



DEPARTMENT OF HEALTH & HUMAN SERVICES



Re: DMCH: BPW

Region II
Federal Building
26 Federal Plaza
New York, NY 10278

July 26, 2011

Jason A. Helgeson
State Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1466
Albany, New York 12237

Re: **NY SPA #11-14**

Dear Commissioner Helgeson:

This letter is being sent in conjunction with the Centers for Medicare & Medicaid Services (CMS) approval of New York State Plan Amendment (SPA) #11-14, which amendment enables New York to continue making supplemental payments to personal care service agencies for the purpose of improving recruitment and retention of nonsupervisory workers or workers with direct patient care responsibility.

In reviewing SPA #11-14, CMS staff performed a program analysis of the corresponding services and a reimbursement analysis related to the services impacted by the provisions of SPA #11-14. These analyses revealed a coverage issue, set out below, which the State needs to address through a State plan amendment in order to meet the requirements of Section 1902 of the Social Security Act.

In response to the State's request, CMS has agreed that the State may respond to this issue in the context of responding to the SPA 10-38 companion letter issues. To this end, CMS welcomes the opportunity to work with you and your staff and to provide any technical assistance to resolve the issue below.

Coverage Issue for SPA #11-14:

1. The State refers to "family care providers" on page 6(a)(i)(1) of Attachment 4.19-B. However, there is no mention of this provider type of personal care services (PCS) on the coverage pages. Therefore, please add a description of "family care providers" to the State plan PCS coverage pages.

If you have any questions or wish to discuss this SPA further, please contact Shing Jew or Barbara Waugh of this office. Mr. Jew may be reached at (212) 616-2426 and Ms. Waugh at (212) 616-2366.

Sincerely,

/s/

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

cc: J. Ulberg
G. Critelli
J. Guhl
R. Holligan
S. Jew
K. Knuth
D. Mathurin
P. Mossman
M. Schervish
B. Waugh



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Albany, New York 12237

Re: New York **SPA #11-14**

Dear Commissioner Helgeson:

This is to notify you that New York State Plan Amendment (SPA) #11-14 has been approved for adoption into the State Medicaid Plan with an effective date of April 1, 2011. SPA #11-14 concerns the rates of payment for personal care service agencies. Specifically, it provides for additional funding to agencies for the purpose of improving recruitment and retention of non-supervisory workers, or workers with direct patient care responsibility. Funding will be for providers in programs which furnish services in local social services districts which include a city with a population of over one million persons, and also those districts which do not include a city with a population of over one million persons.

This SPA approval consists of two Attachment 4.19-B Pages submitted with the State's June 15, 2011 electronic submission to the CMS SPA Mailbox; namely, Attachment 4.19-B, Page 6(a)(i) and Page 6(a)(i)(1).

This amendment satisfies all of the statutory requirements at sections 1902(a)(13) and 1902(a)(30) of the Social Security Act and the implementing regulations at 42 C.F.R. 447.250 and 42 C.F.R. 447.272. Enclosed are copies of SPA #11-14 and the HCFA-179 form, as approved. Also enclosed is a letter containing coverage issues identified by CMS staff as well as some editorial suggestions. CMS has agreed to permit the State to address these issues in the context of responding to the SPA #10-38 companion letter issues and welcomes the opportunity to work with you and your staff in resolving these issues.

If you have any questions or wish to discuss this SPA further, please contact Shing Jew or Barbara Waugh of this office. Mr. Jew may be reached at (212) 616-2426 and Ms. Waugh at (212) 616-2366

Sincerely,

/s/

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

Enclosures: SPA #11-14
HCFA-179 Form
Companion letter to SPA#11-14

cc: J. Ulberg
G. Critelli
S. Jew
K. Knuth
D. Mathurin
P. Mossman
M. Schervish
B. Waugh

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: #11-14	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 April 1, 2011	
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 1902(a) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: a. FFY 4/1/11 – 9/30/11 \$ 98.5 million b. FFY 10/1/11 – 9/30/12 \$ 184.25 million	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B: Pages 6(a)(i) and 6(a)(i)(1) ** SEE REMARKS		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B: Pages 6(a)(i) and 6(a)(i)(1)	
10. SUBJECT OF AMENDMENT: NYC & Non-NYC Personal Care R&R (FMAP = 56.88% 4/1/11-6/30/11; 50% 7/1/11 forward)			
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: Signature		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: June 15, 2011			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: 7/27/2011	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL: Signature	
21. TYPED NAME: Michael Melendez		22. TITLE: Division of Medicaid and State Operations	
23. REMARKS: This SPA approval consists of two Attachment 4.19-B Pages submitted with the State's June 15, 2011 electronic submission to the CMS SPA Mailbox; namely, Attachment 4.19-B, Page 6 (a)(i) and Page 6 (a)(i)(1).			

For programs providing services in local social service districts which do not include a city with a population of over one million persons:

For the period April 1, 2002 through December 31, 2002, seven million dollars.

For the period January 1, 2003 through December 31, 2003, fourteen million dollars.

For the period January 1, 2004 through December 31, 2004, twenty-one million dollars.

For the period January 1, 2005 through December 31, 2006, twenty-seven million dollars annually; for the period August 17, 2006 through December 31, 2006, an additional aggregate amount of four million dollars.

For the period January 1, 2007 through June 30, 2007, thirteen million five hundred thousand dollars.

For the period July 1, 2007 through March 31, 2008, twenty-six million two hundred fifty thousand dollars.

For the period April 1, 2008 through March 31, 2009, twenty-eight million five hundred thousand dollars.

For the period April 1, 2009 through March 31, 2010, twenty-eight million five hundred thousand dollars.

For the period April 1, 2010 through March 31, 2011, twenty-eight million five hundred thousand dollars.

For the period April 1, 2011 through March 31, 2012, twenty-eight million five hundred thousand dollars.

For the period April 1, 2012 through March 31, 2013, twenty-eight million five hundred thousand dollars.

For the period April 1, 2013 through March 31, 2014, twenty-eight million five hundred thousand dollars.

Revisions to rates made for such recruitment and retention costs shall not be subject to subsequent adjustment or reconciliation.

The final rate is payment-in-full for all personal care services provided during the applicable rate year, subject to any revisions made in accordance with rate revision or audit procedures.

For personal care services provided directly by social services district staff, payment is made according to a salary schedule established by the social services district. Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers. The agency's fee schedule rate was set as of January 1, 2009 and is effective for services provided on or after that date. All rates are published on the New York State Department of Health website at:

www.health.ny.gov/facilities/long_term_care/reimbursement/#-cr1

The Office of Mental Health (OMH) established the rate of payment to family care providers approved to provide personal care services to family care residents. The agency's fee schedule rate was set as of April 1, 2008 and is published at www.omh.ny.gov.

TN #11-14 _____

Approval Date JUL 26 2011

Supersedes TN #08-27 _____

Effective Date APR 01 2011

New York
6(a)(i)

OFFICIAL

Attachment 4.19-B
(4/11)

For programs providing services in local social services districts which do not include a city with a population of over one million persons, adjustments to Medicaid rates of payment will be calculated by allocating the total dollars available for the applicable rate period to each individual provider proportionally based on each personal care service provider's total annual hours of personal care service provided to recipients of medical assistance to the total annual hours for all providers in this category. The allocated dollars will be included as a reimbursable cost add-on to the Medicaid rates of payment based on the Medicaid utilization data reported in each provider's annual cost report for the period two years prior to the rate year.

Adjustments to Medicaid rates of payment will, in aggregate, not exceed the following amounts for the following periods.

For programs providing services in local social service districts which include a city with a population of more than one million persons:

For the period April 1, 2002 through December 31, 2002, one hundred ten million dollars.

For the period January 1, 2003 through December 31, 2003, one hundred eighty five million dollars.

For the period January 1, 2004 through December 31, 2004, two hundred sixty million dollars.

For the period January 1, 2005 through December 31, 2006, three hundred forty million dollars annually.

For the period January 1, 2007 through December 31, 2007, three hundred forty million dollars.

For the period January 1, 2008 through December 31, 2008, three hundred forty million dollars.

For the period January 1, 2009 through December 31, 2009, three hundred forty million dollars.

For the period January 1, 2010 through December 31, 2010, three hundred forty million dollars.

For the period January 1, 2011 through March 31, 2011, eighty-five million dollars.

For the period April 1, 2011 through March 31, 2012, three hundred forty million dollars.

For the period April 1, 2012 through March 31, 2013, three hundred forty million dollars.

For the period April 1, 2013 through March 31, 2014, three hundred forty million dollars.

TN #11-14 _____

Approval Date JUL 26 2011

Supersedes TN #08-27 _____

Effective Date APR 01 2011