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State/Territory Name: New York

State Plan Amendment (SPA) #: 17-0009

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Regional Operations Group

ROG: TB: SPA NY-17-0009 Approval

December 10, 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) #17-0009 has been approved for adoption into the State Medicaid Plan with an effective date of January 1, 2017. This SPA (1) revises and increases the rates paid for certified home health agency services to reflect related increases in minimum wage amounts set by state law and (2) adjusts and increases the amount of the supplemental UPL payments paid to certain non-state governmental hospitals for inpatient services totaling \$752,500 for the period April 1, 2017 through March 31, 2018.

Enclosed are copies of the Plan Pages for SPA #17-0009 and the HCFA-179 form, as approved. If you have any questions regarding this amendment, please call Tom Brady at 518-396-3810 x109 or e-mail at thomas.brady@cms.hhs.gov.


Ricardo Holligan
Acting Deputy Director
Regional Operations Group

Enclosures: HCFA-179 Form
State Plan Pages

cc: M. Ogborn
R. Deyette
R. Weaver
R. Holligan
S. Higgins
M. Tabakov
S. Abbott
T. Brady
M. Lopez

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 17-0009	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 January 1, 2017	
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 1905(r)(5) of the Social Security Act and 42 CFR 447		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 01/01/17-09/30/17 \$ 4,069.72 3600.92 b. FFY 10/01/17-09/30/18 \$ 5,426.29 10292.16	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B: Page 4(8)(1), 4(8)(1)(a), 4(8)(1)(b), 2(c)(v.1)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B: Page 4(8) 2(c)(v.1)	
10. SUBJECT OF AMENDMENT: Minimum Wage – CHHA (FMAP = 50%)			
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 Bureau of Federal Relations & Provider Assessments 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: NOV 18 2016			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: DECEMBER 10, 2019	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: JANUARY 01, 2017		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: RICARDO HOLLIGAN		22. TITLE: Regional Operations Group	
23. REMARKS: NY requested THE 'PEN & INK' changes MADE ABOVE IN BOXES 7(a), 7(b), 8, 9			

New York
4(8)(1)

Adjustment for Minimum Wage Increases. Effective January 1, 2017, and every January 1, thereafter until the minimum wage reaches the state statutorily described per hour wage as shown below, a minimum wage add-on will be developed and applied to Certified Home Health Agency (CHHA) Rate.

Minimum Wage (MW) Region	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021
New York City (Large Employers)	\$11.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00
New York City (Small employers)	\$10.50	\$12.00	\$13.50	\$15.00	\$15.00	\$15.00
Nassau, Suffolk, & Westchester counties	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00
Remainder of the State	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	\$12.50

The minimum wage adjustment will be developed and implemented as follows:

1. Minimum wage costs will mean the additional costs incurred beginning January 1, 2017 and thereafter, as a result of New York State statutory increases to minimum wages.
2. The 2017 facility specific minimum wage add-on will be developed based on collected survey data received and attested to by CHHA providers. If a provider does not submit a survey, the minimum wage add-on will be calculated based on the Provider's cost report wage data from two years prior to the period being calculated. If a facility fails to submit both the attested survey and the cost report, the facility's minimum wage add-on will not be calculated.
 - i. Minimum wage cost development based on survey data collected.
 1. Survey data will be collected for facility specific wage data.
 2. Facilities will report by wage bands, the total count of FTEs and total hours paid to all employees (contracted and non-contracted staff) earning less than the statutory minimum wage applicable for each region.
 3. Facilities will report an average fringe benefit percentage for the employees directly affected by the minimum wage increase.
 4. The minimum wage costs are calculated by multiplying the total hours paid by the difference between the statutory minimum wage and the midpoint of each wage band where the facility has reported total hours paid. To this result, the facility's average fringe benefit percentage is applied and added to the costs.
 - ii. Minimum wage cost development based on the cost report data.
 - a. The average hourly wages of employees where the reported average hourly wage is below the regional statutory minimum wage are identified.
 - b. The total payroll hours of the employees identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the cost report is then subtracted from the projected payroll resulting in the expected wage costs increase.
 - c. The facility's fringe benefit costs directly affected by the wage increase are identified, and the average fringe benefit percentage is calculated.
 - d. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.

TN #17-0009

Supersedes TN NEW

Approval Date 12/10/2019

Effective Date 01/01/2017

**New York
4(8)(1)(a)**

3. For pediatric rates the provider specific cost amount will be divided by hours to arrive at a rate per diem add on for Home Health aides which will be applied to only Medicaid hours for purposes of Medicaid reimbursement.

For episodic rates the provider specific cost amount will be divided by patient episodes to arrive at a rate per 60-day episode. This will be applied to only Medicaid episodes for purposes of Medicaid reimbursement.

4. In subsequent years, until the minimum wage is completely implemented statewide, the Department will survey facilities utilizing the methodology employed in year one. If a provider fails to submit the minimum wage survey the calculation for minimum wage costs will default to the personnel wage data reported on the provider's latest available CHHA cost report. If a provider fails to submit both the survey and the CHHA cost report its minimum wage add-on will not be calculated. Once the minimum wage costs are included in the development of the CHHA rate the minimum wage add-on will be excluded from the rate.

5. Minimum Wage Reconciliation - After the end of each calendar year, the Department of Health will survey providers to obtain the following information for the purpose of reconciling annual minimum wage reimbursement. The state will release the reconciliation survey by the end of March and providers will have two weeks to complete the survey or request an extension, if a provider determines it is unable to complete the survey within that time the provider may request an extension. Approval of extensions and the time of the extension is at the discretion of the State. If the reconciliation survey is not submitted within the two weeks or within the extension time frame should one be granted, the provider's minimum wage add-on for the calendar year covered by the survey will be recouped.

i. Total annual minimum wage funding paid to the provider (as determined from the minimum wage add-on to claims paid for services rendered in the prior calendar year) for the Medicaid share of the minimum wage law increase requirement. (This information will be supplied by the Department of Health.) Medicaid's share is the percentage of minimum wage costs that are attributable to Medicaid services based on the proportion of Medicaid services to a provider's total services.

ii. Medicaid's share of the total amount the provider was obligated to pay to bring salaries up to the minimum wage for the calendar year. (This information will be completed by the provider.)

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**New York
4(8)(1)(b)**

iii. Minimum wage funds to be recouped or additional funds to be received by the provider. (This information will be completed by the provider.) This will be the difference between the amount paid to the provider for the Medicaid share of the minimum wage law increase requirement and the corresponding amount the provider determined it was actually obligated to pay.

iv. The State agency will review providers' submissions for accuracy and reasonableness following which it will process associated payments and recoupments via retroactive per unit rate adjustments as quickly as practical thereafter.

The agency's Chief Executive Officer or Chief Financial Officer must sign an Attestation verifying the data that is supplied in the survey.

CHHA provider rates are available on the following website:

www.health.ny.gov/facilities/long_term_care/reimbursement/chha/

TN **#17-0009**

Supersedes TN **NEW**

Approval Date **12/10/2019**

Effective Date **01/01/2017**

New York
2(c)(v.1)

Hospital Outpatient Supplemental Payment Adjustment – Public General Hospitals

The State will provide a supplemental payment for hospital outpatient and emergency room services provided by eligible public general hospitals. To be eligible, the hospital must (1) be a public general hospital, (2) not be operated by the State of New York or the State University of New York, and (3) be located in a city with a population over one million.

For state fiscal year beginning April 1, 2011 and ending March 31, 2012, the amount of the supplemental payment will be \$98,610,666. For state fiscal year beginning April 1, 2012 and ending March 31, 2013, the amount of the supplemental payment will be \$107,953,672. For state fiscal year beginning April 1, 2013 and ending March 31, 2014, the amount of the supplemental payment will be \$22,101,480. For state fiscal year beginning April 1, 2014 and ending March 31, 2015, the amount of the supplemental payment will be \$26,898,232. For state fiscal year beginning April 1, 2015 and ending March 31, 2016, the amount of the supplemental payment will be \$161,521,405. For state fiscal year beginning April 1, 2016 and ending March 31, 2017, the amount of the supplemental payment will be \$ 112,980,827. For state fiscal year beginning April 1, 2017 and ending March 31, 2018, the amount of the supplemental payment will be [~~\$110,552,828~~] \$111,305,328. Medical assistance payments will be made for outpatient services for patients eligible for federal financial participation under Title XIX of the Federal Social Security Act based on each such hospital's proportionate share of the sum of all Medicaid outpatient visits for all facilities eligible for an adjustment for the base year two years prior to the rate year. Such supplemental payments under this section will be made in a single lump-sum payment.

TN #17-0009 Approval Date 12/10/2019
Supersedes TN #17-0041 Effective Date 01/01/2017