

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, CHIP, and Survey & Certification**

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Jason A. Helgerson  
Deputy Commissioner  
New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, New York 12237

MAR 28 2011

RE: TN 10-22-A

Dear Mr. Helgerson:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 10-22-A. Effective April 1, 2010, this amendment provides for four changes that will be implemented later in 2010. Effective July 19, 2010, it reduces the annual number of bed reserve days paid to providers for residents over 21 years of age, reduces the reimbursement rate to 95% of the full daily rate for those days subject to the new limits and makes a technical correction to the definition of a bed reserve day. Effective October 1, 2010, it carves out drug reimbursement from the daily nursing home rate.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the regulations at 42 CFR 447 Subpart C. This is to inform you that New York 10-22-A is approved effective April 1, 2010 and I have enclosed the HCFA-179 and the approved plan pages.


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

Sincerely,




Cindy Mann  
Director, CMCS

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>10-22-A</b>	2. STATE <b>New York</b>
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</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, 2010</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</b>		7. FEDERAL BUDGET IMPACT: a. FFY 04/01/10-09/30/10 (\$ 6.93) million b. FFY 10/01/10-09/30/11 (\$14.57) million	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: <b>Attachment 4.19-C: Page 1, 1(a)</b> <b>Attachment 4.19-D: Pages 15, 63</b> <b>4.19D: page 22</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): <b>Attachment 4.19-C: Page 1</b> <b>Attachment 4.19-D: Pages 15, 63</b> <b>4.19D: page 22</b>	
10. SUBJECT OF AMENDMENT: <b>Reserved Bed Days &amp; Drug Carve Out – NHs (including ICF-MR for non-state government owned &amp; operated facilities) (FMAP = 61.59% based on effective date)</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			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: <b>New York State Department of Health</b> <b>Corning Tower</b> <b>Empire State Plaza</b> <b>Albany, New York 12237</b>	
13. TYPED NAME: <b>Jason A. Helgeson</b>			
14. TITLE: <b>Medicaid Director &amp; Deputy Commissioner</b> <b>Department of Health</b>			
15. DATE SUBMITTED: <b>March 23, 2011</b>			

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:	18. DATE APPROVED: <b>03-28-11</b>
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>APR - 1 2010</b>	20. SIGNATURE OF REGIONAL OFFICIAL: 
21. TYPED NAME: <b>William Lasowski</b>	22. TITLE: <b>Deputy Director, CMCS</b>
23. REMARKS: <b>Per 9 mtg change made to blocks # 8 &amp; 9</b>	

NEW YORK

**PAYMENT FOR RESERVED BEDS IN MEDICAL INSTITUTIONS**

**LIMITATIONS**

**A. RESERVED BEDS DURING LEAVES OF ABSENCE** (Defined to mean overnight absences including visits with relatives/friends, or leaves to participate in medically acceptable therapeutic or rehabilitative plans of care).

When patient's/resident's plan of care provides for leaves of absence:

**General Hospital Patients**

Eligibility restricted to patients receiving care in certified psychiatric or rehabilitation units, without consideration of any vacancy rate. A psychiatric patient must be institutionalized for 15 days during a current spell of illness; a rehabilitation patient must be institutionalized for 30 days. Leaves must be for therapeutic reasons only and carry a general limitation of no more than 18 days in any 12 month period, and 2 days per any single absence. Broader special limits are possible physicians can justify them, subject to prior approval.

**Nursing Facility (NF) Patients**

A reserved bed day is a day for which a governmental agency pays a residential health care facility to reserve a bed for a person eligible for medical assistance while he or she is temporarily hospitalized or on leave of absence from the facility.

All recipients eligible after 30 days in the facility, subject to a facility vacancy rate, on the first day of the patient's/resident's absence of no more than 5%. General limitations of no more than 18 days in any 12 month period with broader special limits possible when physicians can justify them, subject to prior approval.

Effective July 19, 2010, for reserved bed days provided on behalf of persons 21 years of age or older:

(i) payments for reserved bed days will be made at 95% of the Medicaid rate otherwise payable to the facility for services provided on behalf of such person;

(ii) payment to a facility for reserved bed days provided on behalf of such person for temporary hospitalizations may not exceed 14 days in any 12-month period; and

(iii) payment to a facility for reserved bed days provided on behalf of such person for non-hospitalization leaves of absence may not exceed 10 days in any 12-month period.

In computing reserved bed days, the day of discharge from the residential health care facility shall be counted, but not day of readmission.

TN #10-22-A \_\_\_\_\_

Approval Date MAR 28 2011

Supersedes TN #94-41 \_\_\_\_\_

Effective Date APR - 1 2010

**Intermediate Care Facilities for the Mentally Retarded and Specialty Hospitals for the Developmentally Disabled (ICF/MR) – Non-state Government Owned & Operated Facilities**

All recipients eligible after 30 days in the facility, subject to a facility vacancy rate, on the first day of the resident's absence, of no more than 5%. ICF/MR with a bed capacity in excess of 30 beds is exempt from this vacancy rate requirement. There is no limitation on the number of days a patient/resident may be absent.

**Psychiatric or Rehabilitation Facility Patients (Other than RTFs)**

As provided for recipients receiving similar treatment in general hospitals, as described above.

TN #10-22-A \_\_\_\_\_

Approval Date MAR 28 2011

Supersedes TN # New

Effective Date APR - 1. 2010

New York  
15

Attachment 4.19-D  
Part I  
(04/10)

**86-2 .8 Patient days.** (a) A patient day is the unit of measure denoting lodging provided and services rendered to one patient between the census-taking hour on two successive days.

(b) In computing patient days, the day of admission shall be counted but not the day of discharge. When a patient is admitted and discharged on the same day, this period shall be counted as one patient day.

(c) For reimbursement purposes residential health care facility days shall be determined by using the higher of the minimum utilization factor of 90 percent of certified beds or the actual patient days of care as furnished by the facility.

[(d) Reserved bed patient days shall be computed separately from patient days. A reserved bed patient day is the unit of measure denoting an overnight stay away from the residential health care facility for which the patient, or patient's third-party payor, provides per diem reimbursement when the patient's absence is due to hospitalization or therapeutic leave.

(e) In computing reserved bed patient days, the day of discharge from the residential health care facility shall be counted, but not day of readmission.]

MAR 28 2011

TN #10-22 -A \_\_\_\_\_

Approval Date \_\_\_\_\_

Supersedes TN #86-4 \_\_\_\_\_

Effective Date APR - 1 2010 \_\_\_\_\_

(l) Allowable costs shall not include the interest paid to a lender related through control, ownership, affiliation or personal relationship to the borrower, except in instances where the prior approval of the Commissioner of Health has been obtained.

(m) Allowable costs shall be reduced by income earned for Medicare Part B eligible services to the extent that Medicaid has paid for these services.

(n) Allowable costs shall include any fee assessed by the Commissioner on a residential health care facility, for the purpose of providing revenue for the account established pursuant to Chapter 1021 of the Laws of 1981. The reimbursement rate for a facility shall reflect the cost of the annual fee prior to collection of the fee through the rate of reimbursement.

(o) For services provided on and after January 1, 2006, allowable costs shall not include an amount for prescription drugs for residents eligible for both Medicaid and for Part D of Title XVIII of the Social Security Act (Medicare) contingent upon implementation of such provision of the Federal Social Security Care Act in this State.

(p) For rate periods on or after October 1, 2010, residential health care facility Medicaid rates of payment will not include reimbursement for the cost of prescription drugs.

MAR 28 2011

TN #10-22-A \_\_\_\_\_

Approval Date \_\_\_\_\_

Supersedes TN #06-05 \_\_\_\_\_

Effective Date APR - 1 2010 \_\_\_\_\_

New York  
22

86-2.10  
Attachment 4.19-D  
Part I  
(04/10)

- (vii) speech and hearing therapy – (speech therapy portion only);
- (viii) [pharmacy;
- (ix)] central service supply; and
- [(x)] (ix) residential health care facility.

(2) For purposes of calculating the direct component of the rate, the department shall utilize the allowable direct costs reported by all facilities with the exception of specialty facilities as defined in subdivision (i) of this section.

(3) The statewide mean, base and ceiling direct price for patients in each patient classification group shall be determined as follows:

(i) Allowable costs for the direct cost centers for each facility after first deducting capital costs and items not subject to trending, shall be multiplied by the appropriate Regional Direct Input Price Adjustment Factor ("RDIPAF"), as determined pursuant to paragraph (5) of this subdivision. The RDIPAF neutralizes the difference in wage and fringe benefit costs between and among the regions caused by differences in the wage scaled of each level of employee.

(ii) The statewide distribution of patients in each patient classification group shall be determined for 1986 payments utilizing

TN #10-22 A

Approval Date MAR 20 2011

Supersedes TN #91-25

Effective Date APR - 1 2010