

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Jacob K. Javits Federal Building
26 Federal Plaza
Room 37-100
New York, New York 10278-0063



December 21, 2009

Donna Frescatore
Acting Deputy Commissioner
Office of Health Insurance Programs
New York State Department of Health
Corning Tower - Empire State Plaza
Room 1441
Albany, New York 12237

Dear Ms. Frescatore:

We have completed our review of New York State Plan Amendment submittal 09-59, "Medicaid Extended Coverage Disregard" (Supplement 8a Attachment 2.6A, page 1) and find it acceptable for incorporation into New York's Medicaid Plan, effective July 1, 2009. Enclosed please find copies of State Plan Amendment 09-59 and Form CMS-179.

If you have any questions or wish to discuss this further, please contact Patricia Ryan of my staff at 212-616-2436.

Sincerely,

/s/

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

Enclosures

Revision: HCFA-PM-91-4
August 1991

(BPD)

SUPPLEMENT 8a to ATTACHMENT 2.6-A

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OMB No.: 0938-

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

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State: New York

**MORE LIBERAL METHODS OF TREATING INCOME
UNDER SECTION 1902(r)(2) OF THE ACT**

Section 1902(f) State

Non-Section 1902(f) State

Disregard	How More Liberal	Groups Covered	Approved/ Protected by
<p>Income – In determining eligibility for NYSPLTC policyholders* who have satisfied the minimum duration requirements of their policy, disregard an amount of income equal to the Minimum Monthly Maintenance Needs Allowance for a married policyholder, and one-half of that amount for a single individual. This disregard will not be applied during the post eligibility treatment of income process.</p>	<p>Disregards income otherwise countable under 42 CFR 435.831.</p>	<p>All MN</p>	

* These are Partnership qualified long-term care policies meeting New York State's guidelines and are available from selected insurance carriers. Policies must guarantee certain standards and requirements and will carry the project logo to identify them as meeting the necessary standards and requirements for participation in this public/private partnership. If purchasers utilize the minimum required benefits under the private insurance policy, they will be enrolled in a special State Medicaid program. Under this program, the Medicaid applicant either will not be subject to a resource test as usually required under 42 CFR 435.840 and 42 CFR 435.841, and as otherwise specified in New York State's Title XIX State Plan, or will be subject to a more limited resource test different than usually required under 42 CFR 435.840 and 42 CFR 435.841, and as otherwise specified in New York State's Title XIX State Plan that is based on the disregard of an amount of resources equal to the amount of private insurance benefits paid by a selected insurance carrier on behalf of the applicant.

HCFA ID: 7985E

TN No.: 09-59

Approval Date DEC 21 2009

Supersedes

TN No. 91-79B

Effective Date JUL 01 2009

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9 participation in a managed long-term care plan or an approved managed
10 long-term care demonstration under paragraph (o) of subdivision two of
11 section three hundred sixty-five-a of this title.

12 4. The regional long-term care assessment centers shall have responsi-
13 bility for reviewing documentation from a person's physician and a
14 certified home health agency and for making the determination as to the
15 continuing need for home health services authorized under paragraph (d)
16 of subdivision two of section three hundred sixty-five-a of this title
17 beyond sixty days.

18 5. This section shall apply to those consumers who apply for the
19 services specified in this section on and after the later of January
20 first, two thousand ten or the date specified in the contract between
21 the department and the entity selected to be a regional long-term care
22 assessment center.

23 6. When a long-term care assessment center is authorized to assess
24 long-term care needs or authorize services pursuant to this section, an
25 applicant or recipient may challenge any action taken or failure to act
26 in connection therewith as if such assessment or authorization were made
27 by a government entity, and shall be entitled to the same medical
28 assistance benefits and standards and to the same notice and procedural
29 due process rights, including a right to a fair hearing and aid continu-
30 ing pursuant to section twenty-two of this chapter, as if the assessment
31 or authorization were made by a government entity.

32 7. The commissioner of health shall submit a report biannually to the
33 governor, temporary president of the senate, speaker of the assembly and
34 the minority leaders of the senate and the assembly. Such report shall
35 also be posted on the department's website. Such report shall include,
36 but not be limited to, an assessment of the project, an analysis of the
37 level and costs of services managed under the contracts, recipient
38 satisfaction and other matters as may be pertinent. In addition, the
39 commissioner shall convene an annual meeting of stakeholders to discuss
40 implementation of the demonstration program established pursuant to this
41 section.

42 § 30. Intentionally omitted.

43 § 31. Intentionally omitted.

44 § 32. Intentionally omitted.

45 § 33. Intentionally omitted.

46 § 34. Intentionally omitted.

47 § 35. Intentionally omitted.

48 § 36. Intentionally omitted.

49 § 37. Paragraph (a) of subdivision 1 of section 367-f of the social
50 services law, as amended by section 51 of part C of chapter 58 of the
51 laws of 2005, is amended to read as follows:

52 (a) "Medicaid extended coverage" shall mean eligibility for medical
53 assistance (i) without regard to the resource requirements of section
54 three hundred sixty-six of this title, or in the case of an individual

55 covered under an insurance policy or certificate described in subdivi-
56 sion two of this section that provided a residential health care facili-

S. 58--B

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1 ty benefit less than three years in duration, without consideration of
2 an amount of resources equivalent to the value of benefits received by
3 the individual under such policy or certificate, as determined under the
4 rules of the partnership for long-term care program[, and]; (ii) without
5 regard to the recovery of medical assistance from the estates of indi-
6 viduals and the imposition of liens on the homes of persons pursuant to
7 section three hundred sixty-nine of this title, with respect to
8 resources exempt from consideration pursuant to subparagraph (i) of this
9 paragraph; provided, however, that nothing [herein] in this section
10 shall prevent the imposition of a lien or recovery against property of
11 an individual on account of medical assistance incorrectly paid; and
12 (iii) based on an income eligibility standard for married couples equal
13 to the amount of the minimum monthly maintenance needs allowance defined
14 in paragraph (h) of subdivision two of section three hundred sixty-six-c
15 of this title, and for single individuals equal to one-half of such
16 amount; provided, however, that the commissioner of health shall not be
17 required to implement the provisions of this subparagraph if the use of
18 such income eligibility standards will result in a loss of federal
19 financial participation in the costs of Medicaid extended coverage
20 furnished in accordance with subparagraphs (i) and (ii) of this para-
21 graph.

22 § 38. Subdivision 1 and the opening paragraph of subdivision 2 of
23 section 365-f of the social services law, subdivision 1 as added by
24 chapter 81 of the laws of 1995, the opening paragraph of subdivision 2
25 as amended by chapter 474 of the laws of 1996, are amended to read as
26 follows:

27 1. Purpose and intent. The consumer directed personal assistance
28 program is intended to permit chronically ill and/or physically disabled
29 individuals receiving home care services under the medical assistance
30 program greater flexibility and freedom of choice in obtaining such
31 services. The department shall[, upon request of a social services
32 district or group of districts,] regularly monitor district partic-
33 ipation in the program by reviewing the implementation plans submitted
34 pursuant to this section. The department shall provide guidance to the
35 districts to improve compliance with implementation plans and promote
36 consistency among counties regarding approved service levels based on
37 the assessments required by this section. In addition, the department
38 shall provide technical assistance and such other assistance as may be
39 necessary to assist such districts in assuring access to the program for
40 eligible individuals.

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bonds by the continuing care retirement community council pursuant to section forty-six hundred four-a of the public health law except that paragraphs b and g of subdivision two of section forty-six hundred four-a of the public health law shall not apply to a continuing care retirement community granted a certificate of authority pursuant to article forty-six-A of the public health law and (ii) is a not-for-profit corporation as defined in section one hundred two of the not-for-profit corporation law that is (a) eligible for tax-exempt financing under section [four thousand six] forty-six hundred four-a of the public health law and [the general municipal law] this chapter and (b) is exempt from taxation pursuant to section 501(c)(3) of the federal internal revenue code; except that "continuing care retirement community" shall not include a facility granted a certificate of authority upon application of a state or local government applicant.

§ 50. Section 4676 of the public health law, as added by chapter 519 of the laws of 2004, is amended to read as follows:

§ 4676. Industrial development agency financing. Fee-for-service continuing care retirement communities developed pursuant to this article shall be eligible for industrial development financing in accordance with section forty-six hundred four-a of this chapter except for paragraphs b and g of subdivision two of such section and financing by any public benefit corporation authorized to make loans to continuing care retirement communities under the laws of this state provided, however, the operator of such fee-for-service continuing care retirement community has demonstrated capability to comply fully with the requirements for a certificate of authority and has obtained a contingent certificate of authority pursuant to section forty-six hundred fifty-five of this article and the operator has agreed to meet the requirements of article eighteen-A of the general municipal law.

§ 51. Paragraph (a) of subdivision 1 of section 367-f of the social services law, as amended by section 28 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

(a) "Medicaid extended coverage" shall mean eligibility for medical assistance (i) without regard to the resource requirements of section three hundred sixty-six of this [article] title, or in the case of an individual covered under an insurance policy or certificate described in subdivision two of this section that provided a residential health care facility benefit less than three years in duration, without consideration of an amount of resources equivalent to the value of benefits received by the individual under such policy or certificate, as determined under the rules of the partnership for long term care program, and (ii) without regard to the recovery of medical assistance from the

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estates of individuals and the imposition of liens on the homes of persons pursuant to section three hundred sixty-nine of this [article] title, with respect to resources exempt from consideration pursuant to subparagraph (i) of this paragraph; provided, however, that nothing herein shall prevent the imposition of a lien or recovery against property of an individual on account of medical assistance incorrectly paid.

§ 52. Notwithstanding any law to the contrary, the commissioner of health shall deposit and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund-other, CHCCDP transfer account, any unexpended federal matching funds earned pursuant to the community health care conversion demonstration project authorized in the terms and conditions included in the section 1115 waiver demonstration project, which is entitled the partnership plan, as approved by the secretary of the federal department of health and human services and accepted by the state.

§ 53. Subdivisions 2 and 4 of section 246 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 10 of part Z2 of chapter 62 of the laws of 2003, are amended to read as follows:

2. Sections five, seven through nine, twelve through fourteen, and eighteen of this act shall be deemed to have been in full force and effect on and after April 1, 1995 through March 31, 1999 and on and after July 1, 1999 through March 31, 2000 and on and after April 1, 2000 through March 31, 2003 and on and after April 1, 2003 through March 31, [2005] 2006;

4. Section one of this act shall be deemed to have been in full force and effect on and after April 1, 1995 through March 31, 1999 and on and after July 1, 1999 through March 31, 2000 and on and after April 1, 2000 through March 31, 2003 and on and after April 1, 2003 through March 31, [2005] 2006.

§ 54. Section 4 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 15 of part Z2 of chapter 62 of the laws of 2003, is amended to read as follows:

§ 4. Notwithstanding any inconsistent provision of law, except subdivision 15 of section 2807 of the public health law and section 364-j-2 of the social services law and section 32-g of part F of chapter 412 of the laws of 1999, rates of payment for diagnostic and treatment centers established in accordance with paragraphs (b) and (h) of subdivision 2 of section 2807 of the public health law for the period ending September 30, 1995 shall continue in effect through September 30, 2000 and for the periods October 1, 2000 through September 30, 2003 and October 1, 2003 through September 30, [2005] 2006 and further provided that rates in effect on March 31, 2003 as established in accordance with paragraph (e) of subdivision 2 of section 2807 of the public health law shall continue in effect for the period April 1, 2003 through September 30, [2005]