

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

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

Sue Kelly  
Executive Deputy Commissioner

March 31, 2014

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 #13-57

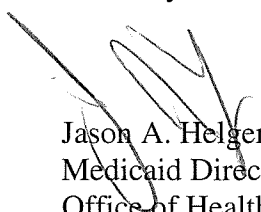
Dear Mr. Melendez:

The State requests approval of the enclosed amendment #13-57 to the Title XIX (Medicaid) State Plan effective January 1, 2014 (Appendix I).

The plan amendment along with appropriate attachments and the CMS-179 form is enclosed and is being submitted as requested by CMS.

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

|  |  |  |                             |
|--|--|--|-----------------------------|
| <b>TRANSMITTAL AND NOTICE OF APPROVAL OF<br/>STATE PLAN MATERIAL</b><br><br><b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>   |  | 1. TRANSMITTAL NUMBER:<br><b>13-57</b>   | 2. STATE<br><b>New York</b> |
|  |  | 3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE<br/>SOCIAL SECURITY ACT (MEDICAID)</b>  |                             |
| TO: REGIONAL ADMINISTRATOR<br>HEALTH CARE FINANCING ADMINISTRATION<br>DEPARTMENT OF HEALTH AND HUMAN SERVICES  |  | 4. PROPOSED EFFECTIVE DATE<br><b>January 1, 2014</b>   |                             |
| 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:<br><b>42 CFR 435.403</b>   |  | 7. FEDERAL BUDGET IMPACT:<br>a. FFY 01/01/14-09/30/14 \$ 0<br>b. FFY 10/01/14-09/30/15 \$ 0  |                             |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:<br><br><b>MAGI SPA: PDF S88<br/>Attachment 2.6-A: Pages 3, 13</b>  |  | 9. PAGE NUMBER OF THE SUPERSEDED PLAN<br>SECTION OR ATTACHMENT ( <i>If Applicable</i> ):<br><br><b>Attachment 2.6-A: Pages 3, 13</b>   |                             |
| 10. SUBJECT OF AMENDMENT:<br><b>Residency</b>  |  |  |                             |
| 11. GOVERNOR'S REVIEW ( <i>Check One</i> ):  |  |  |                             |
| <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED:<br><input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED<br><input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL |  |  |                             |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:  |  | 16. RETURN TO:<br><b>New York State Department of Health<br/>Bureau of Federal Relations &amp; Provider Assessments<br/>99 Washington Ave – One Commerce Plaza<br/>Suite 1430<br/>Albany, NY 12210</b> |                             |
| 13. TYPED NAME: <b>Jason A. Helgerson</b>  |  |  |                             |
| 14. TITLE: <b>Medicaid Director<br/>Department of Health</b>   |  |  |                             |
| 15. DATE SUBMITTED: <b>March 31, 2014</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**  
**2014 Title XIX State Plan**  
**First Quarter Amendment**  
**Amended SPA Pages**



# Medicaid Eligibility

OMB Control Number 0938-1148

OMB Expiration date: 10/31/2014

## Non-Financial Eligibility

### State Residency

S88

42 CFR 435.403

### State Residency

- ☒ The state provides Medicaid to otherwise eligible residents of the state, including residents who are absent from the state under certain conditions.

Individuals are considered to be residents of the state under the following conditions:

- ☐ Non-institutionalized individuals age 21 and over, or under age 21, capable of indicating intent and who are emancipated or married, if the individual is living in the state and:
  - ☐ Intends to reside in the state, including without a fixed address, or
  - ☐ Entered the state with a job commitment or seeking employment, whether or not currently employed.
- ☐ Individuals age 21 and over, not living in an institution, who are not capable of indicating intent, are residents of the state in which they live.
- ☐ Non-institutionalized individuals under 21 not described above and non IV-E beneficiary children:
  - ☐ Residing in the state, with or without a fixed address, or
  - ☐ The state of residency of the parent or caretaker, in accordance with 42 CFR 435.403(h)(1), with whom the individual resides.
- ☐ Individuals living in institutions, as defined in 42 CFR 435.1010, including foster care homes, who became incapable of indicating intent before age 21 and individuals under age 21 who are not emancipated or married:
  - ☐ Regardless of which state the individual resides, if the parent or guardian applying for Medicaid on the individual's behalf resides in the state, or
  - ☐ Regardless of which state the individual resides, if the parent or guardian resides in the state at the time of the individual's placement, or
  - ☐ If the individual applying for Medicaid on the individual's behalf resides in the state and the parental rights of the institutionalized individual's parent(s) were terminated and no guardian has been appointed and the individual is institutionalized in the state.
- ☐ Individuals living in institutions who became incapable of indicating intent at or after age 21, if physically present in the state, unless another state made the placement.
- ☐ Individuals who have been placed in an out-of-state institution, including foster care homes, by an agency of the state.
- ☐ Any other institutionalized individual age 21 or over when living in the state with the intent to reside there, and not placed in the institution by another state.
- ☐ IV-E eligible children living in the state, or



# Medicaid Eligibility

☐ Otherwise meet the requirements of 42 CFR 435.403.



# Medicaid Eligibility

Meet the criteria specified in an interstate agreement.

☐ Yes ☒ No

The state has a policy related to individuals in the state only to attend school.

☐ Yes ☒ No

☒ Otherwise meet the criteria of resident, but who may be temporarily absent from the state.

The state has a definition of temporary absence, including treatment of individuals who attend school in another state.

☐ Yes ☒ No

## PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

## New York

3

**NOTE: The information on this page has been replaced by  
PDF Form S88 effective January 1, 2014.**

[State: New York]

| Citation                               | Condition or Requirement   |
|--|--|
| [42 CFR 435.403<br>1902(b) of the Act] | <p data-bbox="548 621 1401 726">[4. Is a resident of the State, regardless of whether or not the individual maintains the residence permanently or maintains it at a fixed address.</p> <p data-bbox="548 764 1284 905"> <input checked="" type="checkbox"/> State has interstate residency agreement with the following States:<br/><br/>Georgia         </p> <p data-bbox="548 1047 1024 1079"><input type="checkbox"/> State has open agreement(s).</p> <p data-bbox="548 1117 1190 1148"><input type="checkbox"/> Not applicable; no residency requirement.]</p> |

TN #13-57

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

Supersedes TN #13-58

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

**New York  
13**

| Citation                 | Condition or Requirement   |
|--------------------------|--|
| 1902(k) of the Act       | <p>2. Medicaid Qualifying Trusts</p> <p>In the case of a Medicaid qualifying trust described in section 1902 (k) (2) of the Act, the amount from the trust that is deemed available to the individual who established the trust (or whose spouse established the trust) is the maximum amount that the trustee(s) is permitted under the trust to distribute to the individual. This amount is deemed available to the individual, whether or not the distribution is actually made. This provision does not apply to any trust or initial trust decree established before April 7, 1986, solely for the benefit of a mentally retarded individual who resides in an intermediate care facility for the mentally retarded.</p> <p><input type="checkbox"/> The agency does not count the funds in a trust as described above in any instance where the State determines that it would work an undue hardship. <u>Supplement 10 of ATTACHMENT 2.6-A</u> specifies what constitutes an undue hardship.</p> |
| 1902 (a) (10) of the Act | <p>3. Medically needy income levels (MNILs) are based on family size.</p> <p><u>Supplement 1 to ATTACHMENT 2.6-A</u> specifies the MNILs for all covered medically needy groups. If the agency chooses more restrictive levels under section 1902 (f) of the Act, <u>Supplement 1</u> so indicates.</p>  |

TN #13-57Supersedes TN #91-78

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

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



**Appendix II**  
**2014 Title XIX State Plan**  
**First Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #13-57**

This State Plan Amendment proposes that New York provides Medicaid to otherwise eligible residents of the State, including those who are absent from the State under certain conditions.