant to this subdivision is eligible for coverage of the following medically necessary FPBP services and appropriate transportation to obtain such services:*

(i) *hospital based and free standing clinics;*

(ii) *county health department clinics;*

(iii) *federally qualified health centers or rural health centers;*

(iv) *obstetricians and gynecologists;*

(v) *family practice physicians;*

(vi) *licensed midwives, nurse practitioners; and*

(vii) *family planning related services from pharmacies and laboratories.*

(9) *If a presumptively eligible individual is subsequently determined to be ineligible for FPBP, he or she may request a fair hearing pursuant to Part 358 of this Title to dispute the denial of FPBP, but the presumptive eligibility period will not be extended by such request.*

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire March 6, 2013.

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

Regulatory Impact Statement**Statutory Authority:**

Social Services Law (SSL) section 363-a and Public Health Law section 201(1)(v) provide that the Department is the single state agency responsible for supervising the administration of the State's medical assistance ("Medicaid") program and for adopting such regulations, not inconsistent with law, as may be necessary to implement the State's Medicaid program.

Legislative Objectives:

Subdivision (1) of section 366 of the Social Services Law (SSL), as amended by Chapter 59 of the Laws of 2011, provides that pursuant to regulations promulgated by the Commissioner of Health, that the Department will establish criteria for presumptive eligibility for the Family Planning Benefit Program. The legislative objective, expressed through SSL section 366 (1) is to expand access to family planning services by easing the application process.

Needs and Benefits:

New York included in Chapter 59 of the Laws of 2011, the option afforded by the Affordable Care Act, of providing individuals with a period of presumptive eligibility for family planning-only services. This regulation will provide the necessary criteria, as required by subdivision 1 of Section 366 of the Social Services Law, to implement the Presumptive Eligibility for the Family Planning Benefit Program.

COSTS:

Costs for the Implementation of, and Continuing Compliance with the Regulation to the Regulated Entity:

This amendment will not increase costs to the regulated parties.

Costs to State and Local Government:

This amendment will not increase costs to the State or local governments. There is potential savings to the Medicaid program, which may be achieved by averting births paid for by the Medicaid program.

Costs to the Department of Health:

There will be no additional costs to the Department.

Local Government Mandates:

This amendment will not impose any program, service, duty, additional cost, or responsibility on any county, city, town, village, school district, fire district, or other special district.

Paperwork:

This amendment will not impose any additional paperwork requirements.

Duplication:

There are no duplicative or conflicting rules identified.

Alternatives:

Establishing criteria for presumptive eligibility for the Family Planning Benefit Program is mandated by section 366(1) of the SSL. No alternatives were considered.

Federal Standards:

The federal Medicaid statute at section 2303(b) of the Affordable Care Act (ACA) added a new section (1920C) to the Social Security Act that gives States that adopt the new family planning group the option of also providing a period of presumptive eligibility based on preliminary information that an individual meets the eligibility criteria for family planning services in new section 1902(ii).

Compliance Schedule:

Social services districts should be able to comply with the proposed regulations when they become effective.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse impact on facilities in rural areas, and it does not impose reporting, record keeping or other compliance requirements on facilities in rural areas.

Job Impact Statement

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have an adverse impact on jobs and employment opportunities.

Higher Education Services Corporation

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

New York Higher Education Loan Program (NYHELPS)

I.D. No. ESC-52-12-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Part 2213 of Title 8 NYCRR.

Statutory authority: Education Law, sections 691(10) and 655(4)

Subject: New York Higher Education Loan Program (NYHELPS).

Purpose: Amend several provisions of the regulation.

Substance of proposed rule (Full text is posted at the following State website: hesc.ny.gov/NYHELPS_Regulations): 1. Section 2213.1. Definitions. The amendment revises the definition of "eligible cosigner" to clarify that a cosigner may sign multiple NYHELPS loan applications within the same academic year for the same borrower, provided the total amount of loans for any student does not exceed the maximum loan limits. However, a cosigner is only eligible to sign Program loans for a maximum of three separate borrowers for each academic year unless there is a parental relationship for each additional borrower.

2. Section 2213.5. Due diligence in originating, disbursing, and servicing program loans. The amendment clarifies the requirement for reporting to consumer reporting agencies. The amendment also clarifies that a Program loan will enter repayment if the student for whom the loan was taken is no longer enrolled at a Title IV eligible college on at least a half time basis. Lastly, the amendment clarifies that payments in excess of fees and interest will be applied to principal.

3. Section 2213.13. College Certification requirements. The amendment clarifies that colleges must certify that the student for whom a Program loan is taken meets satisfactory academic progress in accordance with the federal satisfactory academic progress requirements.

4. Section 2213.16. Disclosure requirements for participating schools. The amendment clarifies the requirements for both entrance and exit counseling, which will be performed by the Corporation on behalf of participating colleges.

5. Section 2213.19. Reporting/retention requirements for participating holders. The amendment clarifies the documentation that holders of Program loans are required to maintain and increases the retention period for such records.

6. Section 2213.20. Program loan repayment. The amendment inserts titles for subdivisions and paragraphs, other such technical corrections, and:

- (a) provides that repayment options will be determined on an annual basis;
- (b) clarifies in-school payment deferment;
- (c) clarifies that the grace period commences after the last date of attendance at a Title IV eligible college on at least a half time basis;
- (d) clarifies that payments may be suspended if a student borrower in repayment returns to college at a Title IV eligible college on at least a half time basis;
- (e) provides an exception to the minimum payment requirement for payments made in accordance with an approved modified payment plan;
- (f) clarifies the administrative forbearance requirement;
- (g) provides for a limited military service deferment for cosigners in active duty status during the student borrower's in-school and grace period;
- (h) revises the requirements for continued military service deferment eligibility;
- (i) provides that the terms of a disability discharge will be determined annually; and
- (j) clarifies that to be eligible for cosigner release, the required payments must be made once the student is no longer enrolled at a Title IV eligible college on at least a half time basis, and allows for the ability to reduce the number of required payments effective July 1, 2012.

7. Section 2213.21. Due diligence for program loan delinquency. The amendment deletes the requirements for due diligence activity from the regulation text and provides that such requirements will be set forth in the Program's Default Avoidance and Claim Manual.

8. Section 2213.28. Incorporation by reference. The amendment updates the regulation to include version 4 of both the Program's Underwriting Manual and the Program's Default Avoidance and Claim Manual.

Text of proposed rule and any required statements and analyses may be obtained from: Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1315, Albany, NY 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority:

Education Law § 691(10) provides that the New York State Higher Education Services Corporation (Corporation) shall have the power and duty to adopt rules and regulations to implement the New York Higher Education Loan Program (Program or NYHELPS).

Education Law § 652(2) includes in the Corporation's statutory purposes the improvement of the post-secondary educational opportunities of eligible students through the centralized administration and coordination of New York State's financial aid programs and those of other levels of government.

Education Law § 653(9) further empowers the Corporation's Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the Corporation, including the promulgation of regulations.

Education Law § 655(4) authorizes the President of the Corporation (President) to propose regulations, subject to approval by the Board of Trustees, governing the application for, and the granting and administration of, student aid and loan programs, the repayment of loans or the guarantee of loans made by the Corporation, and administrative functions in support of New York State student aid programs. Under Education Law

Appendix IV
2012 Title XIX State Plan
Fourth Quarter Amendment
Non-Institutional Services
Public Notice

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

Appendix VI
2012 Title XIX State Plan
Fourth Quarter Amendment
Non-Institutional Services
Responses to Standard Access Questions

Response to CMS Informal Questions and Comments
Draft NY SPA 12-12 (Formerly SPA 11-40)
August 24, 2011 (revised)

1. The SPA submission includes Supplement 8A to Attachment 2.6-A, Page 3 and 3a. The submitted Page 3 supersedes the Page 3 from SPA 11-02, which has been formally submitted to CMS. SPA 11-02 proposes to supersede some pages that are also pending in SPA 08-45 and SPA 10-02. CMS is working closely with New York State to process these pending SPAs. Because the effective date on draft SPA ~~11-40~~ 12-12 is July 1, 2012, the State and CMS should have enough time to process some of these outstanding SPAs. Depending on how 11-02 is processed and approved, the State should review and revise as appropriate and necessary the ~~11-40~~ 12-12 formal submission.

Response: The State acknowledges that the preceding SPAs must be approved prior to the approval of SPA ~~11-40~~ 12-12.

2. There was no public notice provided with the submission. When the official ~~11-40~~ 12-12 submission is made, the State will have to provide a copy of the public notice and it will have to be dated on or before June 30, 2012, in order to have a July 1, 2012 effective date.

Response: In accordance with 42 CFR 447.205, a public notice must be provided for any significant proposed change in an agency's methods and standards for setting payment rates for services. Since this plan amendment relates to eligibility criteria rather than payment rates, a public notice is not required.

3. Item 7 of the HCFA-179 (Federal Budget Impact) indicates an estimate of \$2.0 million for the 3 month period, 07-09/12, and \$2.8 million for the 12 months of 10/12-09/13. Why does the first 3 months cost almost as much as the next 12 months? The State should provide an explanation and the assumptions that were used to develop the budget estimates shown on the 179.

Response: The HCFA-179 reflects a \$2 million fiscal impact for the last quarter of Federal Fiscal Year (FFY) 2011-12 and a fiscal impact of \$2.8 million for the entire FFY 2012-2013. The reason for the nominal increase in year-to-year fiscal impact is that Medicaid averted births are not calculated in FFY 2011-12, since there will not be enough time in the first year to experience savings. In FFY 2012-13, \$8.5 million are attributed to Medicaid averted births. These savings are expected to continue on an annual basis.

4. The SPA proposes to add a new eligibility category for individuals who receive family planning benefits only. Is this new category for categorically needy individuals only, or is this new category also for medically needy individuals? If the former, why are medically needy individuals not included? If the latter, Attachment

3.1B of the State Plan should be revised, similar to what the State has done for Attachment 3.1A in ~~11-40~~ 12-12.

Response: The federal legislation only refers to this new group as categorically needy, not medically needy. The State currently provides family planning services in Medicaid to the medically needy group. However, this new group is for family planning only-- those with income too high for Medicaid or who choose not to have Medicaid. Therefore, SPA ~~11-40~~ 12-12 does not include a reference to the medically needy.

The approved language for Attachment 3.1-B has an incorrect heading, which has been revised and is attached.