



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

JAN 19 2010

Donna Frescatore
Interim Medicaid Director
New York State Department of Health
Corning Tower
Empire State Plaza
Albany, New York 12237

Dear Ms. Frescatore:

This is to notify you that New York State Plan Amendment (SPA) #09-47 has been approved for adoption into the State Medicaid Plan with an effective date of March 26, 2009. The SPA provides for making supplemental payments to providers of emergency transportation services, for the period March 26 through March 31, 2009.

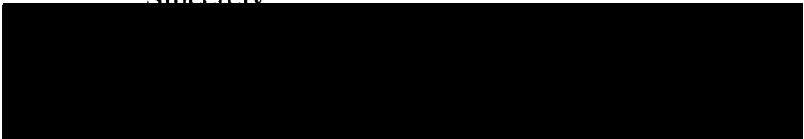
New York originally submitted SPA #09-47 with a proposed effective date of March 25, 2009. In its letter dated July 24, 2009, the State requested that the effective date be changed to March 26, 2009. We have approved this SPA with the revised March 26, 2009 effective date, as requested by New York.

This SPA approval consists of 7 Pages. As New York has requested, we are approving the Attachment 4.19-B-Page 6.1 that was provided with the State's July 24, 2009 letter to CMS, to replace the Page 6.1 that was in the original SPA submission. In addition, we are approving the Attachment 3.1-D-Page 1 and Page 2, and Attachment 3.1-A-Supplement-Page 3(d) and Page 3(d)(A) and Attachment 3.1-B-Supplement-Page 3(d) and 3(d)(A), which were provided with the State's July 24, 2009 and October 26, 2009 letters and the 12/17/09 and January 7, 2010 e-mails and attachments from New York. All of these Pages, except Attachment 4.19-B-Page 6.1, are Pages that were not part of the original SPA submission.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(13) and 1902(a)(30) of the Social Security Act and the implementing regulations at 42 CFR 447 Subpart C. Enclosed are copies of SPA #09-47 and the HCFA-179 form, as approved.



If you have any questions or wish to discuss this SPA further, please contact Michael Melendez 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



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

Enclosure: SPA #09-47
HCFA-179 Form

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|---|--|--|-----------------------------|
| TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL | | 1. TRANSMITTAL NUMBER: 09-47 | 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 March 26, 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 1902a of the Social Security Act | | 7. FEDERAL BUDGET IMPACT: a. FFY 08-09 \$2.652 million b. FFY 09-10 \$0 | |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B, page 6.1, Attachment 3.1-D pages 1-3, Attachment 3.1-A Supplement page 3(d) & 3(d)(A), Attachment 3.1-B Supplement page 3(d) & 3(d)(A) ** SEE REMARKS | | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B, page 6.1, Attachment 3.1-D pages 1&2, Attachment 3.1-A-Supplement page 3(d) & 3(d)(A), Attachment 3.1-B Supplement page 3(d) & 3(d)(A) | |
| 10. SUBJECT OF AMENDMENT: Emergency Medical Transportation Services Supplemental Payment | | | |
| 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 MAR 3 9 2009 | |
| PLAN APPROVED - ONE COPY ATTACHED | | | |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL MAR 26 2009 | |  | |
| 21. TYPED NAME Michael Melender | | 22. TITLE Regional Administrator | |
| 23. REMARKS: All of these pages, except Attachment 4.19-B Page 6.1, are pages that were a part of the original SPA submission. 1) Attachment 4.19-B Page 6.1 was replaced with revised page submitted via State's portal on July 16, 2009. Provided with the State's July 22, 2009, October 26, 2009 letters, December 17, 2009, and January 7, 2010 e-mails are as follows: 2) Attachment 3.1-D Page 1 and Page 2 3) Attachment 3.1-A Supplement Page 3(d) and Page 3(d)(A) 4) Attachment 3.1-B Supplement Page 3(d) and 3(d)(A) | | | |

Emergency Medical Services Provider Supplemental Payment

The Department will supplement Medicaid fee-for-service reimbursements made to emergency medical services providers.

For the period July 1, 2006 to March 31, 2007, the aggregate amount of \$3.0 million and for the period April 1, 2007 to March 31, 2008, the aggregate amount of \$6 million will be available. [For the period May 1, 2008 through March 31, 2009, the aggregate amount of \$5,640,000 million will be available.] For the period March 26, 2009 through March 31, 2009, the aggregate amount of \$4,512,000 will be available.

This payment will be based upon a ratio of individual provider payments to total Medicaid provider payments in each quarter of the state fiscal year.

The following methodology applies in each state fiscal year:

- The aggregate amount will be divided by four as a payment will be made in each quarter of the state fiscal year, and further divided as follows:
 - Twenty five percent of the total aggregate amount will be paid to providers within the City of New York.
 - ▶ The Department will determine the ratio of an emergency medical services Medicaid provider's Medicaid reimbursements to the total Medicaid payments made to emergency medical services providers during that quarter of the state fiscal year to providers within the City of New York, and will express that ratio as a percentage.
 - ▶ The Department will then multiply the percentage by one-quarter the supplemental amount available to be disbursed for emergency medical services providers based in the City of New York. The result of such calculation shall represent the "emergency medical service supplemental payment".
 - ▶ In each quarter of the state fiscal year, these steps shall be repeated.
 - Seventy-five percent of the total aggregate amount will be paid to Medicaid providers outside the City of New York.
 - ▶ The Department will determine the ratio of an emergency medical services Medicaid provider's Medicaid reimbursements to the total Medicaid payments made to emergency medical services providers during that quarter of the state fiscal year to providers outside the City of New York, and will express that ratio as a percentage.
 - ▶ The Department will then multiply the percentage by one quarter the supplemental amount available to be disbursed to providers based outside the City of New York. The result of such calculation shall represent the "emergency medical service supplemental payment".
 - ▶ In each quarter of the state fiscal year, these steps shall be repeated.

TN#: 09-47

Approval Date: JAN 19 2010

Supersedes TN#: 06-52

Effective Date: MAR 26 2009

Provisions for Providing
Medical Assistance Transportation

OFFICIAL

The following provisions set forth the Department's policy concerning transportation services provided to Medical Assistance (MA) recipients for the purpose of obtaining necessary medical care and services which can be paid for under the MA program. These provisions set forth the standards which the Department will use in determining when the MA program will pay for transportation and describes the prior authorization process for obtaining payment.

The MA program covers all modes of transportation, including, but not limited to: emergency ambulance and non-emergency modes of transportation. Transportation is provided by service providers at Department-established fee schedules set at levels where the Department can successfully assure the availability of medically necessary transportation to services covered by the MA program.

A. Prior Authorization

1. Prior authorization is required for the following:

- a. all transportation to obtain medical care and services, except emergency ambulance transportation or Medicare approved transportation by ambulance service provided to an MA-eligible person who is also eligible for Medicare Part B payments.
- b. transportation expenses of an attendant for the MA recipient.

The provisions set forth the standards to be used in evaluating prior authorization requests and provides the prior authorization official (i.e., the Department, the county department of social services, or their designated agents) with the authority to approve or deny reimbursement to MA recipients for the use of private vehicles (personal cars) or mass transportation which the recipient uses for the usual activities of daily living. A prior authorization official may approve reimbursement for the use of personal cars or mass transportation, however, if, in the opinion of the prior authorization official, circumstances so warrant. A prior authorization official may also approve reimbursement for the use of some other mode of transportation, such as ambulance, wheelchair or stretcher van, or taxi/livery, as required by the MA recipient.

2. Criteria to be used by the prior authorization official in making prior authorization determinations are:

- a. the MA recipient has access to necessary medical care or services by use of a private vehicle or by means of mass transportation which is used by the recipient for the usual activities of daily living;
- b. the frequency of visits or treatments within a short period of time whereby the recipient would suffer financial hardship if required to make payment for the transportation;
- c. the nature and severity of the MA recipient's illness which necessitates transportation by a mode other than that ordinarily used by the MA recipient (such as an acute event wherein an otherwise ambulatory recipient becomes physically disabled);
- d. the geographic locations of the MA recipient and the provider of medical care and services;
- e. the medical care and services available within the common medical marketing area of the MA recipient's community;
- f. the need to continue a regimen of medical care or service with a specific provider; and,
- g. any other circumstances which are unique to a particular MA recipient and which the prior authorization official determines have an effect on the need for payment of transportation services.

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Approval Date: **JAN 19 2010**

Supersedes TN#: 08-11

Effective Date: **MAR 26 2009**

The decision to require the MA recipient to travel using a personal vehicle, public transit, or taxi is made by the prior authorization official based upon the prior authorization official's knowledge of personal vehicle ownership and the local public transit routes. When a more specialized mode of transportation is required, such as wheelchair or stretcher van, or ambulance, the prior authorization official will make a decision on the proper mode of transport after consideration of information obtained from a medical practitioner, supervisors, the Department, program guidance materials, and any other source available, that will help the official to make a reasoned decision.

B. Payment

1. Criteria to be used when establishing payment for medical assistance transportation:

- a. Social services districts have the authority to establish payment rates with vendors of transportation services which will ensure the efficient provision of appropriate transportation for MA recipients in order for the recipients to obtain necessary medical care or services. Social services districts may establish such rates in a number of ways, which may include negotiation with the vendors. However, no established rate will be reimbursed unless that rate has been approved by the Department as the Department established rate.
 - i. The State defines "department established rate" as the rate for any given mode of transportation which the department has determined will ensure the efficient provision of appropriate transportation to MA recipients in order for the recipients to obtain necessary medical care and services.
 - ii. The department may either establish rate schedules at which transportation services can be assured or delegate such authority to the social services districts. Delegation of authority exists only in episodic circumstances in which immediate transportation is needed at a cost not considered in the established fee schedule. In order to ensure access to needed medical care and service, the social services districts will approve a rate to satisfy the immediate need.
 - iii. Plans, rate schedules or amendments may not be implemented without departmental approval.
 - iv. Social services districts have no authority to establish a fee schedule without the Department's involvement; there is no incongruity between the Department's and social services district's fee schedules.
 - v. Payment for reimbursement of the MA recipient's personal vehicle will be made at the Internal Revenue Service's established rate for *Medical Mileage*. Payment of reimbursement for use of a personal vehicle of a volunteer driver or family member of a MA recipient will be made at the Internal Revenue Service's established rate for *Standard Mileage*.
- b. Payment for transportation is only available for transportation to and from providers of necessary medical care and services which can be paid for under the MA program. MA payment for transportation will not be made if the care or services are not covered under the MA program.
- c. MA payment to vendors of transportation services is limited to situations where an MA recipient is actually being transported in the vehicle.
- d. MA payment will not generally be made for transportation which is ordinarily made available to other persons in the community without charge. If federal financial participation is available for the costs of such transportation, the MA program is permitted to pay for the transportation.
- e. Vendors of transportation services must provide pertinent cost data to a social services district upon request or risk termination from participation in the MA program.

Finally, the provisions require social services districts to notify applicants for and recipients of MA of the procedures for obtaining prior authorization of transportation services.

TN#: 09-47 Approval Date: JAN 19 2010
Supersedes TN#: 08-11 Effective Date: MAR 26 2009

OFFICIAL

- 24a. Prior approval is required for non-emergent transportation, including the services and subsistence of the attendant. Requests can be made by recipients or their family members; or medical practitioners acting on behalf of a recipient.

Transportation providers are assigned to requests for non-emergency transportation services based upon first, a recipient's choice of available participating vendors at the medically appropriate level of transportation; then, if the recipient indicates no preference, the ordering practitioner's choice among available participating vendors at the medically appropriate level of transportation; and finally, if no choice is made by the ordering practitioner, the request is given via rotation among the medically available and appropriate mode of transportation providers.

1. To assure comparability and statewideness, each county's local department of social services manages transportation services on behalf of recipient's assigned to the county.
2. Recipient, family member, or volunteer reimbursement is made as an administrative expense of the Medicaid Program. This applies to any personal vehicle mileage reimbursement, lodging, airfare, or other expense borne on behalf of the Medicaid recipient by a non-direct vendor.

- 24d. Prior approval is required for skilled nursing facility services except when admitted directly from a hospital, another skilled nursing facility or from a health related facility.

Medicaid payments shall not be authorized for skilled nursing facilities which are not certified or have not applied for certification to participate in Medicare.

26. Personal Care Services means some or total assistance with personal hygiene, dressing and feeding and nutritional and environmental support functions. Prior approval is required for all personal care services. The authorization period and amount of personal care services authorized depends upon patient need, as indicated in the patient's assessment.

Personal care services, shared aide and individual aide, furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease, as determined to meet the recipient's needs for assistance, and when prescribed by a physician, in accordance with the recipient's plan of treatment and provided by individuals who are qualified to provide such services, who are supervised by a registered nurse and who are not members of the recipient's family, and furnished in the recipient's home or other location.

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OFFICIAL

Providers of personal care services (personal care aides) must have:

- maturity, emotional and mental stability, and experience in personal care or homemaking;
- the ability to read and write, understand and carry out directions and instructions, record messages, and keep simple records;
- a sympathetic attitude toward providing services for patients at home who have medical problems;
- good physical health, as indicated by the documentation in the personnel file of all persons providing personal care services. This documentation must include the same assurances and proof of good physical health that the Department of Health requires for employees of certified home agencies;
- a criminal history record check performed to the extent required under section 124 of the PHL; and
- successfully completed a training program approved by the Department.

Personal care aides must be supervised by a registered professional nurse who is licensed and currently certified to practice in New York State and who has at least two years satisfactory recent home health care experience. Nursing supervision includes orienting the personal care aide to his/her job assignment(s); providing needed on-the-job training; making nursing supervisory visits to the patient's home PRN, but at least every 90 days; and, annually conducting an overall job performance evaluation of the aide.

New York State's Personal Care Services are provided in accordance with 42 CFR 440.167.

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Supersedes TN #07-13 _____

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Effective Date MAR 26 2009

- 23a. Prior approval is required for non-emergent transportation, including the services and subsistence of the attendant. Requests can be made by recipients or their family members; or medical practitioners acting on behalf of a recipient.

Transportation providers are assigned to requests for non-emergency transportation services based upon first, a recipient's choice of available participating vendors at the medically appropriate level of transportation; then, if the recipient indicates no preference, the ordering practitioner's choice among available participating vendors at the medically appropriate level of transportation; and finally, if no choice is made by the ordering practitioner, the request is given via rotation among the medically available and appropriate mode of transportation providers.

1. To assure comparability and statewideness, each county's local department of social services manages transportation services on behalf of recipient's assigned to the county.
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- 23d. Prior approval is required for skilled nursing facility services except when admitted directly from a hospital, another skilled nursing facility or from a health related facility.
- Medicaid payments shall not be authorized for skilled nursing facilities which are not certified or have not applied for certification to participate in Medicare.
25. Personal care services means some or total assistance with personal hygiene, dressing and feeding and nutritional and environmental support functions. Prior approval is required for all personal care services. The authorization period and amount of personal care services authorized depends upon patient need, as indicated in the patient's assessment.

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Supersedes TN #07-13 _____

Effective Date MAR 26 2009

New York
3(d)(A)

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**Attachment 3.1-B
Supplement**

Personal care services, shared aide and individual aide, furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease, as determined to meet the recipient's needs for assistance, and when prescribed by a physician, in accordance with the recipient's plan of treatment and provided by individuals who are qualified to provide such services, who are supervised by a registered nurse and who are not members of the recipient's family, and furnished in the recipient's home or other location.

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