

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, CMSO

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

JUN 19 2009

RE: TN 09-33

Dear Ms. Bachrach:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 09-33. Effective January 1, 2009, this amendment proposes to delay, for a three month period, a previously approved rate increase that results from re-basing nursing home reimbursement costs.

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 09-33 is approved effective January 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,



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

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 09-33	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 April 1, 2009 JAN 1, 2009	
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: Section 1902(a) of the Social Security Act, and 42 CFR 447 Subpart C		7. FEDERAL BUDGET IMPACT: a. FFY 01/1/09-3/31/09 (\$22.0 million) b. FFY	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D, pages 50 & 50(a)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-D, pages 50 & 50(a)	
10. SUBJECT OF AMENDMENT: Nursing Home Rebasing			
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: New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237	
13. TYPED NAME: Deborah Bachrach			
14. TITLE: Deputy Commissioner Department of Health			
15. DATE SUBMITTED: March 31, 2009			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: 6-19-09	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: JAN - 1 2009		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: William Lasowski		22. TITLE: Deputy Director CMSO	
23. REMARKS: Per v id change to block #4			

- (a) The operating cost component of residential health care facilities (RHCF's) rates of payment effective for the January 1, 2007 through December 31, 2007 and January 1, 2008 through December 31, 2008 rate periods, respectively, shall consist of the sum of the Direct, Indirect and Non-Comparable components of the rate
- (1) in effect as of October 1, 2006 and adjusted for inflation to the 2007 rate period;
 - (2) in effect as of December 31, 2006 and adjusted for inflation to the 2008 rate period;
 - (3) the rates shall be further adjusted as follows:
 - i. a per diem add-on reflecting the proportional amount of each facility's projected Medicaid benefit to total Medicaid benefit for all facilities of the imputed rate methodology to be effective [January 1] ~~April 1~~, 2009, including use of the allowable operating costs as reported in each facility's 2002 calendar year cost report, adjusted for inflation to the applicable rate period and reflecting the expiration of the productivity and efficiency limitation and the fiscal and administrative cap adjustments; and
 - ii. for those facilities which do not receive a benefit from the incorporation of 2002 allowable operating costs, rates for 2007 and 2008 shall be adjusted by a per diem add-on reflecting a proportional benefit of the expiration of the productivity and efficiency limitation and the fiscal and administrative cap adjustments.
 - (4) aggregate Medicaid payments for the rate adjustments as stated in (i) and (ii) of paragraph (3) of this section will not exceed \$137.5 million for the 2007 rate period, and \$167.5 million for the 2008 rate period.
- (b) Additionally, the rates effective January 1, 2007 and January 1, 2008 shall
- (1) include any revisions to the 2006 rates occurring on and after January 1, 2007. Such revisions shall be incorporated into the 2007 and 2008 rate periods on an annual basis on or about November 30, 2007 and November 30, 2008, respectively. These rate adjustments shall be made on a retroactive and prospective basis;
 - (2) include the cost of local property taxes and payments made in lieu of local property taxes as reported in each facility's cost report for the period two years prior to the rate period;

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Supersedes TN #06-39

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**New York
50(a)**

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

- (3) not be subject to case mix adjustments; however, a facility may request such adjustment for increased case mix equal to or greater than .05 if such facility submits supporting documentation based on a full house schedule of patient review instruments, and continues to do so in accordance with it's existing submission schedule for rate periods through December 31, 2008.
- (c) Voluntary not-for-profit facilities shall not be required to deposit reimbursement received for depreciation expense into a segregated depreciation account for periods on and after January 1, 2007.
- (d) Effective [January] April 1, 2009, the operating component of rates of payment shall consist of the sum of the Direct, Indirect and Non-Comparable components based on allowable operating costs and statistical data as reported in each facility's cost report for the 2002 calendar year, adjusted for inflation on an annual basis.
- (1) For facilities which do not benefit from the use of 2002 cost report data, the operating component of the rates shall not be less than the operating component in effect for the 2008 rate period, adjusted for inflation on an annual basis.
- (2) For facilities with an operating cost component which is based on allowable costs from a calendar year cost report subsequent to 2002, the rates shall remain on such costs.
- (3) Effective for the period January 1, 2007 through December 31, 2011, appointment of a receiver, establishment of a new operator, or replacement or renovation of an existing facility that occurs on or after January 1, 2007, shall not result in a revised operating component of the rates unless an application for these changes is filed with the Department of Health by December 31, 2006, which is subsequently approved and which otherwise meets existing Department criteria for the establishment of a new base year for rate-setting purposes.

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