



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

September 29, 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) #09-13 has been approved for adoption into the State Medicaid Plan with an effective date of April 1, 2009. The SPA continues applicable trend factors to rates of payments to a residential health care facility or a clinic, for adult day health care services provided to patients diagnosed with AIDS for periods on and after April 1, 2009. In addition, the SPA revises the methodology for calculating the operating cost component of rates provided for adult day health care services to be based upon actual reported costs if a provider has achieved an average occupancy of 90% or greater for a calendar year.

This SPA approval consists of 3 Pages. We are approving the following Pages which were submitted with the State's August 12, 2010 electronic submission to the CMS SPA Mailbox: Attachment 4.19-B-Pages 2(a), 7(b)(ii), and 7(b)(ii)(A). At that time, New York requested that these 3 Pages replace the Pages which were provided with its SPA submission of June 24, 2009. 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 the SPA #09-13 and the HCFA-179, as approved.

If you have any questions or wish to discuss this SPA further, please contact Michael Melendez or Shing Jew of this office. Mr. Melendez may be reached at (212) 616-2430, and Mr. Jew's telephone number is (212) 616-2426.

Sincerely,

/s/

Sue Kelly  
Associate Regional Administrator  
Division of Medicaid and Children's Health

Enclosure: SPA #09-13

HCFA-179 Form

CC: JUlberg  
PMossman  
KKnuth  
SUrwin  
SGaskins  
LTavener  
GCritelli  
MSamuel  
SJew

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>	1. TRANSMITTAL NUMBER:  09-13	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, 2009	

5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN       AMENDMENT TO BE CONSIDERED AS NEW PLAN       AMENDMENT

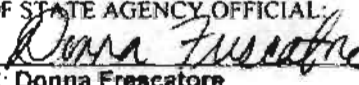
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: Section 1902(a)(30) of the Social Security Act 42 CFR Part 447.204	7. FEDERAL BUDGET IMPACT: a. FFY 04/01/09 - 09/30/09    \$ 983,000 b. FFY 10/01/09 - 09/30/10    \$1,685,000
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B: Pages 2(a), 7(b)(ii) & 7(b)(ii)(A)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B: Pages 2(a), 7(b)(ii) & 7(b)(ii)(A)
** SEE REMARKS	

10. SUBJECT OF AMENDMENT:  
Adult Day Health Care Trend (AIDS Funding) & Rates (Budget Based to Cost Based)  
FMAP Rate = 60.19% Impact Based on Effective Date of 4/1/09

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: 	16. RETURN TO: New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237
13. TYPED NAME: Donna Freccatore	
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health	
15. DATE SUBMITTED: August 12, 2010 (Originally Submitted: August 13, 2009)	

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:	18. DATE APPROVED: SEP 29 2009
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: APR 01 2009	20. SIGNATURE OF REGIONAL OFFICIAL: 
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21. TYPED NAME: Sue Kelly	22. TITLE: Associate Regional Administrator Division of Medicaid and State Operations
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23. REMARKS:

Originally submitted pages on June 24, 2009 were requested to be replaced by the State - Attachment 4.19-B Pages 2(a), 7(b)(ii), and 7(b)(ii)(A).

Originally submitted pages have been replaced by revised pages submitted via State e-mail of August 12, 2010.

New York  
2(a)

**OFFICIAL**

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

- Individual and group Mental Health services
- Individual and group Nutrition counseling services
- Individual and group Substance Abuse counseling services
- Medication group counseling
- Activities of Daily Living
- Physical and Occupational Therapy services
- Case management services
- Prevention/Risk reduction counseling
- Any routine assessment performed by an appropriately credentialed staff person

**Health related (non-core) services include:**

- Group exercise sessions
- Acupuncture
- Breakfast and/or lunch
- Therapeutic massage
- Yoga
- Pastoral care
- Therapeutic recreation and structured socialization services
- Tai-chi

For adult day health care services provided on and after January 1, 2007, medical assistance rates of payment to diagnostic and treatment centers shall be increased up to an annual amount of \$2.8 million in the aggregate. Such amount shall be allocated proportionally among eligible providers based on the medical assistance visits reported by each provider in the most recently available cost report, as submitted to the Department of Health. Such allocated amounts will be included as an adjustment to each provider's daily rate of payment for such services.

Effective for adult day health care services rendered on and after January 1, 2007 through December 31, 2009, and for adult day health care services provided to patients diagnosed with AIDS on and after April 1, 2009, medical assistance rates of payments shall reflect trend factor adjustments computed in accordance with the previously approved trend factor methodology. Such adjustments shall be applied to the operational cost component of the rate.

TN #09-13  
Supersedes TN #06-61

Approval Date SEP 29 2010  
Effective Date APR 01 2009

**Health related (non-core) services include:**

- Group exercise sessions
- Acupuncture
- Breakfast and/or lunch
- Therapeutic massage
- Yoga
- Pastoral care
- Therapeutic recreation and structured socialization services
- Tai-chi

For adult day health care services provided on and after January 1, 2007, medical assistance rates of payment to residential health care facilities shall be increased up to an annual amount of \$2.8 million in the aggregate. Such amount shall be allocated proportionally among eligible providers based on the medical assistance visits reported by each provider in the most recently available cost report, as submitted to the Department of Health. Such allocated amounts will be included as an adjustment to each provider's daily rate of payment for such services.

For adult day health care services rendered on and after January 1, 2007, through December 31, 2009, and for adult day health care services provided to patients diagnosed with AIDS on and after April 1, 2009, medical assistance rates of payments shall reflect trend factor adjustments computed in accordance with the previously approved trend factor methodology contained on page 1(c)(i) in this Attachment.

- (h) For the period April 1, 2007 and thereafter, rates of payment for adult day health care services provided by residential health care facilities, shall be computed in accordance with the following:
- (i) the operating component of the rate for an adult day health care program that has achieved an occupancy percentage of 90% or greater for a calendar year, prior to April 1, 2007, shall be calculated utilizing allowable costs reported in the 2004, 2005, or 2006 calendar year residential health care facility cost report filed by the sponsoring residential health care facility, whichever is the earliest of such calendar year cost reports in which the program has achieved an occupancy percentage of 90% or greater, except that programs receiving rates of payment based on allowable costs for a period prior to April 1, 2007 shall continue to receive rates of payment based on that period;
  - (ii) for programs that achieved an occupancy percentage of 90% or greater prior to calendar year 2004 but did not maintain occupancy of 90% or greater in calendar years 2004, 2005, or 2006, the operating component of the rate of payment will be calculated utilizing allowable costs reported in the 2004 calendar year cost report divided by visits imputed at 90% occupancy.

TN #09-13 \_\_\_\_\_

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- (iii) programs that have not achieved an occupancy of 90% or greater for a calendar year prior to April 1, 2007, will have the operating component of the rate of payment calculated utilizing allowable costs reported in the first calendar year after 2006 in which the program achieves an occupancy of 90% or greater effective January first of such calendar year except for calendar year 2007, effective no earlier than April first of such year, provided, however, that effective January 1, 2009 programs that have not achieved an occupancy of 90% or greater for a calendar year prior to January 1, 2009, the operating component of the rate of payment will be calculated utilizing allowable costs reported in the 2009 cost report filed by the sponsoring residential health care facility divided by actual visits or imputed at 90% occupancy, whichever is greater. This will also apply to programs which achieve an occupancy percentage of 90% or greater prior to calendar year 2004, but in such year had an approved capacity that was not the same as in calendar year 2004.
- (iv) for residential health care facilities approved to commence operation of an adult day health care program on or after April 1, 2007, rates of payment for these programs will be computed based upon annual budgeted allowable costs, as submitted by the residential health care facility, and total estimated annual visits by adult day health registrants of not less than 90% of licensed occupancy. Each program shall also be required to submit an individual budget. Multiple programs operated by the same residential health care facility shall each have separate rates of payment;
- (v) Rates developed based upon budgets shall remain in effect for no longer than two calendar years from the earlier of:
- (A) the date the program commences operations; or
  - (B) the date the sponsoring residential health care facility submits a full calendar year residential health care facility cost report in which the program has achieved 90% or greater occupancy. If a sponsoring residential health care facility submits such a cost report within two years of the date the program commences operation, rates shall then be computed utilizing that cost report.

TN #09-13 \_\_\_\_\_

Supersedes TN #06-61 \_\_\_\_\_

Approval Date SEP 29 2010

Effective Date APR 01 2009