



# Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Acting Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

MAR 31 2015

National Institutional Reimbursement Team  
Attention: Mark Cooley  
CMS, CMCS  
7500 Security Boulevard, M/S S3-14-28  
Baltimore, MD 21244-1850

Re: SPA #15-0014

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #15-0014 to the Title XIX (Medicaid) State Plan for intermediate care facility services for persons with developmental disabilities (ICF/DDs) to be effective January 1, 2015 (Appendix I). This amendment is being submitted based upon enacted legislation. A summary of the proposed amendment is contained in Appendix II.

This amendment is submitted pursuant to §1902(a) of the Social Security Act (42 USC 1396a(a)) and Title 42 of the Code of Federal Regulations (CFR), Part 447, Subpart C.

Notice of the changes in the methods and standards for setting payment rates for general hospital inpatient services were given in the New York State Register on December 31, 2014.

Copies of pertinent sections of enacted State statute are enclosed for your information (Appendix III). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

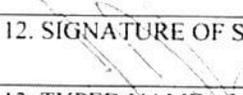
If you have any questions regarding this matter, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting at (518) 474-6350.

Sincerely,

  
Jason A. Helgerson  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

cc: Mr. Michael Melendez  
Mr. Tom Brady

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>15-0014</b>	2. STATE <b>New York</b>
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>January 1, 2015</b>	
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: <b>§1902(a) of the Social Security Act, and 42 CFR 447</b>		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 01/01/15 - 09/30/15 \$ 3,798.64 b. FFY 10/01/15 - 09/30/16 \$ 5,470.22	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-D, Part II: Pages 101, 101.1, 101.2, 101.3</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>Attachment 4.19-D, Part II - Page101</b>	
10. SUBJECT OF AMENDMENT: <b>Intermediate Care Facility (ICF) 2% COLA (FMAP = 50%)</b>			
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: <b>New York State Department of Health Bureau of Federal Relations &amp; Provider Assessments 99 Washington Ave - One Commerce Plaza Suite 1460 Albany, NY 12210</b>	
13. TYPED NAME: <b>Jason A. Helgerson</b>			
14. TITLE: <b>Medicaid Director Department of Health</b>			
15. DATE SUBMITTED: <b>MAR 31 2015</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**  
**2015 Title XIX State Plan**  
**First Quarter Amendment**  
**Amended SPA Pages**



New York  
101.1

ii. Increases for Eligible Rate Based Programs.

- a. January 1, 2015 Increase. Rates for eligible rate based programs will be revised to incorporate funding for compensation increases to direct support professional employees. The compensation increase funding will be included in the provider's rate issued for January 1, 2015, or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate had been issued on January 1, 2015. The compensation increase funding will include associated fringe benefits.
- b. April 1, 2015 Increase. In addition to the compensation funding effective January 1, 2015, providers that operate ICFs/IDD will receive a compensation increase targeted to direct support professional and clinical employees. The compensation increase funding will include associated fringe benefits. The April 1, 2015 direct support professionals compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase.

iii. Calculations. The basis for the calculation of provider and regional direct care, support and clinical salary averages and associated fringe benefit percentages will be the data reported on the providers' CFRs for July 1, 2010 through June 30, 2011 for providers reporting on a fiscal year basis or January 1, 2011 through December 31, 2011 for providers reporting on a calendar year basis.

- a. The January 1, 2015 and April 1, 2015 Direct Support Professionals compensation increase funding formula will be as follows:
1. The annual impact of a two percent increase to 2010-11 or 2011 salaried direct care dollars, salaried support dollars and associated fringe benefits will be calculated.
  2. The annual impact of the two percent increase for salaried direct care dollars, salaried support dollars and associated fringe will be added to the appropriate operating components in the rate methodology. This will result in a recalculation of provider and

TN #15-0014

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

Supersedes TN NEW

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

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regional average direct care wages, provider and regional average employee-related components, provider and regional average program support components, and provider and regional average direct care hourly rates.

3. The provider direct care hourly rate – adjusted for wage equalization factor will be recalculated to utilize the provider average direct care hourly rate and regional average direct care hourly rate, as calculated in subparagraph ii. of this paragraph.
  4. An identification will be made of the dollar difference between the provider direct care hourly rate – adjusted for wage equalization factor, which is in the rate in effect on December 31, 2014, and the provider direct care hourly rate – adjusted for wage equalization factor, as calculated in subparagraph iii. of this paragraph.
  5. The rate difference identified in subparagraph iv. of this paragraph will be multiplied by the calculated direct care hours in the rate in effect on December 31, 2014 to calculate the additional funding generated by the direct care compensation adjustment.
  6. The rate add-on for the compensation increase will be determined by dividing the additional funding, as calculated in subparagraph v. of this paragraph by the rate sheet units in effect on January 1, 2015.
- b. The April 1, 2015 Clinical compensation increase funding formula will be as follows:
1. The annual impact of a two percent increase to 2010-11 or 2011 salaried clinical dollars and associated fringe benefits will be calculated.
  2. The annual impact of the two percent increase for salaried clinical dollars and associated fringe will be added to the appropriate operating components in the rate methodology. This will result in a recalculation of provider and regional average employee-related components, provider and regional average clinical hourly wages.

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**Appendix II**  
**2015 Title XIX State Plan**  
**First Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #15-0014**

This State Plan Amendment proposes to increase funding of not-for-profit providers. An increase in salaries and related fringe benefits for eligible staff titles that took effect on or after January 1, 2014.

**Appendix III**  
**2015 Title XIX State Plan**  
**First Quarter Amendment**  
**Authorizing Provisions**

CHAPTER 60 OF THE LAWS OF 2014

§ 2. Section 1 of part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, is amended by adding a new subdivision 3-d to read as follows:

3-d. (i) Notwithstanding the provisions of subdivision 3-b of this section, as amended by section one of a chapter of the laws of 2014 which added this subdivision, or any other inconsistent provision of law, and subject to the availability of the appropriation therefor, for the programs listed in paragraphs (i), (ii), (iii), (iv), (v) and (vi) of subdivision 4 of this section, the commissioners shall provide funding to support (1) a two percent (2%) increase in annual salary and salary-related fringe benefits for direct care staff and direct support professionals, and in payment to foster parents and adoptive parents, as defined by the commissioner of the applicable state agency subject to the approval of the director of the budget beginning January 1, 2015, and (2) a two percent (2%) increase in annual salary and salary-related fringe benefits for direct care staff, direct support professionals and clinical staff, and in payment to foster parents and adoptive parents, as defined by the commissioner of the applicable state agency subject to the approval of the director of the budget beginning April 1, 2015. Such commissioners shall use the consolidated fiscal reporting manual as a reference, to the extent that applicable job titles are listed therein. Where applicable, the funding provided under this subdivision shall be applied to reimbursable costs or contract amounts to support salary increases and salary-related fringe benefits of eligible persons, that took effect on or after January 1, 2014. The commissioners shall provide funding for such salary and associated fringe benefit increases in a manner which will result in a consistent methodology among programs and provider types.

(ii) The commissioners shall develop standards, including but not limited to, requiring that a local government unit or provider agency develop a plan of implementation to ensure that such funding increases shall be directed to direct care staff, direct support professionals, clinical staff, foster parents and adoptive parents, as appropriate, pursuant to paragraph (i) of this subdivision. Each local government unit or direct contract provider receiving such funding shall submit a written certification, in such form and at such time as each commissioner shall prescribe, attesting to how such funding will be or was used for purposes eligible under this section. Further, providers shall submit a resolution from their governing body to the appropriate commissioner, attesting that the funding received will be used solely to support salary and salary-related fringe benefit increases for direct care staff, direct support professionals, clinical staff, foster parents and adoptive parents, pursuant to paragraph (i) of this subdivision and the applicable standards issued by the appropriate commissioner pursuant to this paragraph. Such commissioners shall be authorized to recoup any funds as appropriated herein determined to have been used in a manner inconsistent with such standards or inconsistent with the provisions of this subdivision, and such commissioners shall be authorized to employ any legal mechanism to recoup such funds, including an offset of other funds that are owed to such local governmental unit or provider.

(iii) Where appropriate, transfers to the department of health shall be made as reimbursement for the state share of medical assistance.

**Appendix IV**  
**2015 Title XIX State Plan**  
**First Quarter Amendment**  
**Public Notice**

# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE

### Department of Civil Service

PURSUANT to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for January 2015 will be conducted on January 13 and January 14 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY.

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. 1, Albany, NY 12239, (518) 473-6598

## PUBLIC NOTICE

### Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional, non-institutional or long term care services to comply with enacted statutory provisions. The following changes are proposed:

#### All Services

- Effective January 1, 2015, the Department of Health and Division of Budget will determine the extent of Medicaid savings available under the Medicaid Global Spending Cap for distribution among Medicaid providers and managed care plans prior to the last quarter of each state fiscal year. Funds up to the amount available under the Medicaid Global Spending Cap will be distributed through an allocation plan that utilizes three years of the most recently available system-wide expenditure data reflecting both MMIS and managed care encounters. The dividend will be allocated proportionately by the Medicaid expenditure data. Distributions to managed care plans will be calculated using the administrative outlays stemming from participation in the Medicaid program.

No greater than fifty percent of the funding available for a dividend will be made available for the purposes of ensuring a minimum level of assistance to financially distressed and critically needed providers.

There is no additional estimated annual change to gross Medicaid expenditures as a result of the proposed amendment.

#### Non-Institutional Services

The Ambulatory Patient Group (APG) reimbursement methodology is extended for the period January 1, 2015 through March 31, 2017. Such methodology is revised to include recalculated weight and component updates that will become effective on or after January 1, 2015.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2014/2015 is \$1,944,230.

#### Institutional Services

- Effective January 1, 2015 through March 31, 2016, the New York State Office of Mental Health hereby gives notice that it is proposing to amend its Medicaid State Plan for Residential Treatment Facilities for Children and Youth. The amendment will reflect the inclusion of a trend factor applied to allowable costs.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year (SFY) 2014/2015 is \$508,864 and for SFY 2015/2016 is \$2,035,457.

- Effective January 1, 2015 the State will change the methods and standards for determining payment rates for the services listed below to provide funding to support a two percent increase in annual salary and salary-related fringe benefits for direct care staff and direct support professionals, and in payment to foster parents and adoptive parents.

Effective April 1, 2015, a new two percent increase in annual salary and salary-related fringe benefits will be applied for direct care staff, direct support professionals and clinical staff, and in payment to foster parents and adoptive parents for the following programs:

- VOICF
- VOIRA – Supervised
- VOIRA – Supportive
- VO Day Habilitation
- VO Pre-Vocational
- VO Respite – Hourly
- VO Respite – Freestanding
- SO and VO Family Care
- VO Supported Employment
- VO Community Habilitation

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for SFY 2014/2015 is \$11,291,837.

- As previously noticed September 10, 2014 and October 8, 2014, the additional temporary rate adjustment for Arnot Ogden Medical Center related to general hospitals that are undergoing a closure, merger, consolidation, acquisition or restructuring of themselves or other health care providers incorrectly stated the name of the provider. This will clarify that the provider should be St. Joseph's Hospital, which is part of Arnot Health.

The public is invited to review and comment on this proposed State Plan Amendment. Copies of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status).

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County  
250 Church Street  
New York, New York 10018

Queens County, Queens Center  
3220 Northern Boulevard  
Long Island City, New York 11101

Kings County, Fulton Center  
114 Willoughby Street  
Brooklyn, New York 11201

Bronx County, Tremont Center  
1916 Monterey Avenue  
Bronx, New York 10457

Richmond County, Richmond Center  
95 Central Avenue, St. George  
Staten Island, New York 10301

For further information and to review and comment, please contact: Department of Health, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave. – One Commerce Plaza, Suite 1460, Albany, NY 12210, [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

**PUBLIC NOTICE**

**New York State and Local Retirement System**

Pursuant to Retirement and Social Security Law, the New York State and Local Employees' Retirement System hereby gives public notice of the following:

The persons whose names and last known addresses are set forth below appear from records of the above named Retirement System to be entitled to accumulated contributions held by said retirement system whose membership terminated pursuant to Section 613 of the Retirement and Social Security Law on or before December 31, 2013. This notice is published pursuant to Section 109 of the Retirement and Social Security Law of the State of New York. A list of the names contained in this notice is on file and open to public inspection at the office of the New York State and Local Retirement System located at the 110 State St., in the City of Albany, New York. At the expiration of six months from the date of the publication of this notice. The accumulated contributions of the persons so listed shall be deemed abandoned and shall be placed in the pension accumulation fund to be used for the purpose of said fund. Any accumulated contributions so deemed abandoned and transferred to the pension accumulation fund may be claimed by the persons who made such accumulated contributions or, in the event of his death, by his estate or such person as he shall have nominated to receive such accumulated contributions, by filing a claim with the State Comptroller in such form and in such a manner as may be prescribed by him, seeking the return of such abandoned contributions. In the event such claim is properly made the State Comptroller shall pay over to the person or persons or estate making the claim such amount of such accumulated contributions without interest.

Frank, Bryan - Manon, NY

Vallabhaneni, Madhavi - West Nyack, NY

For further information contact: Mary Ellen Kutey, New York State Retirement Systems, 110 State St., Albany, NY 12244, (518) 474-3502

**PUBLIC NOTICE**

**Uniform Code Regional Boards of Review**

Pursuant to 19 NYCRR 1205, the petitions below have been received by the Department of State for action by the Uniform Code Regional Boards of Review. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tolsen, Building Standards And Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2014-0520 Matter of Dan Colaprete, 4853 W. Ridge Road, Spencerport, NY 14559, for a variance concerning safety requirements, including a required sprinkler system in a building, located at 4853 W. Ridge Road, Town of Sweden, County of Monroe, State of New York.

2014-0586 Matter of Steven Carini, Carini Engineering Designs, 1387 Fairport Road-Suite 560, Fairport, NY 14617 for a variance concerning safety requirements, including emergency escape and rescue openings in a building, located at 6748 Falcons Point, Town of Victor, County of Ontario, State of New York.

2014-0614 James Wojotowicz, 8621 Clarence Center Road, Clarence Center, NY 14032 for a variance concerning requirements for maintaining existing emergency escape route in an existing building.

Involved is an existing three story, wood frame, building for permanent multiple dwelling occupancy with approximate gross floor area of 4000 square feet, located at 76 west Hazeltine Ave, City of Buffalo, County of Erie, State of New York.

2014-664 David A. Carr, P.E., 355 Randwood Drive, Williamsville, NY 14221 for NYS Parks & Recreation, for a variance concerning for sprinkler system, toilets and heating system.

Involved is the construction of a one story, wood frame building for assembly occupancy with approximate gross floor area of 2,800 square feet, located Allegany State Park, Town of Cold Springs, County of Cattaraugus, State of New York.

2014-0668 Matter of Michael Conforti, Violet Avenue Realty LLC, 547 Violet Avenue, Hyde Park, NY 12538 for a variance concerning fire code requirements, including parking of oil tank vehicles within 500 feet of a residential area.

Involved is vehicle parking area located at 547 Violet Avenue, Town of Hyde Park, County of Dutchess, State of New York.

2014-0670 Matter of Letchworth State Park Pinewood Lodge, 7 Letchworth State Park, Town of Castile, Wyoming County, New York 14427. The petitioner requests a variance concerning the relief from Automatic Sprinkler System as required by part 903.2.7 of Title 19 – Part 1221 Building Code.

**Appendix V**  
**2015 Title XIX State Plan**  
**First Quarter Amendment**  
**Responses to Standard Funding Questions**

**APPENDIX V**  
**LONG TERM CARE SERVICES**  
**State Plan Amendment #15-0014**

**CMS Standard Funding Questions**

The following questions are being asked and should be answered in relation to all payments made to all providers reimbursed pursuant to a methodology described in Attachment 4.19-D of this SPA. For SPAs that provide for changes to payments for clinic or outpatient hospital services or for enhanced or supplemental payments to physician or other practitioners, the questions must be answered for all payments made under the state plan for such service.

- 1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the payments, a complete listing of providers that return a portion of their payments, the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.).**

**Response:** OPWDD's ICF/DD rate setting methodology includes a 5.5 percent provider assessment on the gross receipts of the ICF/DD facility. This assessment is authorized by Public Law 102-234, Section 43.04 of the New York State Mental Hygiene Law, Federal Medicaid regulations at 42 CFR 433.68, and Attachment 4.19-D, Part II page 29. All voluntary and State-operated ICF/DDs are subject to this provider assessment.

Using "Authorization to Withhold" forms submitted by voluntary providers, OPWDD recoups the assessment from the ICF/DD Medicaid payment before the payment is sent to the voluntary provider. This assessment is deposited into a fund called "Assessments for Business Organizations."

For State operated ICF/DDs, the legislature appropriates an amount for payment of the assessment. Periodically, funds from this appropriation are used to pay the assessment. These amounts are deposited into the general fund of the State Treasury.

Aside from the assessments, providers receive and retain all the Medicaid payments for ICF/DD services.

2. **Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either through an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local governmental entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:**

- (i) a complete list of the names of entities transferring or certifying funds;**
- (ii) the operational nature of the entity (state, county, city, other);**
- (iii) the total amounts transferred or certified by each entity;**
- (iv) clarify whether the certifying or transferring entity has general taxing authority; and,**
- (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).**

**Response:** For services delivered by non-State operated ICF/DDs, the source of funds for the State share is tax revenues appropriated to OPWDD. When these ICF/DDs bill eMedNY for payment, the Department of Health covers the non-federal share expenditures in the first instance. Throughout the state fiscal year, such expenditures are applied against OPWDD appropriations by the transfer of funds from OPWDD to DOH. The total amount to be transferred from OPWDD to DOH for non-State operated ICF/DDs for the current fiscal year is projected at approximately \$331.7 million.

State tax revenues are the source of funds for the state share for ICF/DD services delivered by OPWDD. The non-federal share is appropriated to the DOH and paid to OPWDD along with the federal share. The total amount appropriated to DOH for ICF/DD services delivered by OPWDD and projected to be transferred to OPWDD for the current fiscal year is approximately \$1.2 billion.

3. **Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.**

**Response:** No supplemental or enhanced payments are made in the ICF/DD program.

4. **For clinic or outpatient hospital services please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated, non-state government owned or operated, and privately owned or operated). Please provide a current (i.e., applicable to the current rate year) UPL demonstration.**

**Response:** This plan amendment does not concern clinic or outpatient hospital services.

5. **Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?**

**Response:** As this SPA relates to payments to NFP providers, and not governmental providers, this question is not applicable.

#### **ACA Assurances:**

1. **Maintenance of Effort (MOE). Under section 1902(gg) of the Social Security Act (the Act), as amended by the Affordable Care Act, as a condition of receiving any Federal payments under the Medicaid program during the MOE period indicated below, the State shall not have in effect any eligibility standards, methodologies, or procedures in its Medicaid program which are more restrictive than such eligibility provisions as in effect in its Medicaid program on March 10, 2010.**

#### **MOE Period.**

- **Begins on: March 10, 2010, and**
- **Ends on: The date the Secretary of the Federal Department of Health and Human Services determines an Exchange established by a State under the provisions of section 1311 of the Affordable Care Act is fully operational.**

**Response:** This SPA complies with the conditions of the MOE provision of section 1902(gg) of the Act for continued funding under the Medicaid program.

2. **Section 1905(y) and (z) of the Act provides for increased FMAPs for expenditures made on or after January 1, 2014 for individuals determined eligible under section 1902(a)(10)(A)(i)(VIII) of the Act. Under section 1905(cc) of the Act, the increased FMAP under sections 1905(y) and (z) would not be available for States that require local political subdivisions to contribute amounts toward the non-Federal share of the State's expenditures at a greater percentage than would have been required on December 31, 2009.**

**Prior to January 1, 2014 States may potentially require contributions by local political subdivisions toward the non-Federal share of the States' expenditures at percentages greater than were required on December 31, 2009. However, because of the provisions of section 1905(cc) of the Act, it is important to determine and document/flag any SPAs/State plans which have such greater percentages prior to the January 1, 2014 date in order to anticipate potential violations and/or appropriate corrective actions by the States and the Federal government.**

**Response:** This SPA would [ ] / would not [✓] violate these provisions, if they remained in effect on or after January 1, 2014.

3. **Please indicate whether the State is currently in conformance with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.**

**Response:** The State does comply with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

**Tribal Assurance:**

**Section 1902(a)(73) of the Social Security Act the Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular ongoing basis from designees of Indian health programs whether operated by the Indian Health Service HIS Tribes or Tribal organizations under the Indian Self Determination and Education Assistance Act ISDEAA or Urban Indian Organizations under the Indian Health Care Improvement Act.**

**IHCIA Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program CHIP. Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.**

- a) Please describe the process the State uses to seek advice on a regular ongoing basis from federally recognized tribes Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments waiver proposals waiver extensions waiver amendments waiver renewals and proposals for demonstration projects prior to submission to CMS.**
- b) Please include information about the frequency inclusiveness and process for seeking such advice.**
- c) Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment when it occurred and who was involved.**

**Response:** Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 11-06, and documentation of such is included with this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.