

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, Maryland 21244-1850



**Center for Medicaid and State Operations**

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Deborah Bachrach  
Deputy Commissioner  
New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, New York 12237

JUL 30 2009

RE: TN 09-02

Dear Ms. Bachrach:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 09-02. Effective April 1, 2009 this amendment revises nursing home case mix adjustment calculations.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2) 1902(a)(13), 1902(a)(30), 1903(a), and 1923 of the Social Security Act and the regulations at 42 CFR 447 Subpart C. I am pleased to inform you that New York 09-02 is approved effective April 1, 2009 and have enclosed the HCFA-179 and the approved plan page.

If you have any questions, please contact Tom Brady at 518-396-3810 or Rob Weaver at 410-786-5914.

Sincerely,

A solid black rectangular box used to redact the signature of the sender.

Cindy Mann  
Director  
Center for Medicaid and State Operations (CMSO)

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		1. TRANSMITTAL NUMBER:  <b>09-02</b>	2. STATE  <b>New York</b>
		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE <b>April 1, 2009</b>	
5. TYPE OF PLAN MATERIAL (Check One):  <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: <b>Section 1902(a) of the Social Security Act, and 42 CFR 447 Subpart C</b>		7. FEDERAL BUDGET IMPACT: a. FFY 04/01/09-09/30/09 <del>(\$62.5 million)</del> <b>(\$ 75.25 M)</b> b. FFY 10/01/09-03/31/10 <del>(\$62.5 million)</del> <b>(\$150.50 M)</b>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-D page 50(b)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>Attachment 4.19-D page 50(b)</b>	
10. SUBJECT OF AMENDMENT: <b>Nursing Home Medicaid Case Mix</b>			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
13. TYPED NAME: <b>Deborah Bachrach</b>		16. RETURN TO: <b>New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237</b>	
14. TITLE: <b>Deputy Commissioner Department of Health</b>			
15. DATE SUBMITTED: <b>September 25, 2008</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED: <b>JUL 30 2009</b>	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>APR - 1 2009</b>		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: <b>CINDY MANN</b>		<b>DIRECTOR, CMSO</b>	
23. REMARKS:  <b>PEN AND INK CHANGE - BOX 7 - PER JULY 29, 2009 EMAIL REQUEST FROM THE STATE.</b>			

**New York  
50(b)**

**Attachment 4.19-D  
(04/09)**

- (5) Cost reports submitted by facilities for the 2002 calendar year or any subsequent year used to determine the operating component of the 2009 rate shall be subject to audit through December 31, 2014. Facilities will therefore retain all fiscal and statistical records relevant to such costs reports. Any audit of the 2002 cost report, which is commenced on or before December 31, 2014, may be completed subsequent to that date and used for adjusting the Medicaid rates that are based on such costs.
- (e) Additionally, the operating component of the rates effective [January] April 1, 2009 shall
- (1) be subject to a case mix adjustment through application of the relative [r]Resource [u]Utilization [g]Groups [s]System (RUGS-III) used by the federal government for Medicare, [and] revised [by state regulation] to reflect NYS wage and fringe benefits, and based on Medicaid only patient data. New York State wages are used to determine the weight of each RUG. The cost for each RUG is calculated using the relative resources for registered nurses, licensed practical nurses, aides, therapists, and therapy aides using the 1995 – 97 federal time study. The minutes from the study are multiplied by the NY average dollar per hour to determine the fiscal resources needed to care for that patient type for one day. This amount is multiplied by the number of patients in that RUG. RUG weights are assigned based on the distance from the statewide average. The RUGS-III weights shall be increased for the following resident categories:
- (i) 30 minutes for impaired cognition A;
  - (ii) 40 minutes for impaired cognition B; and
  - (iii) 25 minutes for reduced physical functions B.
- Medicaid only [C]case mix adjustments shall be made in January and July of each calendar year. The adjustments and related patient classifications for each facility shall be subject to audit review in accordance with regulations promulgated by the Commissioner of Health, [;] and effective January 1, 2009 shall
- (2) incorporate the continuation, through 2009 and subsequent years, of the adjustment for extended care of persons with traumatic brain injury in accordance with the provisions of this Attachment;
- (3) incorporate the continuation, through 2009 and subsequent years, of the adjustment for the cost of providing Hepatitis B vaccinations in accordance with the provisions of this Attachment;
- (4) reflect a per diem add-on of \$8, trended from 2006 to 2009 and thereafter, for each patient who:

TN #09-02 \_\_\_\_\_

Approval Date JUL 30 2009

Supersedes TN #06-39 \_\_\_\_\_

Effective Date APR - 1 2009