

NEW YORK
state department of
HEALTH

Howard A. Zucker, M.D., J.D.
Acting Commissioner of Health

Sue Kelly
Executive Deputy Commissioner

June 23, 2014

Mr. Michael Melendez
Associate Regional Administrator
Department of Health & Human Services
Centers for Medicare & Medicaid Services
New York Regional Office
Division of Medicaid and Children's Health Operations
26 Federal Plaza - Room 37-100 North
New York, New York 10278

RE: SPA #14-23
Non-Institutional Services

Dear Mr. Melendez:

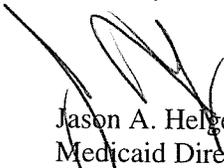
The State requests approval of the enclosed amendment #14-23 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective May 30, 2014 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

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 enacted 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 May 28, 2014, 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 Amendment 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. Helgeson
Medicaid Director
Office of Health Insurance Programs

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:
14-23

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
May 30, 2014

5. TYPE OF PLAN MATERIAL (*Check One*):

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION:
Section 1902(a) of the Social Security Act

7. FEDERAL BUDGET IMPACT:
a. FFY 05/30/14-09/30/14 \$ 1.5 million
b. FFY 10/01/14-09/30/15 \$ 1.5 million

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19-B: Page 6.1

9. PAGE NUMBER OF THE SUPERSEDED PLAN
SECTION OR ATTACHMENT (*If Applicable*):

Attachment 4.19-B: Page 6.1

10. SUBJECT OF AMENDMENT:

Emergency Medical Transportation Services Supplemental Payments (FMAP = 50%)

11. GOVERNOR'S REVIEW (*Check One*):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME: **Jason A. Helgerson**

14. TITLE: **Medicaid Director
Department of Health**

15. DATE SUBMITTED: **June 23, 2014**

16. RETURN TO:

**New York State Department of Health
Bureau of Federal Relations & Provider Assessments
99 Washington Ave – One Commerce Plaza
Suite 1430
Albany, NY 12210**

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
2014 Title XIX State Plan
Second Quarter Amendment
Amended SPA Pages

Appendix II
2014 Title XIX State Plan
Second Quarter Amendment
Summary

SUMMARY
SPA #14-23

This State Plan Amendment proposes to supplement Medicaid fee-for-service payments made to emergency medical transportation services providers, for the period May 30, 2014 through March 31, 2015.

Appendix III
2014 Title XIX State Plan
Second Quarter Amendment
Authorizing Provisions

CHAPTER 60 OF THE LAWS OF 2014

§ 8. The opening paragraph of subdivision 1 and subdivision 3 of section 367-s of the social services law, as amended by section 38 of part C of chapter 58 of the laws of 2008, are amended to read as follows:

Notwithstanding any provision of law to the contrary, a supplemental medical assistance payment shall be made on an annual basis to providers of emergency medical transportation services in an aggregate amount not to exceed four million dollars for two thousand six, six million dollars for two thousand seven [~~and~~], six million dollars for two thousand eight, and six million dollars for the period May first, two thousand fourteen through March thirty-first, two thousand fifteen pursuant to the following methodology:

3. If all necessary approvals under federal law and regulation are not obtained to receive federal financial participation in the payments authorized by this section, payments under this section shall be made in an aggregate amount not to exceed two million dollars for two thousand six, three million dollars for two thousand seven [~~and~~], three million dollars for two thousand eight and three million dollars for the period May first, two thousand fourteen through March thirty-first, two thousand fifteen. In such case, the multiplier set forth in paragraph (b) of subdivision one of this section shall be deemed to be two million dollars or three million dollars as applicable to the annual period.

Appendix IV
2014 Title XIX State Plan
Second 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

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.

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

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 for Medicaid transportation services:

Effective on or after May 1, 2014, a supplemental medical assistance payment shall be made on an annual basis to providers of emergency medical transportation services in an aggregate amount not to exceed \$6,000,000 for the period May 1, 2014 through March 31, 2015.

For each ambulance provider that receives medical assistance payments, the Department shall determine the ratio of such provider's State-processed reimbursements to the total of such reimbursements made during each quarter of the calendar year, expressed as a percentage. The Department shall multiply the percentage of medical assistance reimbursements made to each ambulance provider by the aggregate amount. The result of such calculation shall represent the "emergency medical transportation service supplemental payment."

The amount to be disbursed to providers whose area of operation is within the City of New York will be twenty-five percent of the applicable aggregate amount, with the remaining seventy-five percent to be disbursed to all other ambulance providers.

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:

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 1430, Albany, NY 12210, (518) 474-1673, (518) 473-8825 (FAX), e-mail: spa_inquiries@health.state.ny.us

PUBLIC NOTICE

Office for People with Developmental Disabilities and
Department of Health

Pursuant to 42 CFR Sections 441.304(e), the New York State Office for People with Developmental Disabilities (OPWDD) and the New York State Department of Health give notice of proposed changes to the methods and standards for setting Medicaid payment rates for Pathway to Employment Services.

These changes will be effective July 1, 2014.

Pathway to Employment is a new service and the methodology will be new. The proposed methodology will be an hourly fee. The fees will be as follows:

	Individual Fee	Group Fee
Region I- NYC	\$43.04	\$37.68
Region II-Putnam, Rockland, Westchester, Suffolk and Nassau Counties	\$41.92	\$35.64
Region III- Rest of State	\$39.70	\$33.74

The reasons for these proposed changes are to promote equity in service delivery, to adequately fund the services and to satisfy commitments included in OPWDD's transformation agreement with the federal Centers for Medicare and Medicaid Services.

The State estimates that there will be no increase or decrease in annual aggregate expenditures as a result of these changes. A new service would normally result in an increase in aggregate Medicaid

Appendix V
2014 Title XIX State Plan
Second Quarter Amendment
Responses to Standard Access Questions

**APPENDIX V
NON-INSTITUTIONAL SERVICES
State Plan Amendment #14-23**

CMS Standard Access Questions & Assurances

The following questions have been asked by CMS and are answered by the State in relation to all payments made to all providers under Attachment 4.19-B of the state plan.

1. **Specifically, how did the State determine that the Medicaid provider payments that will result from the change in this amendment are sufficient to comply with the requirements of 1902(a)(30)?**

Response: The State is authorized to make supplemental medical assistance payments to providers of emergency medical transportation services. The authority was provided by Article VII language, Chapter 60 of the Laws of 2014, amending Section 365-h of the Social Service Law.

A supplemental medical assistance payment shall be made on an annual basis to providers of emergency medical transportation services in an aggregate amount not to exceed six million dollars for the period May 30, 2014 through March 31, 2015 pursuant to the following methodology:

(a) For each emergency medical transportation services provider that receives medical assistance reimbursement processed through the state Medicaid payment system, the department of health shall determine the ratio of such provider's state-processed reimbursement to the total such reimbursement made during each quarter of the applicable calendar year, expressed as a percentage;

(b) For each such provider, the department of health shall multiply the percentage obtained pursuant to paragraph (a) of this subdivision by one-quarter of the applicable aggregate amount specified in the opening paragraph of this subdivision. The result of such calculation shall represent the "emergency medical transportation service supplemental payment" and shall be paid expeditiously to such provider on a quarterly basis.

(c) The amount disbursed to emergency medical transportation services providers whose area of operation is within the city of New York will be twenty-five percent of the applicable aggregate amount, with the remaining seventy-five percent to be disbursed to all other emergency medical transportation services providers.

If all necessary approvals under federal law and regulation are not obtained to receive federal financial participation in the payments authorized by this

section, payments under this section shall be made in an aggregate amount not to exceed three million dollars for the period May 30, 2014 through March 31, 2015. In such case, the multiplier set forth in paragraph (b) of subdivision one of this section shall be deemed to be three million dollars as applicable to the annual period.

- 2. How does the State intend to monitor the impact of the new rates and implement a remedy should rates be insufficient to guarantee required access levels?**

Response: There is no rate change as part of this amendment therefore we expect that there will be no impact in access as a result of this amendment.

- 3. How were providers, advocates and beneficiaries engaged in the discussion around rate modifications? What were their concerns and how did the State address these concerns?**

Response: Although this is not a rate modification, this amendment was enacted by the State Legislature as part of the negotiation of the 2014-15 Budget. The impact of this change was weighed in the context of the overall Budget in the State. The legislative process provides opportunities for all stakeholders to lobby their concerns, objections, or support for various legislative initiatives.

- 4. What action(s) does the State plan to implement after the rate change takes place to counter any decrease to access if the rate decrease is found to prevent sufficient access to care?**

Response: This amendment is not for a rate change, it is a supplemental Medicaid payment to emergency medical transportation providers. Therefore the amendment should not impact access to emergency medical transportation services.

- 5. Is the State modifying anything else in the State Plan which will counterbalance any impact on access that may be caused by the decrease in rates (e.g. increasing scope of services that other provider types may provide or providing care in other settings)?**

Response: This amendment is not for a rate change, therefore it should not impact access to emergency medical transportation services. No other modifications to “counterbalance” the impact of this change are needed at this time.

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: The process that New York State uses is detailed in SPA #11-06, which was approved by CMS on 8/4/11. The tribal leaders were sent information regarding the SPA via postal mail, and the health clinic administrators were emailed the same information. Copies of tribal consultation are enclosed.