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State/Territory Name: California

State Plan Amendment (SPA) #: 19-004

This file contains the following documents in the order listed:

Department of Health & Human Services
Centers for Medicare & Medicaid Services
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6706

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Regional Operations Group

June 25, 2019

Mari Cantwell
Chief Deputy Director, Health Care Programs
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

Dear Ms. Cantwell:

Enclosed is an approved copy of California State Plan Amendment (SPA) 19-0004, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on March 28, 2019. This amendment makes changes to the reimbursement methodology of the §1915(i) State Plan Home and Community-Based Services (HCBS) benefit to implement a one-year rate increase for Community-Based Day programs, Community Care Facilities under the Alternative Residential Model, and In-Home Respite agency providers in high cost counties.

This SPA has an effective date of May 01, 2019. Enclosed are the following approved SPA pages that should be incorporated into your approved state plan:

- Attachment 4.19-B, pages 72, 73, 73a, 75, and 75a

If you have any questions, please contact Cheryl Young at 415-744-3598 or via email at Cheryl.Young@cms.hhs.gov or Adrienne Hall at 415-744-3674 or Adrienne.Hall@cms.hhs.gov.

Sincerely,

[redacted]

Richard C. Allen
Director
Centers for Medicaid and CHIP Services
Regional Operations Group

cc: Richard Kimball, CMCS
Angeli Lee, DHCS
Evelyn Schaeffer, DHCS
Joseph Billingsley, DHCS
Jalal Haddad, DHCS

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 19 — 0 0 04

2. STATE: California

3. PROGRAM IDENTIFICATION: Title XIX of the Social Security Act (Medicaid)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE: May 1, 2019

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: 1915i of the Social Security Act

7. FEDERAL BUDGET IMPACT
a. FFY 2018-19 $ 1,585,833
b. FFY 2019-20 $ 2,220,167

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19B pages 72, 73, 73a, 75, 75a

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: Attachment 4.19B pages 72, 73, 73a, 75

10. SUBJECT OF AMENDMENT: One-time rate increases for certain services

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

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

12. SIGNATURE OF STATE AGENCY OFFICIAL
[redacted]

13. TYPED NAME: Mari Cantwell

14. TITLE: State Medicaid Director

15. DATE SUBMITTED: March 28, 2019

16. RETURN TO
Department of Health Care Services
Attn: Director's Office
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: March 28, 2019

18. DATE APPROVED: June 25, 2019

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: May 01, 2019

20. SIGNATURE
[redacted]

21. TYPED NAME: Richard C. Allen

22. TITLE: Director, Western Regional Operations Group

23. REMARKS

For Box 11 "Other, As Specified," Please note: The Governor's Office does not wish to review the State Plan Amendment.

the delivery of covered services, such as supervision, materials and supplies, professional and contracted services, capital outlay, and travel. For providers/facilities that are used for multiple purposes, the allowable costs are only those that are directly attributable to the provision of the medical services.

- Indirect costs: Determined by applying the cognizant agency specific approved indirect cost rate to its net direct costs or derived from provider's approved cost allocation plan. If a facility does not have a cognizant agency approved indirect cost rate or approved cost allocation plan, the costs and related basis used to determine the allocated indirect costs must be in accordance with OMB Circular A-87 (if applicable), Medicare Cost Principle (42 CFR 413 and Medicare Provider Reimbursement Manual Part 1 and Part 2) and in compliance with Medicaid non-institutional reimbursement policy. For facilities that are used for multiple purposes, the allowable costs are only those that are "directly attributable" to the professional component of providing the medical services. For those costs incurred that "benefit" multiple purposes but would be incurred at the same level if the medical services did not occur are not allowed.

Rates may be updated by the legislature in various ways, including, but not limited to, the California Consumer Price Index, changes in staffing requirements (e.g. implementation of Direct Support Professional Training,) changes in minimum wage, and cost of living increases. Effective July 1, 2016, rates set through the ARM Methodology were increased for the purpose of enhancing wages and benefits for provider staff who spend 75 percent of their time providing direct services for consumers as well as administrative expenses for service providers. The rate schedule, effective July 1, 2016 can be found at the following link: http://www.dds.ca.gov/Rates/docs/CCF_rate_July2016.pdf

Pursuant to Section 4681.5(b) of the Welfare and Institutions Code, effective July 1, 2016, the Department of Developmental Services established a rate schedule for residential community care facilities vendored to provide services to a maximum of four persons with developmental disabilities. The 4-bed or less rate schedule can be found at the following link: http://www.dds.ca.gov/Rates/docs/CCF_rate_July2016.pdf.

Effective May 1, 2019 – April 30, 2020, the rates for Licensed/Certified Residential Services were increased by 2.1 % for providers located in counties in which the average weekly wage is $900 or higher per the US Bureau of Labor Statistics data for the 4th quarter of 2017. These counties can be found here: https://www.bls.gov/regions/west/news-release/countyemploymentandwages_california.htm.
Upon approval, these rates are available at the following link: https://www.dds.ca.gov/Rates/ReimbRates.cfm.
At the end of this period, the rates will revert to those in effect for providers elsewhere in the state.

The State will review rates for residential facilities set using the ARM methodology every three years to ensure that it complies with the statutory and regulatory requirements as specified under Section 1902(a)(30)(A). This will involve an analysis of the factors that have occurred since the ARM rates were initially developed, including changes in minimum wage and the general economy as measured through various indices such as Medicare Economic Index (MEI). The analysis will determine if the rates are consistent with the current economic conditions in the State while maintaining access to services. If this analysis reveals that the current rates may be excessive or insufficient when compared to the current economic conditions, the State will take steps to determine the appropriate reimbursement levels and update the fee schedule and State Plan. If the State determines that no rebasing is necessary, the State must submit documentation to CMS to support its decision.

2) Out-of-State Rate Methodology - This methodology is applicable for out-of-state residential providers. The rate paid is the established usual and customary rate for that service, paid by that State in the provision of that service to their own service population.

3) Median Rate Methodology - As described on pages 70-71, above. This methodology is used to determine the applicable monthly rate for Licensed/Certified Residential Services providers.

4) Enhanced Behavior Supports Homes Rate Methodology - There are two components to the monthly rate for Enhanced Behavioral Supports Homes: 1) the facility component, and 2) the individualized services and supports component. The allowable costs used to calculate the facility component include payroll costs of facility staff and facility related costs such as lease, facility maintenance, repairs, cable/internet, etc. The allowable costs used to calculate the individualized services and supports component include the salaries, wages, payroll taxes, and benefits of individuals providing individualized services and supports and other consumer specific program costs. As part of the certification process for Enhanced Behavioral Support Homes (EBSHs), the Department reviews the proposed facility component rate and supporting documentation for each EBSH to determine if the included costs are reasonable and economical. These rates must be approved by the Department prior to the delivery of service at each EBSH.

B. Supported Living Services provided in a Consumer's own Home (Non-Licensed/Certified) Supported Living Services providers are in this subcategory. Maximum hourly rates for these providers are determined using the median rate methodology, as described on pages 70-71 above.

State Plan Under Title XIX of the Social Security Act

STATE/TERRITORY: CALIFORNIA

REIMBURSEMENT METHODOLOGY FOR HABILITATION – DAY SERVICES

This service is comprised of the following three subcomponents:

A. Community-Based Day Services – There are two rate setting methodologies for providers in this subcategory.

1) Rates Set pursuant to a Cost Statement Methodology – As described on page 69, above. This methodology is applicable to the following providers (unit of service in parentheses): Activity Center (daily), Adult Development Center (daily), Behavior Management Program (daily), Independent Living Program (hourly), and Social Recreation Program (hourly). Effective May 1, 2019 – April 30, 2020, the rates for Community-Based Day Services were increased by 2.1% for providers located in counties in which the average weekly wage is $900 or higher per the US Bureau of Labor Statistics data for the 4th quarter of 2017. These counties can be found here: https://www.bls.gov/regions/west/news-release/countyemploymentandwages_california.htm.
Upon approval, these rates are available at the following link: https://www.dds.ca.gov/Rates/docs/Comm_Based_Respite.pdf
At the end of this period, the rates will revert to those in effect for providers elsewhere in the state.

2) Median Rate Methodology – As described on pages 70-71, above. This methodology is used to determine the applicable daily rate for Creative Art Program, Community Integration Training Program and Community Activities Support Services providers. This methodology is also used to determine the applicable hourly rate for Adaptive Skills Trainer, Socialization Training Program, Personal Assistance and Independent Living Specialist providers.

B. Therapeutic/Activity-Based Day Services – The providers in this subcategory are Specialized Recreation Therapy, Special Olympics, Sports Club, Art Therapist, Dance Therapist, Music Therapist and Recreational Therapist. The units of service for all providers are daily, with the exception of Sports Club providers, who have a monthly rate. There are two rate setting methodologies for providers in this subcategory.

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3) DHCS Fee Schedules - As described on page 70, above. The fee schedule rates for Non-Facility-Based Behavior Intervention Services were set as of July 15, 2016 and are effective for services provided on or after that date. All rates are published at: http://files.medical.ca.gov/pubsdoco/Rates/rates_download.asp

B. Crisis Intervention Facility – The following three methodologies apply to determine the daily rates for these providers:

1) **Usual and Customary Rate Methodology -** As described on page 70, above**.** If the provider, who is not a Community Crisis Home provider, does not have a usual and customary rate, then rates are set using #2 below.

2) **Median Rate Methodology** - As described on pages 70-71, above.

3) **Community Crisis Homes Rate Methodology -** There are three components to the monthly rate for Community Crisis Homes:

   a. the facility component: the allowable costs used to calculate the facility component include payroll costs of facility staff and facility related costs such as lease, facility maintenance, repairs, cable/internet, etc.
   b. the individualized services and supports component: the allowable costs used to calculate the individualized services and supports component include the salaries, wages, payroll taxes, and benefits of individuals providing individualized services and supports and other consumer specific program costs. and
   c. the transition plan component: the allowable costs used to calculate the transition component includes the salaries, wages, payroll taxes and benefits of direct care staff providing additional services and supports needed to support a consumer during times of transition out of the CCH.

As part of the certification process for CCHs, the Department reviews the proposed facility component rate and supporting documentation for each CCH to determine if the included costs are reasonable and economical. These rates must be approved by the Department prior to the delivery of service at each CCH. Note: This is not the rate that is claimed for FFP. All claims for CCHs are validated in the waiver billing system to ensure the cost of room and board is excluded from the claim prior to claiming FFP. In California, the cost of room and board is less than or equivalent to the Supplemental Security Income/State Supplement Payment (SSI/SSP) amount. Rates for providers of CCHs include the amount for room and board and an additional amount for the provision of support services. Prior to claiming FFP, the amount of the claim is compared to the provider's rate to ensure that only the amount in excess of the SSI/SSP amount is claimed for FFP. For example, if a provider's rate is
$2,000/month, and the SSI/SSP amount equals $960, the Waiver billing system will not process claims that are more than $1,040 ($2,000 - $960 = $1,040).

State Plan Under Title XIX of the Social Security Act

STATE/TERRITORY: CALIFORNIA

REIMBURSEMENT METHODOLOGY FOR RESPITE CARE

There are five rate setting methodologies for Respite Services. The applicable methodology is based on whether the service is provided by an agency, individual provider or facility, type of facility, and service design.

1) Rates Set pursuant to a Cost Statement Methodology – As described on page 69, above. This methodology is used to determine the hourly rate for In-home Respite Agencies. Effective May 1, 2019 – April 30, 2020, the rates for In-Home Respite Agencies were increased by 2.1% for providers located in counties in which the average weekly wage is $900 or higher per the US Bureau of Labor Statistics data for the 4th quarter of 2017. These counties can be found in the following link: https://www.bls.gov/regions/west/news-release/countyemploymentandwages_california.htm. Upon approval, these rates are available at the following link:
http://www.dds.ca.gov/Rates/docs/Comm_Based_Respite.pdf
At the end of this period, the rates will revert to those in effect for providers elsewhere in the state.

2) Rates set in State Regulation – This rate applies to individual respite providers. Per Title 17 CCR, Section 57332(c)(3), the rate for this service is $15.23 per hour. This rate is based on the current California minimum wage of $10.00 per hour, effective January 1, 2016, plus $1.17 differential (retention incentive), plus mandated employer costs of 17.28%; a 5% rate increase for respite services per Assembly Bill (AB) X2-1, effective July 1, 2016; and an 11.25% rate increase for enhancing wages and benefits for staff who spend 75% of their time providing direct services to consumers per AB X2-1, effective July 1, 2016.

3) ARM Methodology - As described on pages 71-73 above. This methodology is applicable to respite facilities that also have rates established with this methodology for "Habilitation-Community Living Assistance Services." The daily respite rate is 1/21 of the established monthly ARM rate. This includes Foster Family Agency/Certified Family Home, Foster Family Home, Small Family Home, Group Home, Adult Residential Facility, Residential Care Facility for the Elderly, Adult Residential Facility for Persons with Special Health Care Needs and Family Home Agency. If the facility does not have rate for "Habilitation-Community Living Assistance Services" using the ARM methodology, then rates are set using #5 below.