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**State/Territory Name:**

**State Plan Amendment (SPA) #: NY 16-0044**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approval SPA Pages



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**Financial Management Group**

**NOV 30 2016**

Jason A. Helgerson  
State Medicaid Director  
Office of Health Insurance Programs  
NYS Department of Health  
Corning Tower (OCP- 1211)  
Albany, NY 12237

RE: State Plan Amendment (SPA) 16-0044

Dear Mr. Helgerson:

We have reviewed the proposed amendment to Attachment 4.19-A of your Medicaid State plan submitted under transmittal number (TN) 16-0044. Effective September 1, 2016 this amendment clarifies New York's reimbursement policy with respect to hospitals that have undergone a full asset merger.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a) and 1923 of the Social Security Act and the implementing Federal regulations at 42 CFR Part 447. This is to inform you SPA 16-0044 is approved with an effective date of September 1, 2016. We are enclosing the CMS-179 and the amended approved plan pages.

If you have any questions, please contact Charlene Holzbaaur at 609-882-4103 Ext. 104.

Sincerely,



Kristin Fan  
Director

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER: 16-0044	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 September 1, 2016	
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: § 1902(a) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: (In thousands) a. FFY 09/01/16-09/30/16 \$ 0.00 b. FFY 10/01/16-09/30/17 \$ 0.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Attachment 4.19-A: 136; 136.1; 136.2		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  Attachment 4.19-A: 136; 136.1	
10. SUBJECT OF AMENDMENT: Temporary Rate Change-IP Correction (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 Division of Finance and Rate Setting 99 Washington Ave - One Commerce Plaza Suite 1460 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: SEP 29 2016			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED: NOV 30 2016	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: SEP 01 2016		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Kristin Fan		22. TITLE: Director	
23. REMARKS:			

**Mergers, acquisitions, consolidations, restructurings and closures.**

1. *Rates of Payment.* [As used in this Section, t]The terms merger, acquisition, [and] consolidation, and restructuring, for the purpose of calculating a combined reimbursement rate, [shall]will mean the combining of two or more general hospitals where such combination is a full asset merger or a full asset acquisition (hereinafter referred to as full asset merger) and is consistent with the public need, would create a new, more economical entity, reduce the costs of operation, result in the reduction of beds and/or improve service delivery and approved through the Department's Certificate of Need process. Payments for hospitals subject to a full asset merger[, acquisition or consolidation] for inpatient acute care services that are not otherwise exempt from DRG case-based rates of payment will be effective on the date the full asset merger transaction is effected and [shall]will be computed in accordance with this Section except as follows:
- a. The WEF used to adjust the statewide base price [shall]will be calculated by combining all components used in the calculation pursuant to the WEF Section for all hospitals subject to the full asset merger[, acquisition or consolidation].
  - b. The direct GME payment per discharge added to the case payment rates of teaching hospitals [shall]will be calculated by dividing the total reported Medicaid direct GME costs for all teaching hospitals subject to the full asset merger[, acquisition, or consolidation] by the total reported Medicaid discharges reported by such hospitals in the applicable base period.
  - c. The indirect GME payment per discharge added to the case payment rates of teaching hospitals [shall]will be calculated in accordance with the Add-ons to the Case Payment Rate Per Discharge Section, except the ratio of residents to beds used in the calculation [shall]will be based on the total residents and beds of all such hospitals subject to the full asset merger[, acquisition, or consolidation].
  - d. The non-comparable payment per discharge added to the case payment rates [shall]will be calculated by dividing the total reported Medicaid costs for qualifying non-comparable cost categories for all hospitals subject to the full asset merger[, acquisition, or consolidation] by the total reported Medicaid discharges reported by such hospitals in the applicable base period.
  - e. Rates calculated for exempt units where the hospitals merging provide the same exempt service will not be merged until such time that the base used for the exempt service is updated. At the time of the base rate update, combined costs and utilization will be used to develop the exempt service rate. Until that time, each hospital will continue to be reimbursed their facility specific exempt unit rate based on the method approved for the exempt service.

TN #16-0044  
Supersedes TN #11-0024-A

Approval Date NOV 30 2016  
Effective Date SEP 01 2016

**New York  
136.1**

**1. A. Temporary rate change for full asset mergers and acquisitions.**

- a. For the period April 1, 2012 through August 31, 2016, the Commissioner may grant approval of a temporary change to rates calculated pursuant to this Section for hospitals that complete a merger, acquisition or consolidation provided such hospitals demonstrate through submission of a written proposal that the merger, acquisition or consolidation will result in an improvement to (i) cost effectiveness of service delivery, (ii) quality of care, and (iii) factors deemed appropriate by the Commissioner. Such written proposal shall be submitted to the Department sixty days prior to the requested effective date of the temporary rate change. The temporary rate change shall be in effect for no longer than such time as base year costs are updated for the development of these temporary rates or such time as statewide base year costs are updated for the development of rates, whichever is earlier, and shall consist of the various operating rate components of the surviving entity. At the end of the specified timeframe, the hospital will be reimbursed in accordance with the statewide methodology set forth in this Attachment. The Commissioner may establish, as a condition of receiving such a temporary rate change, benchmarks and goals to be achieved as a result of the ongoing consolidation efforts and may also require that the hospital submit such periodic reports concerning the achievement of such benchmarks and goals as the Commissioner deems necessary. Failure to achieve satisfactory progress, as determined by the Commissioner, in accomplishing such benchmarks and goals shall be a basis for ending the hospital's temporary rate change prior to the end of the specified timeframe.
- b. The Commissioner shall withdraw approval of a temporary rate change for hospitals which (i) fail to demonstrate compliance with and continual improvement on the approved proposal or (ii) an update to the base year is made by the Department.
- c. For the period beginning September 1, 2016 and thereafter, the Commissioner may grant approval of a temporary change to the non-capital components of acute rates calculated pursuant to this Section for hospitals that have undergone a full asset merger:
- i. The acute operating rate of all hospitals merged which represents the highest payment will be paid to all hospitals in the merged entity. The acute rates used in the development of the payment calculation to determine the highest payment will be based on all operating components of a hospital's acute rate and not determined on an individual operating acute rate component basis.

TN #16-0044  
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Approval Date NOV 30 2016  
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136.2

- ii. Facilities seeking a rate change under this section will submit an appeal and demonstrate that the additional resources provided by a temporary rate change will achieve one or more of the following:
- (1) protect or enhance access to care;
  - (2) protect or enhance quality of care; or
  - (3) improve the cost effectiveness of the delivery of health care services.
- iii. The temporary rate change issued pursuant to this section will be effective as of the date the full asset merger transaction is effected and will be in effect for three years. At the expiration of the temporary rate change period, the facility will be reimbursed in accordance with the otherwise applicable rate-setting methodology as stated in this section and will be effective the first day of the month following the expiration of the three year period.
- iv. During the temporary rate change period each provider will continue to be reimbursed their facility specific acute capital rate payment.

TN #16-0044  
Supersedes TN NEW

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