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State/Territory Name: **NEW YORK**

State Plan Amendment (SPA) #: **05-26**

This file contains the following documents in the order listed:

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



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare &
Medicaid Services

Refer to DMCH: SJ

Region II
Federal Building
26 Federal Plaza
New York, N.Y. 10278

MAR 18 2010

Donna Frescatore
Deputy Commissioner
New York State Department of Health
Corning Tower, Empire State Plaza
Albany, New York 12237

Dear Commissioner Frescatore:

This is to notify you that New York State Plan Amendment (SPA) #05-26 has been approved for adoption into the State Medicaid Plan with effective dates of April 1, 2005 and December 1, 2008. The SPA provides for hospital outpatient payment adjustments that increase the operating cost components of the rates of payment for hospital outpatient and emergency department services for public general hospitals, other than those operated by the State of New York or the State University of New York, that are located in a city with a population of over one million people. The SPA provides funding in the amount of \$222.781 million, total, for State fiscal year 2005-2006 (which covers the time period April 1, 2005 through March 31, 2006).

As part of the upper payment limit (UPL) calculation, CMS has accepted the inclusion of the Lombardi tax on an interim basis. Depending on the State's response to our March 9, 2010 inquiry, CMS may require changes to the structure of the tax and/or its treatment for purposes of calculating the UPL.

This SPA approval consists of 5 Pages. As New York has requested, we are approving the Attachment 4.19B-Page 2(c)(v) and Page 2(c)(vi) which were submitted with the State's March 17, 2010 electronic transmission of SPA 05-26 materials to CMS. These new Pages replaced the Attachment 4.19-B-Page 2(c)(v) and Page 2(c)(vi) that were sent in the State's original June 30, 2005 SPA submission. We are also approving the Attachment 3.1-A-Supplement-Page 5, and Attachment 3.1B-Supplement-Page 5, which were provided with the State's March 17, 2010 transmission; these Pages were not a part of the original SPA submission. All these Pages have been approved with an effective date of April 1, 2005. Finally, we are approving Attachment 4.19B-Page 1(p), which was part of the State's March 17, 2010 transmission as well; Page 1(p) has been approved with a December 1, 2008 effective date.

This amendment satisfies all of the statutory requirements at sections 1902(a)(13) and (a)(30) of the Social Security Act, and the implementing regulations at 42 CFR 447.250 and 447.272. Enclosed are copies of SPA #05-26 and the HCFA-179 form, as approved. If you have any questions or wish to discuss this SPA further, please contact Ricardo Holligan or Shing Jew of this office. Mr. Holligan may be reached at (212) 616-2424, and Mr. Jew's telephone number is (212) 616-2426.

Sincerely,

Michael J. Melendez
Acting Associate Regional Administrator
Division of Medicaid and Children's Health

Enclosure: SPA #05-26
HCFA-179 Form

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 05-26	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 April 1, 2005/December 1, 2008* *relates to page 1(p)	
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: §1902(a)(30) of the Social Security Act 42 CFR 447.204		7. FEDERAL BUDGET IMPACT: a. FFY 4/1/05-9/30/05 \$ 55,695,250 b. FFY 10/1/05-9/30/08 \$ 55,695,250	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B, Pages 1(p), 2(c)(v) and 2(c)(vi) Attachment 3.1-A Supplement Page: 5 Attachment 3.1-B Supplement Page: 5 ** SEE REMARKS		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B, Pages 2(c)(v) and 2(c)(vi) Attachment 3.1-A Supplement Page: 5 Attachment 3.1-B Supplement Page: 5	
10. SUBJECT OF AMENDMENT: Outpatient UPL Payments—Non-state Owned or Operated Government General Hospitals			
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:	
13. TYPED NAME: Donna Frescatore		New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237	
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health			
15. DATE SUBMITTED: March 11, 2010 (originally submitted June 30, 2005)			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: MAR 18 2010	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: DEC 01 2008 APR 01 2005		SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Michael Melendez		22. TITLE: Acting Associate Regional Administrator Division of Medicaid and State Operations	
23. REMARKS: Approval pages are as follows: 1) Attachment 4.19B, Page 1(p) – Effective date of 12/01/2008 2) Attachment 4.19B, Page 2(c)(v) & Page 2(c)(vi) – Effective date of 04/01/2005 3) Attachment 3.1A, Supplement Page 5 - Effective date of 04/01/2005 4) Attachment 3.1B, Supplement Page 5 - Effective date of 04/01/2005			

OFFICIAL

New York
1(p)

Attachment 4.19-B
(01/09)

406 LEVEL I CLOTTING TESTS
407 LEVEL II CLOTTING TESTS
408 LEVEL I HEMATOLOGY TESTS
409 LEVEL II HEMATOLOGY TESTS
410 URINALYSIS
411 BLOOD AND URINE DIPSTICK TESTS
413 CARDIOGRAM
414 LEVEL I IMMUNIZATION AND ALLERGY IMMUNOTHERAPY
415 LEVEL II IMMUNIZATION
416 LEVEL III IMMUNIZATION
435 CLASS I PHARMACOTHERAPY
436 CLASS II PHARMACOTHERAPY
437 CLASS III PHARMACOTHERAPY
438 CLASS IV PHARMACOTHERAPY
439 CLASS V PHARMACOTHERAPY
451 SMOKING CESSATION TREATMENT
455 IMPLANTED TISSUE OF ANY TYPE
457 VENIPUNCTURE
470 OBSTETRICAL
471 PLAIN FILM
472 ULTRASOUND GUIDANCE
473 CT GUIDANCE

System updating

The following elements of the APG reimbursement system shall be updated no less frequently than annually:

- the listing of reimbursable APGs and the relative weight assigned to each APG;
- the base rates;
- the applicable ICD-9-CM codes utilized in the APG software system;
- the applicable CPT-4/HCPCS codes utilized in the APG software system; and
- the APG software system.

TN #05-26

Approval Date MAR 18 2010

Supersedes TN New

Effective Date DEC 01 2008

OFFICIAL

**New York
2(c)(v)**

**Attachment 4.19-B
(04/05)**

Hospital Outpatient Payment Adjustment

Effective for the period January 1, 2002 through March 31, 2002, and state fiscal years beginning April 1, 2002 [and ending March 31, 2005], for services provided on or after January 1, 2002, the Department of Health will increase the operating cost component of rates of payment for hospital outpatient and emergency room services for government general hospitals other than those operated by the State of New York or the State University of New York, which experienced free patient visits in excess of 20 percent of their total self-pay and free patient visits based on data reported on Exhibit 33 of their 1999 Institutional Cost Report and which experienced uninsured outpatient losses in excess of 75% of their total inpatient and outpatient uninsured losses based on data reported on Exhibit 47 of their 1999 Institutional Cost Report, and are located in a city with a population of over one million. The amount to be paid will be up to thirty seven million dollars for the period beginning January 1, 2002 [through] and ending March 31, 2002 and [up to] one hundred fifty-one million dollars annually for state fiscal years beginning April 1, 2002 and ending March 31, 2005. For state fiscal year beginning April 1, 2005 and ending March 31, 2006, the amount to be paid will be \$222,781,000. Medical assistance payments will be made for outpatient services for patients eligible for federal financial participation under Title XIX of the Federal Social Security Act based on each such hospital's proportionate share of the sum of all outpatient visits for all facilities eligible for an adjustment for the base year two years prior to the rate year. Such proportionate share payment may be added to rates of payment or made as aggregate payments to eligible government general hospitals.

TN #05-26

Approval Date MAR 18 2010

Supersedes TN #03-31

Effective Date APR 01 2005

OFFICIAL

New York
2(c)(vi)

Attachment 4.19-B
(04/05)

Hospital Outpatient Payment Adjustment

Effective for the period January 1, 2002 through March 31, 2002, and state fiscal years beginning April 1, 2002 [and ending March 31, 2005], for services provided on or after January 1, 2002, the Department of Health will increase the operating cost component of rates of payment for hospital outpatient and emergency room services for government general hospitals other than those operated by the State of New York or the State University of New York, which experienced free patient visits in excess of 20 percent of their total self-pay and free patient visits based on data reported on Exhibit 33 of their 1999 Institutional Cost Report and which experienced uninsured outpatient losses in excess of 75% of their total inpatient and outpatient uninsured losses based on data reported on Exhibit 47 of their 1999 Institutional Cost Report, and are located in a city with a population of over one million. The amount to be paid will be up to thirty four million dollars for the period beginning January 1, 2002 [through] and ending March 31, 2002 and [up to] one hundred thirty six million dollars annually for state fiscal years beginning April 1, 2002 and ending March 31, 2005. Medical assistance payments will be made for outpatient services for patients eligible for federal financial participation under Title XIX of the Federal Social Security Act based on each such hospital's proportionate share of the sum of all outpatient visits for all facilities eligible for an adjustment for the base year two years prior to the rate year. Such proportionate share payment may be added to rates of payment or made as aggregate payments to eligible government general hospitals.

Effective for the period January 1, 2002 through March 31, 2002, and state fiscal years beginning April 1, 2002 and ending March 31, 2005, for services provided on or after January 1, 2002, the Department of Health will increase the operating cost component of rates of payment for hospital outpatient and emergency room services for government general hospitals operated by a county of the state of New York, which shall not include a city with a population over one million, and including those government hospitals located in the counties of Westchester and Nassau. The amount to be paid will be up to an aggregate of fifteen million dollars for the period January 1, 2002 through March 31, 2002, and up to an aggregate of sixty million dollars annually for state fiscal years beginning April 1, 2002 and ending March 31, 2005. Medical assistance payments for outpatient services will be made for patients eligible for federal financial participation under Title XIX of the Federal Social Security Act. The allocation of aggregate payments among qualifying hospitals shall be based on each such hospital's proportionate share of the sum of all estimated differences in outpatient medical assistance payments and one hundred fifty percent of a reasonable estimate of the amount that would have been paid for such services under Medicare payment principles for the respective periods. Such proportionate share payment may be added to rates of payment or made as aggregate payments to eligible government general hospitals.

TN #05-26

Approval Date MAR 18 2010

Supersedes TN #03-31

Effective Date APR 01 2005

OFFICIAL

**New York
Page 5**

**Attachment 3.1-A
Supplement
(04/05)**

**AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY**

In addition to the limitations specified on pages 1 through 4 regarding services, the following limitations also apply to the noted services:

2a.; 2b.; 2c.; 2d.;

Services will be provided in accordance with the utilization threshold requirements described in departmental regulations, which are based on medical necessity and identified for providers in the MMIS Clinic Provider Manual. Such threshold requirements are applicable to specific provider service types including medical clinics, dental clinics and mental health clinics certified under Article 28 of the Public Health Law and/or Article 31 of the Mental Hygiene Law. The requirements mandate that providers obtain prior authorization based on medical necessity for the provision of services in excess of prescribed utilization thresholds per recipient per benefit year, unless the services provided were urgent or emergent in nature, or otherwise excluded.

3. Services will be provided in accordance with the utilization threshold requirements described in departmental regulations, which are based on medical necessity and identified for providers in the MMIS Laboratory Provider Manual. Such threshold requirements are applicable to specific provider service types including laboratories. The requirements mandate that providers obtain prior authorization based on medical necessity for the provision of services in excess of prescribed utilization thresholds per recipient per benefit year, unless the services provided were urgent or emergent in nature, or otherwise excluded.
5. Services will be provided in accordance with the utilization threshold requirements described in departmental regulations, which are based on medical necessity and identified for providers in the MMIS Physician Provider Manual. Such threshold requirements are applicable to specific provider service types including physicians, for services furnished in the office or patient's home. The requirements mandate that providers obtain prior authorization based on medical necessity for the provision of services in excess of prescribed utilization thresholds per recipient per benefit year, unless the services provided were urgent or emergent in nature, or otherwise excluded.

TN#: #05-26

Approval Date: MAR 18 2010

Supersedes TN#: #93-53

Effective Date: APR 01 2005

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New York
Page 5

**Attachment 3.1-B
Supplement
(04/05)**

**AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY**

In addition to the limitations specified on pages 1 through 4 regarding services,
the following limitations also apply to the noted services:

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TN#: #05-26

Approval Date: MAR 18 2010

Supersedes TN#: #93-53

Effective Date: APR 01 2005