

NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

January 31, 2013

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 #13-16
Non-Institutional Services

Dear Mr. Melendez:

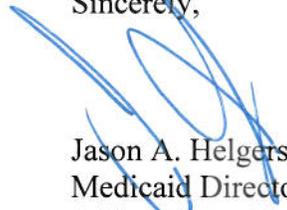
The State requests approval of the enclosed amendment #13-16 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective February, 2013 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

The State of New York reimburses these services through the use of rates that are consistent with and promote efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area as required by §1902(a)(30) of the Social Security Act and 42 CFR §447.204.

Copies of pertinent sections of proposed State statute are enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register on January 30, 2013, is also enclosed for your information (Appendix IV). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

If you have any questions regarding this State Plan submission, 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

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 13-16	2. STATE New York
FOR: HEALTH CARE FINANCING ADMINISTRATION		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 February 1, 2013	
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: Section 1902(a) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: a. FFY 02/01/13-09/30/13 \$9,000,000 b. FFY 10/01/13-09/13/14 \$9,000,000	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B: Page 2(c)(v)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Attachment 4.19-B: Page 2(c)(v)	
10. SUBJECT OF AMENDMENT: 2012 D&TC UPL Payments – HHC & Non-HHC (for periods 2/1/13-3/31/13 & 4/1/13-3/31/14) (FMAP = 50%)			
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: January 13, 2013			
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
2013 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Amended SPA Pages

New York
2(v)

Upper Payment Limit (UPL) Payments for Diagnostic and Treatment Centers (DTCs)

1. New York City Health and Hospitals Corporation (HHC) operated DTCs

Effective for the periods April 1, 2011 through March 31, 2012[,]; February 1, 2013 through March 31, 2013; and April 1, 2013 through March 31, 2014 the Department of Health will increase medical assistance rates of payment for diagnostic and treatment center (DTC) services, for public DTCs operated by the New York City Health and Hospitals Corporation (HHC), at the annual election of the social services district in which an eligible DTC is physically located. The amount to be paid will be \$12.6 million on an annualized basis.

Medical assistance payments will be made for patients eligible for federal financial participation under Title XIX of the federal Social Security Act based on each diagnostic and treatment center's proportionate share of the sum of all clinic visits for all facilities eligible for an adjustment for the base year two years prior to the rate year. Such proportionate share payments may be added to rates of payment or made as aggregate payments to each eligible HHC diagnostic and treatment center.

2. County Operated DTCs and mental hygiene clinics

Effective for the periods April 1, 2011 through March 31, 2012[,]; February 1, 2013 through March 31, 2013; and April 1, 2013 through March 31, 2014 the Department of Health will increase the medical assistance rates of payment for county operated DTCs and mental hygiene clinics, excluding those facilities operated by the New York City HHC. Local social services districts on an annual basis may decline such increased payments within thirty days following receipt of notification. The amount to be paid will be \$5.4 million on an annualized basis.

Medical assistance payments will be made for patients eligible for federal financial participation under Title XIX of the federal Social Security Act based on each diagnostic and treatment center's proportionate share of the sum of all clinic visits for all facilities eligible for an adjustment for the base year two years prior to the rate year. Such proportionate share payments may be added to rates of payment or made as aggregate payments to each eligible county operated diagnostic and treatment center and mental hygiene clinic.

TN #13-16 _____

Approval Date _____

Supersedes TN #10-27-B _____

Effective Date _____

Appendix II
2013 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Summary

SUMMARY
SPA #13-16

This State Plan Amendment proposes to authorize payment adjustments that increase the operating cost components of rates of payment for the diagnostic and treatment centers (DTC) of the New York City Health and Hospital Corporation and county operated freestanding clinics licensed under Article 31 and 32 of the NYS Mental Hygiene Law.

Appendix III
2013 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Authorizing Provisions

Chapter 58 of the Laws of 2010

§ 3-a. 1. Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, and subject to the availability of federal financial participation, effective for the period August 1, 2010 through March 31, 2011, and each state fiscal year thereafter, the department of health is authorized to make Medicaid payment increases for diagnostic and treatment centers (DTC) services issued pursuant to section 2807 of the public health law for public DTCs operated by the New York City Health and Hospitals Corporation, at the election of the social services district in which an eligible DTC is physically located, of up to twelve million six hundred thousand dollars on an annualized basis for DTC services pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act based on each such DTC's proportionate share of the sum of all clinic visits for all facilities eligible for an adjustment pursuant to this section for the base year two years prior to the rate year. Such proportionate share payments may be added to rates of payment or made as aggregate payments to eligible DTCs.

2. The social services district in which an eligible public DTC is physically located shall be responsible for the payment increase for such public DTC as determined in accordance with this section for all DTC services provided by such public DTC in accordance with section 365-a of the social services law, regardless of whether another social services district or the department of health may otherwise be responsible for furnishing medical assistance to the eligible persons receiving such services.

3. Any amounts provided pursuant to this section shall be effective for purposes of determining payments for public DTCs contingent on receipt of all approvals required by federal law or regulations for federal financial participation in payments made pursuant to title XIX of the federal social security act. If federal approvals are not granted for payments based on such amounts of components thereof, payments to eligible public DTCs shall be determined without consideration of such amounts or such components. In the event of such federal disapproval, public DTCs shall refund to the state, or the state may recoup from prospective payments, any payment received pursuant to this section, including those based on a retroactive reduction in the payments. Any reduction in federal financial participation pursuant to title XIX of the federal social security act related to federal upper payment limits shall be deemed to apply first to amounts provided pursuant to this section.

4. Reimbursement by the state for payments made whether by the department of health on behalf of a social services district pursuant to section 367-b of the social services law or by a social services district directly, for a payment determined in accordance with this section for public DTC services provided in accordance with section 365-a of the social services law shall be limited to the amount of federal funds properly received or to be received on account of such expenditures. Further, payments made pursuant to this section shall be excluded from all calculations made pursuant to section 1 of part C of chapter 58 of the laws of 2005.

5. Social services district funding of the non-federal share of any payments pursuant to this section shall be deemed to be voluntary for purposes of the increased federal medical assistance percentage provisions of the American Recovery and Reinvestment Act of 2009; provided however that, in the event the federal Centers for Medicare and Medicaid Services determines that such non-federal share payments are not voluntary payments for purposes of such Act or otherwise disallows federal financial participation in such payments, the provisions of this section shall be null and void and payments made pursuant to this section shall be recouped by the commissioner of health.

§ 3-b. 1. Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, and subject to the availability of federal financial participation, effective for the period August 1, 2010 through March 31, 2011, and each state fiscal year thereafter, the department of health, is authorized to make Medicaid payment increases for county operated diagnostic and treatment centers (DTC) services issued pursuant to section 2807 of the public health law and for services provided by county operated free-standing clinics licensed pursuant to articles 31 and 32 of the mental hygiene law, but not including facilities operated by the New York City Health and Hospitals Corporation, of up to five million four hundred thousand dollars on an annualized basis for such services pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act. Local social services districts may decline such increased payments to their sponsored DTCs and free-standing clinics, provided they provide written notification to the commissioner of health, within thirty days following receipt of notification of a payment pursuant to this section. Distributions pursuant to this section shall be based on each facility's proportionate share of the sum of all DTC and clinic visits for all facilities receiving payments pursuant to this section for the base year two years prior to the rate year. Such proportionate share payments may be added to rates or payment or made as aggregate payments to eligible facilities.

2. The social services district in which an eligible public DTC is physically located shall be responsible for the payment increases for such public DTC as determined in accordance with subdivision one of this section for all DTC services provided by such public DTC in accordance with section 365-a of the social services law, regardless of whether another social services district or the department of health may otherwise be responsible for furnishing medical assistance to the eligible persons receiving such services.

3. Any amounts provided pursuant to this section shall be effective for purposes of determining payments for public DTCs contingent on receipt of all approvals required by federal law or regulations for federal financial participation in payments made pursuant to title XIX of the federal social security act. If federal approvals are not granted for payments based on such amounts of components thereof, payments to eligible public DTCs shall be determined without consideration of such amounts or such components. In the event of such federal disapproval, public DTCs shall refund to the state, or the state may recoup from prospective payments, any payment received pursuant to this section, including those based on a retroactive reduction in the payments. Any

reduction in federal financial participation pursuant to title XIX of the federal social security act related to federal upper payments limits shall be deemed to apply first to amounts provided pursuant to this section.

4. Reimbursement by the state for payments made whether by the department of health on behalf of a social services district pursuant to section 367-b of the social services law or by a social services district directly, for a payment determined in accordance with this section for public DTC services provided in accordance with section 365-a of the social services law shall be limited to the amount of federal funds properly received or to be received on account of such expenditures. Further, payments made pursuant to this section shall be excluded from all calculations made pursuant to section 1 of part C of chapter 58 of the laws of 2005.

5. Social services district funding of the non-federal share of any payments pursuant to this section shall be deemed to be voluntary for purposes of the increased federal medical assistance percentage provisions of the American Recovery and Reinvestment Act of 2009; provided however that, in the event the federal Centers for Medicare and Medicaid Services determines that such non-federal share payments are not voluntary payments for purposes of such Act or otherwise disallows federal financial participation in such payments, the provisions of this section shall be null and void and payments made pursuant to this section shall be recouped by the commissioner of health.

Appendix IV
2013 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Public Notice

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.

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

The public is invited to review and comment on this proposed State Plan Amendment.

For further information and to review and comment, please contact: Department of Health, Bureau of HCRA Operations & Financial Analysis, 99 Washington Ave. – One Commerce Plaza, Suite 810, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), or e-mail: spa_inquiries@health.state.ny.us

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 non-institutional services to comply with enacted statutory provisions. The following changes are proposed:

Non-Institutional Services

• Effective for the period February 1, 2013 through March 31, 2013; and April 1, 2013 through March 31, 2014, and annually thereafter, upon the election of the social services district in which an eligible diagnostic and treatment center (DTC) is physically located, up to \$12.6 million in additional annual Medicaid payments may be paid to public DTCs operated by the New York City Health and Hospitals Corporation. Such payments will be based on each DTC's proportionate share of the sum of all clinic visits for all facilities eligible for an adjustment for the base year two years prior to the rate year. The proportionate share payments may be added to rates of payment or made as aggregate payments to eligible DTCs.

The social services district in which an eligible public DTC is physically located shall be responsible for any payment increases for such public DTC services provided regardless of whether another social services district or the Department of Health may otherwise be responsible for furnishing medical assistance to eligible persons receiving such services.

Any payment increases for DTC services shall be effective for purposes of determining payments for public DTCs contingent on receipt of all approvals required by federal law or regulations for federal financial participation. If federal approvals are not granted for

payment increases for DTC services, payments to eligible public DTCs shall be determined without consideration of such amounts or such components. In the event of federal disapproval, public DTCs shall refund to the State, or the State may recoup from prospective payments, any payment received, including those based on a retroactive reduction in the payments. Any reduction related to federal upper payment limits shall be deemed to apply first to these payments.

Reimbursement by the State for payments made for services provided by public DTCs shall be limited to the amount of federal funds properly received or to be received on account of such expenditures. Further, payments shall be excluded from all calculations determining the amount the Department of Health is obligated to reimburse social services districts for medical assistance for needy persons and the administration thereof.

• Effective for the periods February 12, 2013 through March 31, 2013; April 1, 2013 through March 31, 2014, and annually thereafter, up to \$5.4 million in additional annual Medicaid payments may be paid to county operated free-standing clinics, not including facilities operated by the New York City Health and Hospitals Corporation, for services provided by such DTC and those provided by a county operated freestanding mental health or substance abuse DTC. Distributions shall be based on each eligible facility's proportionate share of the sum of all DTC and clinic visits for all eligible facilities receiving payments for the base year two years prior to the rate year. The proportionate share payments may be added to rates of payment or made as aggregate payments to eligible facilities.

Local social services districts may decline increased payments to their sponsored DTCs and free-standing clinics, provided they provide written notification to the Commissioner of Health, within 30 days following receipt of notification of a payment.

The social services district in which an eligible public DTC is physically located shall be responsible for any payment increases for such public DTC for all DTC services provided regardless of whether another social services district or the Department of Health may otherwise be responsible for furnishing medical assistance to the eligible persons receiving such services.

Any payment increases for DTC services shall be effective for purposes of determining payments for public DTCs contingent on receipt of all approvals required by federal law or regulations for federal financial participation. If federal approvals are not granted for payment increases for DTC services, payments to eligible public DTCs shall be determined without consideration of such amounts or such components. In the event of federal disapproval, public DTCs shall refund to the State, or the State may recoup from prospective payments, any payment received, including those based on a retroactive reduction in the payments. Any reduction related to federal upper payment limits shall be deemed to apply first to amounts provided pursuant to these provisions.

Reimbursement by the State for payments made for services provided by public DTCs shall be limited to the amount of federal funds properly received or to be received on account of such expenditures. Further, payments shall be excluded from all calculations determining the amount the Department of Health is obligated to reimburse social services districts for medical assistance for needy persons and the administration thereof.

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.

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:

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New York, New York 10018
Queens County, Queens Center

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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

The public is invited to review and comment on this proposed State Plan Amendment.

For further information and to review and comment, please contact: Department of Health, Bureau of HCRA Operations & Financial Analysis, 99 Washington Ave. - One Commerce Plaza, Suite 810, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), or e-mail: spa_inquiries@health.state.ny.us

PUBLIC NOTICE

Department of State
F-2012-0798

Date of Issuance - January 30, 2013

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2012-0798, Mr. Lon Flick is proposing to install an approximately 150 linear foot rock revetment along the shores of Lake Ontario at his property located at 1587 Lake Rd in the Town of Porter, Niagara County. The revetment is proposed to be constructed of two courses of five ton stones placed in a trench at the toe of the existing slope with five courses of three ton stones laid on the existing ground and continuing up the slope for approximately twelve feet.

The stated purpose of the proposed project is "To prevent further erosion of beach and bank and to protect residence from possible future damage due to erosion of the shoreline."

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, February 14, 2013.

Comments should be addressed to the New York State Department of State, Division of Coastal Resources, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231. Telephone (518) 474-6000; Fax (518) 473-2464.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2012-1071 (DA)

Date of Issuance - January 30, 2013

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The U.S. Army Corps of Engineers, New England District (Corps) has determined that the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the New York State Coastal Management Program. The applicant's consistency determination and accompanying supporting information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, Suite 1010, 99 Washington Avenue in Albany, New York.

The Corps has described the proposal as follows:

The proposed project involves the maintenance dredging of the Congressionally-authorized Federal Navigation Project (FNP) in New Haven Harbor, New Haven, CT. The authorized project provides for a navigation channel 35 feet deep below MLLW from Long Island Sound to the confluence at the Quinnipiac River. In addition to the channel, there are several anchorages and a turning basin in the northern portion of the project. Shoaling in the channel and turning basin has occurred since the area was last dredged in 2003-2004, to the extent that commercial navigation safety and efficiency has been compromised. Only the main channel north of the breakwaters and the 35 ft turning basin will be dredged during this phase of the project. Approximately 810,000 cubic yards of predominantly clayey silt material (based on volumes from a 2012 conditions survey) will be dredged from these two areas. A mechanical dredge using various types of clamshell buckets would remove material from the shoaled portions of New Haven Harbor channel, and place it into scows. The scows would then be towed to the Central Long Island Sound Disposal Site (CLIS) for disposal.

The CLIS is located at 41°-08'-57" north latitude and 72°-52'-51" west longitude, about six miles south of New Haven. The material would be placed at a point in the CLIS at designated coordinates. A berm-shaped feature would be created by disposing at the coordinates or between two buoys... Dredging and disposal operations are anticipated to take four to eight months to complete during the period from October 1 through May 31 of the year funding becomes available. The portions of the channel north of the midpoint of Sandy Point would be dredged in the months of October 1 through January 31, while the portions of the channel to the south would be dredged in the months of October 1 through May 31.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or by Friday, March 1, 2013.

Comments should be addressed to the New York State Department of State, Division of Coastal Resources, attn: Consistency Review Unit, One Commerce Plaza, 99 Washington Avenue, Suite, 1010, Albany, New York 12231. Telephone (518) 474-6000; Fax (518) 473-2464. Electronic submissions can be made at: CR@dos.ny.gov.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

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 Tollisen, Codes Division, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2012-0538 Matter of Arthur R. Kaplan, Project Manager, M + W US, Inc. 125 Monroe St. Watervliet, NY 12189 for a variance concerning fire safety issues including the fireproofing of roof trusses and the reuse of ventilation air in the building.

Involved is the construction of a 356,000 cumulative gross square foot addition to an existing building resulting in a cumulative gross square footage of 1.14 million square feet. The building is commonly known as the Global Foundries Fab 8.1 fabrication facility. The build-

Appendix V
2013 Title XIX State Plan
First Quarter Amendment
Non-Institutional Services
Responses to Standard Funding Questions

**NON-INSTITUTIONAL SERVICES
State Plan Amendment #13-16**

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-B 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: Providers do retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular A-87 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

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 the periods February 1, 2013 through March 31, 2013, and April 1, 2013 through March 31, 2014, supplemental payments authorized in this Attachment will be paid to providers of services in an amount totaling \$18 million for each respective period. These payments will be made to the non-state government owned or operated provider category.

The non-federal share of these payments will be funded via an IGT payment from local governments. This transfer of funds must take place prior to the State making the payment to the eligible providers. Each applicable local government has general taxing authority. Please refer to the attachment which provides a list of the entities transferring the funds; their operational nature; and the total amounts to be transferred for this purpose.

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: For the periods February 1, 2013 through March 31, 2013, and April 1, 2013 through March 31, 2014, supplemental payments for each respective period of \$12.6 million as authorized in this SPA will be paid to eligible providers of the New York City Health and Hospital Corporation. In addition, for each respective period, \$5.4 million as authorized in this SPA will be paid to eligible county government operated Diagnostic and Treatment Centers and licensed clinics providing mental hygiene services.

- 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: Based on guidance from CMS, the State and CMS staff will engage in discussions to develop a strategic plan to complete the UPL demonstration for 2012.

- 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: The rate methodologies included in the State Plan for outpatient hospital services are either cost-based subject to ceilings or based upon the Ambulatory Patient Group (APG) system. We are unaware of any requirement under current federal law or regulation that limits individual providers' payments to their actual costs.

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: This SPA 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 will be forwarded to CMS. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.