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**State/Territory Name: New York** 

State Plan Amendment (SPA) #: NY-23-0051

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

#### DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services 7500 Security Boulevard, Mail Stop S3-14-28 Baltimore, Maryland 21244-1850



### **Financial Management Group**

September 18, 2023 Amir Bassiri State Medicaid Director New York State Department of Health 99 Washington Ave One Commerce Plaza, Suite 1432 Albany, NY 12210

RE: State Plan Amendment (SPA) NY-23-0051

Dear Director Bassiri:

We have reviewed the proposed amendment to Attachment 4.19-A of your Medicaid State Plan submitted under transmittal number (TN) NY-23-0051. This State Plan Amendment extends the Indigent Care Pool (ICP) Methodology through December 31, 2025, and, as part of the state's Fiscal Year 2024 Enacted Budget, implements a \$85.4 million (gross) reduction in ICP payments to voluntary hospitals.

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 447 Subpart C.

This is to inform you that Medicaid State Plan Amendment NY-23-0051 is approved effective April 1, 2023. The CMS-179 and the amended plan pages are attached.

If you have any questions or need further assistance, please contact James Francis at 857-357-6378 or via email at James. Francis@cms.hhs.gov.

Sincerely,

Rory Howe Director

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES  TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES  5. FEDERAL STATUTE/REGULATION CITATION	1. TRANSMITTAL NUMBER  2 3 — 0 0 5 1 N Y  3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT XIX XXI  4. PROPOSED EFFECTIVE DATE  April 1, 2023  6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a FFY 04/01/23-09/30/23 \$ 351,937,500 b. FFY 10/01/23-09/30/24 \$ 469,250,000		
§ 1905(a)(1) Inpatient Hospital Services			
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  Attachment 4.19-A Part I: Pages 161(d), 161(h), 161(j), 161(j)(1)	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  Attachment 4.19-A Part I: Pages 161(d), 161(h), 161(j)		
9. SUBJECT OF AMENDMENT	_!		
Indigent Care Pool Extender and Pool Reduction			
10. GOVERNOR'S REVIEW (Check One)  GOVERNOR'S OFFICE REPORTED NO COMMENT COMMENTS OF GOVERNOR'S OFFICE ENCLOSED NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	OTHER, AS SPECIFIED:		
	5. RETURN TO ew York State Department of Health		
12. TYPED NAME Amir Bassiri	ivision of Finance and Rate Setting  9 Washington Ave – One Commerce Plaza uite 1432		
Medicaid Director	lbany, NY 12210		
14. DATE SUBMITTED June 29, 2023			
FOR CMS US			
16. DATE RECEIVED June 29, 2023	7. DATE APPROVED September 18, 2023		
PLAN APPROVED - ONE			
18. EFFECTIVE DATE OF APPROVED MATERIAL April 1, 2023	9. SIGNATURE OF APPROVING OFFICIAL		
20. TYPED NAME OF APPROVING OFFICIAL 2	1. TITLE OF APPROVING OFFICIAL		
Rory Howe	Director, Financial Management Group		
22. REMARKS			

New York 161(d)

1905(a)(1) Inpatient Hospital Services

Indigent Care Pool Reform - effective January 1, 2013

The provisions of this section will be effective for the period January 1, 2013 through December 31, 2025.

- (a) Indigent Care Pool Reform Methodology. Each hospital's uncompensated care nominal need will be calculated in accordance with the following:
  - 1. Inpatient Uncompensated Care. Inpatient units of service for uninsured (self-pay and charity) patients, as reported in Exhibit 32 of the Institutional Cost Report (ICR) for the calendar year two years prior to the distribution year for each inpatient service area which has a distinct reimbursement rate, excluding hospital-based residential health care facility (RHCF) and hospice units of service, will be multiplied by the applicable Medicaid inpatient rates in effect for January 1 of the distribution year.

Medicaid inpatient rates for acute and psychiatric services will be the statewide base price adjusted for hospital-specific factors including an average case mix adjustment plus all rate add-ons except the public goods surcharge. Medicaid inpatient rates for all other inpatient services will be the per diem rate, excluding the public goods surcharge add-on. Units of service for acute care services will be uninsured patient discharges; units of service for all other inpatient services will be uninsured patient days, not including alternate level of care (ALC) days.

2. Outpatient Uncompensated Care. Outpatient units of service for those uninsured (self-pay and charity) patients reported in Exhibit 33 of the ICR for the calendar year two years prior to the distribution year, excluding referred ambulatory services and home health units of service, will be multiplied by the average paid Medicaid outpatient rates that reflect the exclusive utilization of the ambulatory patient groups (APG) rate-setting methodology; however, for those services for which APG rates are not available the applicable Medicaid rate in effect for January 1 of the distribution year will be utilized. The outpatient rates used are exclusive of the public goods surcharge.

Units of service for ambulatory surgery services will be uninsured procedures, not including those which result in inpatient admissions; units of service for all other outpatient services will be uninsured visits, not including those which result in inpatient admissions.

TN <u>#23-0051</u>	Approval Date <u>September 18, 2023</u>
Supersedes TN <u>#20-0040</u>	Effective Date <u>April 1, 2023</u>

New	York
161	(h)

1905(	a)	(1)	) In	patient	Hos	pital	Ser	vices
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3. Transition Pool. An eight-year transition pool utilizing a floor/ceiling model has been established to help hospitals avoid large funding swings. The transition pool funding will be generated through a redistribution of dollars from those hospitals which experience an increase in distributions using the new Indigent Care Reform Methodology to those that experience a decrease. Transition amounts will be determined based on a comparison of the distributions for the applicable calendar year 2013 through 2020 to an average of the annual distributions for the three year period January 1, 2010 through December 31, 2012.

A separate transition pool will be established for major government general hospitals and voluntary general hospitals. Individual hospital gains and losses in each pool will be capped by means of the following transition adjustments. Any adjustments provided pursuant to this subparagraph will not apply to distributions relative to calendar years beyond 2019.

TN #23-0051	Approval Date <u>September 18, 2023</u>
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## New York 161(j)

### 1905(a)(1) Inpatient Hospital Services

- 4.Voluntary ICP Pool Reduction. For calendar years 2020 through 2025, total distributions made to eligible voluntary general hospitals will reflect a reduction of one hundred fifty million dollars annually. For calendar years 2023 through 2025, total distributions made to eligible voluntary general hospitals will reflect an additional reduction of eighty five million four hundred thousand dollars annually. Hospitals that qualify as Enhanced Safety Net hospitals under §2807-c(34) of the Public Health Law in State Fiscal Year 2019-2020 are exempt from such reductions. The methodology to allocate the reduction will take into account the payor mix of each voluntary hospital, including the percentage of inpatient days paid by Medicaid. Such methodology will calculate the total public payor mix of each facility and calculate a statewide average public payor mix. For the purposes of this subparagraph, public payor mix means the percentage of total reported Medicaid and Medicare inpatient days, as reported in Exhibit 32 of the Institutional Cost Report (ICR) for the reporting period two years prior to the distribution year, where Medicaid and Medicare were the primary payors, out of total reported inpatient days which includes all inpatient services but excludes Alternate Level of Care days. Hospitals exceeding the calculated average of public payor mix will be exempt from reductions pursuant to this subparagraph. Hospitals that fall below the calculated average of public payor mix will be subject to a proportionate reduction pursuant to this subparagraph.
- 5. Enhanced Safety Net Transition Collar Pool. For calendar years 2020 through 2025, sixty-four million six hundred thousand dollars will be distributed to voluntary hospitals qualifying as Enhanced Safety Net Hospitals under §2807-c(34) of the Public Health Law in State Fiscal Year 2019-2020 that experience a reduction in their distribution year Indigent Care Pool payments when compared to their 2019 ICP payments. The methodology to allocate this funding will be proportional to the reduction received by the facility. The proportionate allocation will be equal to each qualifying Enhanced Safety Net Hospital's percentage share of total ICP losses when compared to CY 2019 distributions for all qualifying Enhanced Safety Net Hospitals.
- 6. Voluntary UPL Payment Reductions. The distributions in this section will be reduced by the final payment amounts paid to the eligible voluntary general hospitals, excluding government general hospitals, made in accordance with the Voluntary Supplemental Inpatient and Outpatient Payments section.
- 7. DSH Payment Limits. The distributions in this section are subject to the provisions of the Disproportionate share limitations section. Should a facility's total payments exceed its DSH cap, the facility will receive the State share only of any ICP award in excess of the hospital specific DSH limit as set out in paragraph 9 (Reconciliation and Redistribution of Overpayments) below.
- 8. Financial Assistance Compliance Pool. For calendar years 2014 through 2025, an amount equivalent to one percent of total DSH funds will be segregated into the Financial Assistance Compliance Pool (FACP) and allocated to all hospitals which prior to December 31, 2015 demonstrate substantial compliance with §2807-k(5-d)(b)(iv) of the Public Health Law (New York State Financial Aid Law) as in effect on January 1, 2013. There will be separate pool amounts for major governmental and voluntary hospitals. The DSH funds in the FACP will be proportionately allocated to all compliant hospitals using the Indigent Care Methodology described in paragraph (a) of this section. Compliance will be on a pass/fail basis. When a hospital is deemed compliant, one hundred percent of its share of the FACP funds will be released; there will be no partial payment for partial compliance. Any unallocated funds resulting from hospitals being non-compliant will be proportionally reallocated to compliant hospitals in each respective group based on their relative share of the distributions calculated in paragraph (a).

TN <u>#23-0051</u>	Approval Date <u>September 18, 2023</u>
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New York 161(j)(1)

1905(a)(1) Inpatient Hospital Services

9. Reconciliation and Redistribution of Overpayments. The modeled distribution of hospital-specific ICP annual payments will be refreshed based on updated ICR and DSH Audit data. Any over or under payment will be reconciled and redistributed as soon as possible. The total pool amount is fixed; therefore, it is anticipated that any overpayments and underpayments will be balanced within the most recent schedule of hospital-specific ICP annual payments for the applicable State Plan Rate Year (SPRY) calculated pursuant to the approved State Plan and applicable State Law, calculated utilizing the most recently available data.

In the case of underpayments, the State will adjust the facility's payment going forward to ensure that the total amount received for each SPRY reflects the updated ICP Award Amount. In the case of overpayments, the State will immediately move any overpayment amount to a 100% State Share liability by adjusting ICP claiming. The State will then repay the liability by reducing future ICP dollars. When this is not possible, funds may be recouped by the State in order to resolve any overpayments which cannot be resolved by reducing or adjusting future Indigent Care Pool Payments. In all circumstances, the ICP payment amounts will be subject to a final reconciliation wherein it is ensured that no facility receives more than its individual model amount nor a Federal share in excess of its hospital specific DSH limit.

TN <u>#23-0051</u>	Approval Date <u>September 18, 2023</u>
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