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State/Territory Name: New York

State Plan Amendment (SPA) #: 11-0039-C

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
26 Federal Plaza, Room 37-100
New York, New York 10278

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Regional Operations Group

ROG: MT: SPA NY-11-0039-C

March 25, 2019

Donna Frescatore
Deputy Commissioner
Office of Health Insurance Programs
New York State Department of Health
One Commerce Plaza, Suite 1211
Albany, NY 12210.

Dear Ms. Frescatore:

This is to notify you that New York State Plan Amendment (SPA) #11-0039-C has been approved for adoption into the State Medicaid Plan with an effective date of July 1, 2018. This SPA authorizes payment of therapy services included in the preschool supportive health services in New York City using a certified public expenditure reimbursement methodology.

Enclosed are copies of the approved SPA # 11-0039-C. If you have any questions or wish to discuss this SPA further, please contact Maria Tabakov. Ms. Tabakov may be reached at (212) 616-2503.

Sincerely,

[redacted]

Ricardo Holligan
Acting Deputy Director
Regional Operations Group

cc: MLevesque
RDeyette
RWeaver

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: #11-0039-C	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 July 1, 2018	

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: 42 CFR Part 447.205 Social Services Law Section 368-d & 368-e	7. FEDERAL BUDGET IMPACT: a. FFY 07/01/18 – 09/30/19: $ 588.00 b. FFY 10/01/19 - 09/30/20: $7,000.00
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B Page 18, 18(a), 18(b), 18(c), 18(d), 18(e), 18(f), 18(g), 18(h)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:

10. SUBJECT OF AMENDMENT:
Preschool/School Supportive Health Services Program (SSHSP) Cost Study (FMAP = 50%)

11. GOVERNOR'S REVIEW *(Check One)*:
☒ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL: [redacted]	16. RETURN TO: New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237
13. TYPED NAME: Jason A. Helgerson	
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health	
15. DATE SUBMITTED: December 14, 2011	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED: MARCH 25, 2019
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: JULY 01, 2018	20. SIGNATURE OF REGIONAL OFFICIAL: [redacted]
21. TYPED NAME: RICARDO HOLLIGAN	22. TITLE: ACTING DEPUTY DIRECTOR REGIONAL OPERATIONS GROUP

23. REMARKS
Pen and ink changes were made to boxes 1, 4, 7, and 8 as instructed by New York State on March 7, 2019

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Preschool Supportive Health Services Program (PSSHSP) – New York City

A. Reimbursement Methodology for Preschool Supportive Health Services

Preschool-based services, known as Preschool Supportive Health Services (PSSHS), are delivered by New York City and include the Medicaid services as described in Attachments 3.1-A and 3.1-B of the Medicaid State Plan under item 4.b., Early and Periodic Screening, Diagnostic and Treatment Services (EPSDT). Counties will be paid only for direct Medicaid-covered services provided pursuant to an Individualized Education Program (IEP). Preschool Supportive Health Services include:

1. Physical Therapy Services
2. Occupational Therapy Services
3. Speech Therapy Services
4. Psychological Counseling
5. Skilled Nursing Services
6. Psychological Evaluations
7. Medical Evaluations
8. Medical Specialist Evaluations
9. Audiological Evaluations
10. Special Transportation

a. Physical, occupational, and speech therapy services which have now undergone satisfactory pre-payment review to verify their accuracy will be included in certified public expenditure claims methodology described in paragraphs (B) – (I).

B. Direct Medical Payment Methodology

Effective dates of service on or after July 1, 2018, New York City (provider located in a city with a population of over one million) will be paid on a cost basis for services identified in section Aa. Providers will be reimbursed interim rates for PSSHS direct medical services per unit of service at the statewide interim rate as specified in the EPSDT section of this Attachment. On an annual basis, a district-specific cost reconciliation and cost settlement for all over and under payments will be processed.

The units of service are defined by each Health Insurance Portability and Accountability Act (HIPAA) compliant current procedural terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) code. Direct medical services may be encounter-based or in 15-minute unit increments. The interim rate is the rate for a specific service for a period that is provisional in nature, pending the completion of cost reconciliation and cost settlement for that period. PSSHSP providers must maintain organized and confidential documentation regarding the services provided, including written orders; session notes; and students' Individualized Education Programs. Such documentation must be maintained for a period of six years from the date the services were furnished or billed, whichever is later.

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C. Data Capture for the Cost of Providing Health-Related Services

Data capture for the cost of providing health-related services will be accomplished utilizing the following data sources:

1. Total direct and indirect costs, less any federal non-Medicaid payments or other revenue offsets for these costs, will be captured utilizing the following data sources:
   a. PSSHS cost reports received from New York City, in the State of New York, inclusive of the Allowable cost categories defined in Section D.1 and D.2;
   b. Time Study (TS) Activity Code 4.b (Direct Medical Services) and Activity Code10 (General Administration):
      i. Direct medical TS percentage; and
   c. School District specific Individualized Education Program (IEP) Medicaid Eligibility Ratios.

A glossary of the key terms used in the cost reporting process described in this SPA can be found as Appendix 2 of the NYS DOH Guide to Cost Reporting for the Pre-School Supportive Health Service Claiming Program.

D. Data Sources and Cost Finding Steps

The following provides a description of the data sources and steps to complete the cost finding and reconciliation:

1. **Allowable Costs:** Direct costs for direct medical services listed in paragraph Aa include unallocated payroll costs and other unallocated costs that can be directly charged to direct medical services. Direct payroll costs include total compensation (i.e., salaries and benefits and contract compensation) of direct services personnel to provide the Medicaid services listed in paragraph Aa. These direct costs will be calculated on a Medicaid provider-specific level and will be reduced by any federal payments for these costs, resulting in adjusted direct costs.

   Other direct costs include costs directly related to the approved direct services personnel for the delivery of Medicaid services listed in paragraph Aa, such as medically-related purchased services, supplies and materials. These direct costs are accumulated on the annual PSSHS Cost Report and are reduced by any federal payments for these costs, resulting in adjusted direct costs. The cost report contains the scope of cost and methods of cost allocation that have been approved by the Centers for Medicare & Medicaid Services (CMS).

   The source of this financial data will be audited county level payroll and general ledger data maintained at the district level.

New York
18(h)

a. *Direct Medical Services*
Non-federal cost pool for allowable providers consists of:

ii. Salaries;
iii. Benefits;
iv. Medically-related purchased services; and
v. Medically-related supplies and materials.

b. *Contracted Service Costs*
Contracted service costs represent the costs incurred by the Local Education Agency (LEA) for IEP direct medical services rendered by a contracted service provider. Total contracted service costs are inclusive of only those costs for the provision of IEP direct services listed in paragraph Aa.

Total contracted service costs are reduced for any federal fund or other reduction, including revenue offsets, and further reduced by the application of the LEA IEP Ratio in order to determine the Medicaid IEP direct medical service contract costs. Contracted service costs are not eligible for the application of the unrestricted indirect cost rate.

c. *Tuition Costs*
Tuition costs represent the costs incurred by the LEA for a student placed in an out-of-district or preschool agency setting. Tuition costs will be reflective of only those costs related to the provision of IEP direct services listed in paragraph Aa. Tuition costs are not eligible for the application of the unrestricted indirect cost rate. The health related portion of the tuition costs will be determined through the application of a health related tuition percentage to the annual tuition costs reported by the school district. The health related tuition percentage will be specific to each out-of-district provider and will be calculated annually based on annual financial reports, the CFR, submitted to the New York State Education Department (SED). The CFRs used in calculating the health related tuition percentage will be those from the most current, complete year available. For example, for the cost reports covering September 1, 2013 – June 30, 2014, the CFRs from the 2011-2012 school year were used in calculating the health related tuition percentages. The methodology used to calculate health related tuition percentages is available on the Department of Health (https://www.health.ny.gov/health_care/medicaid/program/psshsp/) and the State Education Department (https://www.health.ny.gov/health_care/medicaid/program/psshsp/) websites. The methodology is also found in the approved Cost Reporting Guide and on the Dashboard of the web-based cost reporting tool.

NOTE: Effective with the cost reporting period beginning after July 1, 2018 a portion of tuition payments related to the provision of IEP direct medical services for students in §4201 schools may be included in the cost report for the county or school district of residence.

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18(c)

NOTE: When an LEA incurs costs for a student receiving services through a BOCES, the costs for the IEP direct medical services must be discretely identified and included as contracted service costs (as defined in D.1.b). LEAs will not be permitted to report BOCES costs as tuition costs.

d. Intergovernmental Agreement Costs

Intergovernmental agreement costs represent costs for physical therapy, occupational therapy, and speech therapy services provided through a contractual or tuition based arrangement in which the LEA purchasing the services and the LEA providing services are both public school districts or counties. Relationships between counties and private schools, 4201 schools, BOCES, private vendors, or other non-public entities would be reported as described in section b (Contracted Service Costs) or c (Tuition Costs).

i. Intergovernmental Agreement Contracted Service Costs

Contracted service costs represent the costs incurred by the LEA for IEP direct medical services listed in paragraph Aa rendered by a public school or county through a contractual agreement. Total contracted service costs are inclusive of only those costs for the provision of IEP direct medical services.

Total contracted service costs are reduced for any federal fund or other reduction, including revenue offsets, and further reduced by the application of the LEA IEP Ratio in order to determine the Medicaid IEP direct medical service contract costs.

A revenue offset must be reported by the public school or county providing the IEP direct services listed in paragraph Aa equal to the expense reported by the school district purchasing the service. The total for all intergovernmental agreement contract costs is expected to equal $0 in the aggregate, statewide.

The revenue offset will be calculated based on the calculation of the Medicaid Allowable Costs for the LEA incurring the expense. Therefore, the revenue offset will be calculated using the IEP Ratio of the LEA reporting the expense. This will ensure that the net Medicaid Allowable Cost for the transaction will be $0.

ii. Intergovernmental Agreement Tuition Costs

Tuition costs represent the costs incurred by the LEA for a student placed in another public school or county for all services (educational and IEP direct medical services). Tuition costs will be reflective of only those costs related to the provision of IEP direct medical services. The health related portion of the tuition costs will be determined through the application of a health related tuition percentage to the annual tuition costs reported by the school district. The health related tuition percentage will be specific to each public school or county and will be calculated annually based on annual financial reports, the ST-3, submitted to the New York State Education Department. The ST-3s used in calculating the health related tuition percentage will be those from the most

current, complete year available. For example, for the cost reports covering September 1, 2013 – June 30, 2014, the ST-3s from the 2011-2012 school year were used in calculating the health related tuition percentages. The methodology used to calculate health related tuition percentages is currently available on the Department of Health (https://www.health.ny.gov/health_care/medicaid/program/psshsp/) and the State Education Department (http://www.oms.nysed.gov/medicaid/CPEs/home.html) websites.

The methodology is also found in the approved Cost Reporting Guide and on the Dashboard of the web-based cost reporting tool.

A revenue offset must be reported by the public school or county providing the services under the tuition arrangement (receiving the tuition payment) equal to the expense reported by the county paying the tuition. The total for all intergovernmental agreement tuition costs is expected to equal $0 in the aggregate, statewide.

The revenue offset will be calculated based on the calculation of the Medicaid Allowable Costs for the LEA incurring the expense. Therefore, the revenue offset will be calculated using the IEP Ratio of the LEA reporting the expense. This will ensure that the new Medicaid Allowable Cost for the transaction will be $0.

2. **Indirect Costs:** Indirect costs for counties are determined by applying a 10% indirect cost rate to the. Direct Medical Service Costs, defined in section D.1.a., following the application of the Direct Medical Service Time Study Percentage, defined in D.3. The unrestricted indirect cost rate will not be applied to Contracted Service Costs (D.1.b), Tuition Costs (D.1.c), and Intergovernmental Agreement Costs (D.1.d). The New York State Education Department (SED) is not responsible for developing an indirect cost plan for counties and does not approve indirect cost rates for the counties. Per OMB A-87 Attachment A, Section G, a standard indirect cost allowance of ten percent shall be applied to adjusted direct costs for counties. This rate will be used on an annual basis and updated to reflect any changes to OMB A-87. Providers are permitted only to certify Medicaid-allowable costs and are not permitted to certify any indirect costs that are outside their unrestricted indirect cost rate.

Indirect Cost Rate

a. Apply a standard ten percent for indirect cost allowance to adjusted direct costs for New York State counties.

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18(e)

3. **Time Study:** A time study that incorporates CMS-approved methodology is used to determine the percentage of time that medical service personnel providing services listed in paragraph Aa general and administrative time and all other activities to account for 100 percent of time to assure that there is no duplicate claiming. The time study methodology for counties will include all clinicians providing physical therapy services, occupational therapy services, and speech therapy services that are employees of a county and will utilize a time log approach that accounts for 100% of time for each county employed clinician. This methodology will generate a Direct Medical Service time study percentage that will be applied to the appropriate direct costs to determine the Direct Medical Service costs.

   The Direct Medical Service percentages will be calculated using the average from the three quarterly time studies which will occur during the quarters of October to December, January to March, and April to June.

Direct Medical Service TS Percentage

a. Fee-For-Service TS Percentage
   i. Direct Medical Service Cost Pool: Apply the Direct Medical Service percentage from the Time Study (Activity Code 4.b.). The direct medical service costs and time study results must be aligned to assure appropriate cost allocation.

b. General Administrative Percentage Allocation
   i. Direct Medical Service Cost Pool: Apply the General Administrative time applicable to the Direct Medical Services percentage from the Time Study (Activity Code 10). The direct medical services costs and time study results must be aligned to assure appropriate cost allocation.

The formula below details the Direct Medical Percentage (code 4.b) with the applicable portion of General Administration (Activity Code 10) reallocated to it. The same calculation is completed for the Direct Medical Service Therapy and Direct Medical Service All Other cost pools.

A = All Codes
D = IEP Direct Medical Services (Activity Code 4.b)
R = Redistributed Activities (Activity Code 10)
U = Unallowable (Activity Code 11)

$$\textit{Direct Medical Service Percentage} = \frac{D+\left(\frac{D}{A-R-U}*R\right)}{A}$$

4. **IEP Medicaid Eligibility Ratio:** A county-specific IEP Ratio will be established for New York City. When applied, this IEP Ratio will discount the Direct Medical cost pool by the percentage of IEP Medicaid students. The IEP ratio will be based on child count reporting of students with a direct medical service listed in paragraph Aa in an IEP during the school year for which the report is completed.

   For example, for the cost reporting period covering July 1, 2014 through June 30, 2015, the IEP Ratio will be based on the count of students with an IEP at any time during the July 1, 2014 through June 30, 2015 school year.

   The numerator will be the number of Medicaid eligible IEP students in the LEA for whom at least one claim involving a service listed in paragraph Aa was processed through the MMIS for the year for which the report is completed. The denominator will be the total number of students in the LEA with an IEP with a direct medical service listed in paragraph A as outlined in their IEP at any time during the school year reporting period. Direct medical services are only those services that are both billable under the SSHS Program and approved for inclusion in the State's certified public expenditure claim for PSSHS (i.e., Medicaid service listed in paragraph Aa).

   The IEP Medicaid Eligibility Ratio will be calculated on an annual basis using student counts, as described above, and MMIS data.

5. **Total Medicaid Reimbursable Cost:** The results of the previous steps will be a total Medicaid reimbursable cost for New York City for Direct Medical Services.

E. Certification of Funds Process

Each provider certifies on an annual basis through its cost report its total actual, incurred allowable costs/expenditures, including the federal share and non-federal share for Medicaid services listed in paragraph Aa. Certification is conducted on an annual basis.

F. Annual Cost Report Process

Each provider will complete an annual cost report for all school health services delivered during the previous fiscal year covering July 1st through June 30th. The cost report is due on or before December 31st of the same year of the reporting period. The primary purposes of the cost report are to:

1. Document the provider's total CMS-approved, Medicaid allowable scope of costs for delivering school health services, including direct costs and indirect costs, based on CMS-approved cost allocation methodology procedures; and
2. Reconcile its interim payments to its total CMS-approved, Medicaid allowable scope of costs based on CMS-approved cost allocation methodology procedures.

The annual PSSHS Cost Report includes a certification of funds statement to be completed, certifying the provider's actual, incurred costs/expenditures. All filed annual PSSHS Cost Reports are subject to a desk review by the DOH and/or its designee.

G. Cost Reconciliation Process

Once all interim claims (CPT/HCPCS claims) are paid, the State will calculate the final reconciliation and settlement. There will be separate settlements for every Medicaid provider. The cost reconciliation process will be completed after the reporting period covered by the annual PSSHSP Cost Report. The total CMS-approved, Medicaid allowable scope of costs based on CMS-approved cost allocation methodology procedures is compared to the provider's Medicaid interim payments and tentative settlements for school health services delivered during the reporting period as documented in the MMIS and CMS-64, resulting in cost reconciliation.

For the purposes of cost reconciliation, the State may not modify the CMS-approved scope of costs, the CMS-approved cost allocation methodology procedures, or its CMS-approved time study for cost-reporting purposes. CMS approval will be sought prior to any modification to the scope of cost, cost allocation methodology procedures, or time study for cost-reporting purposes.

H. Cost Settlement Process

For services delivered for a period covering July 1st through June 30th, the annual PSSHSP Cost Report is due on or before December 31st of the same year. The final reconciliation will occur prior to the 24th month following the end of the fiscal period to ensure all claims are paid through MMIS for the dates of service in the reporting period.

As part of the final cost reconciliation and cost settlement DOH will conduct an analysis of the Medicaid payments to ensure compliance with the requirements for efficiency and economy as

outlined in the Social Security Act section 1902(a)(30)(A) and LEAs found to be out of compliance may be subjected to a corrective action plan.

If interim claiming and tentative settlement payments exceed the actual, certified costs of the provider for PSSHSP services to Medicaid clients, an amount equal to the overpayment will be returned. Overpayments will be recouped within one year from the date that the overpayment was discovered.

If actual, certified costs of a provider for PSSHSP services exceed the interim claiming and tentative settlement, the DOH and the providers will share in the retention of the incremental payment. The final settlement will be an accounting adjustment that is made off-line for each provider. The State will report the final settlement that is paid to each provider in the CMS-64 quarter corresponding to the date of payment.

I. Sunset Date

Effective for dates of service on or after September 1, 2018 through June 30, 2020; the State will be able to process cost reconciliations and cost settlements on all cost reports completed for the fiscal years covering dates of service through June 30, 2020.