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State/Territory Name: New York

State Plan Amendment (SPA) #: 18-0009

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

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



Regional Operations Group

FMG: JH: SPA NY-18-0009 Approval

November 22, 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) #18-0009 has been approved for adoption into the State Medicaid Plan with an effective date of January 1, 2018. This SPA increases rates of payment for non-State-Operated OMH Licensed Freestanding Mental Health Freestanding Clinics and Outpatient Hospital-based Partial Hospitalization and Continuing Day Treatment Services and Day Treatment Services for Children to account for statutory increases to the New York State minimum wage through 2022 and other budgeted compensation increases for direct care and clinical staff.

Enclosed are copies of the Plan Pages for SPA #18-0009 and the HCFA-179 form, as approved.

If you have any questions regarding this amendment, please call Joanne Hounsell at 212.616.2446 or e-mail at Joanne.Hounsell@cms.hhs.gov.

Sincerely,


~~XXXXXXXXXXXX~~

Nicole McKnight
Acting Deputy Director
Regional Operations Group

Enclosures: HCFA-179 Form
State Plan Pages

- cc: R. Deyette
R. Weaver
R. Holligan
S. Higgins
M. Tabakov
M. Kahnowitz
J. Hounsell
M. Lopez

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: 18-0009	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 January 1, 2018	
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)(30) of the Social Security Act and 42 CFR 447.		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 01/01/18-09/30/18 \$ 5,923.85 \$4,654.37 b. FFY 10/01/18-09/30/19 \$ 11,342.18 \$8,996.03	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B: 2(s.4), 2(s.5), 3k(5), 3k(6)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):	
10. SUBJECT OF AMENDMENT: Minimum Wage and COLA (OMH) (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: XXXXXXXXXX		16. RETURN TO: New York State Department of Health Bureau of Federal Relations & Provider Assessments 99 Washington Ave - One Commerce Plaza Suite 1460 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgeson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: MAR 22 2018			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: NOVEMBER 22, 2019	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: JANUARY 01, 2018		20. SIGNATURE OF REGIONAL OFFICIAL: XXXXXXXXXXXXXX	
21. TYPED NAME: Nicole McKnight		22. TITLE: Acting Deputy Director Regional Operations Group	
23. REMARKS: <p style="color: blue; font-size: 1.2em;">Pen and ink changes were made to box 7 as instructed by New York State on November 12, 2019</p>			

**New York
2(s.4)**

X. Minimum Wage Rate Increases for Non-State-operated Freestanding OMH-Licensed Mental Health Clinics

Effective January 1, 2018 and every January 1 thereafter until the minimum wage reaches the state statutorily described per hour wage shown below, a minimum wage increase percentage will be developed and applied to the APG base rates for all peer groups of freestanding OMH-licensed Mental Health Clinics, except State-operated Mental Health Clinics.

<u>Minimum Wage Region</u>	<u>12/31/17</u>	<u>12/31/18</u>	<u>12/31/19</u>	<u>12/31/20</u>	<u>12/31/21</u>
<u>New York City (Large employers)</u>	<u>\$13.00</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>
<u>New York City (Small employers)</u>	<u>\$12.00</u>	<u>\$13.50</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>
<u>Nassau, Suffolk, & Westchester</u>	<u>\$11.00</u>	<u>\$12.00</u>	<u>\$13.00</u>	<u>\$14.00</u>	<u>\$15.00</u>
<u>Remainder of the State</u>	<u>\$10.40</u>	<u>\$11.10</u>	<u>\$11.80</u>	<u>\$12.50</u>	<u>\$12.50</u>

Rates adjusted by the minimum wage increase percentage will be posted to the OMH Medicaid Reimbursement website at https://www.omh.ny.gov/omhweb/medicaid_reimbursement/. The minimum wage increase percentage will be developed and implemented as follows:

- a. Minimum wage costs mean the additional costs for salary and fringe benefits incurred beginning January 1, 2018, and thereafter, as a result of New York State statutory increases to minimum wage. Minimum wage costs for 2018 are developed based on the most current available CFR cost report data and updated annually thereafter through 2022. For 2018, the State used 2014-2015 CFR cost report data and adjusted any wages reported therein below the 12/31/16 minimum wage up to such statutory minimum wage prior to calculating the minimum wage increase percentage.
 - i. The average hourly wages of employees in occupational titles where the calculated average hourly wage, after controlling for overtime, is below the regional statutory minimum wage are identified.
 - ii. The total payroll hours of the titles identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the CFR cost report is then subtracted from the projected payroll resulting in the expected minimum wage cost increase attributable to salary.
 - iii. Fringe benefit costs are identified on the CFR and the statewide average fringe benefit percentage is calculated.
 - iv. The fringe benefit percentage is applied to the increased minimum wage costs attributable to salary and the result is then added to the minimum wage cost increase attributable to salary, resulting in total minimum wage costs.
 - v. The total minimum wage cost is divided by total operating expenditures reported in the CFR cost report to derive a minimum wage increase percentage.
- b. APG base rates are adjusted annually to account for minimum wage costs by multiplying the APG base rates then in effect by the minimum wage increase percentage as determined pursuant to section (a), above.

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**New York
2(s.5)**

- c. After the end of each CFR reporting year beginning in 2018, OMH will review providers' CFR submissions to ensure the average hourly wages of employees in all occupational titles comply with minimum wage standards. OMH may reconcile and recoup minimum wage rate increases paid to providers that do not submit their CFRs according to established reporting deadlines or that are found not to be in compliance with wage standards if the Office of Mental Health deems such recoupment to be cost effective. In addition, OMH will investigate provider compliance with applicable labor laws and refer noncompliant providers to the Office of the Medicaid Inspector General.

XI. Direct Support, Direct Care and Clinical Professionals Compensation Increases for Non-State-operated Freestanding OMH-Licensed Mental Health Clinics

Effective on both January 1, 2018 and April 1, 2018, a direct care compensation increase will be developed and implemented for Direct Support and Direct Care Professionals. Also, effective April 1, 2018, a clinical compensation increase will be developed and implemented for Clinical Professionals. Such increases shall apply to all peer groups of freestanding OMH-licensed Mental Health Clinics, except State-operated Mental Health Clinics. Employee wage information is based on 2014-2015 CFR cost report data.

- a. Rate increases effective January 1, 2018 are calculated as follows:
- i. The total wages of employees in Direct Support and Direct Care Professional occupational titles (adjusted by any applicable minimum wage increases) are increased by 3.25%.
 - ii. Such wage increase is divided by the total operating expenditures reported in the CFR to derive a direct care compensation factor.
 - iii. APG base rates are adjusted for direct care compensation by multiplying the APG base rates then in effect by the direct care compensation factor calculated pursuant to subsection a(ii).
- b. Rate increases effective April 1, 2018 are calculated as follows:
- i. The total wages of employees in Direct Support and Direct Care Professional occupational titles (adjusted by any applicable minimum wage increases and the increase specified in subsection (a)(i), above) are increased by 3.25%.
 - ii. The total wages of employees in Clinical Professional occupational titles are increased by 3.25%.
 - iii. Wage increases calculated pursuant to subsections (b)(i) and (ii), above are combined and then the sum is divided by the total operating expenditures reported in the CFR to derive a direct care and clinical compensation factor.
 - iv. APG base rates are adjusted for direct care and clinical compensation by multiplying the APG base rates then in effect by the direct care and clinical compensation factor calculated pursuant to subsection b(iii).

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**New York
3k(5)**

Effective January 1, 2018:

Reimbursement Methodology for Non-State-operated OMH-Licensed Freestanding Clinic and Outpatient Hospital Services, including Partial Hospitalization and Continuing Day Treatment Services and Day Treatment Services for Children.

I. Minimum Wage Rate Increases

Effective January 1, 2018 and every January 1 thereafter until the minimum wage reaches the state statutorily described per hour wage shown below, a minimum wage increase percentage will be developed and applied to the rates for OMH-licensed Partial Hospitalization and Continuing Day Treatment Services and Day Treatment Services for Children, except rates for State-operated Services.

<u>Minimum Wage Region</u>	<u>12/31/17</u>	<u>12/31/18</u>	<u>12/31/19</u>	<u>12/31/20</u>	<u>12/31/21</u>
<u>New York City (Large employers)</u>	<u>\$13.00</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>
<u>New York City (Small employers)</u>	<u>\$12.00</u>	<u>\$13.50</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>
<u>Nassau, Suffolk, & Westchester counties</u>	<u>\$11.00</u>	<u>\$12.00</u>	<u>\$13.00</u>	<u>\$14.00</u>	<u>\$15.00</u>
<u>Remainder of the State</u>	<u>\$10.40</u>	<u>\$11.10</u>	<u>\$11.80</u>	<u>\$12.50</u>	<u>\$12.50</u>

Rates adjusted by the minimum wage increase percentage will be posted to the OMH Medicaid Reimbursement website at https://www.omh.ny.gov/omhweb/medicaid_reimbursement/. The minimum wage increase percentage will be developed and implemented as follows:

- a. Minimum wage costs mean the additional costs for salary and fringe benefits incurred beginning January 1, 2018, and thereafter, as a result of New York State statutory increases to minimum wage. Minimum wage costs for 2018 for each type of service are developed based on the most current available CFR cost report data and updated annually thereafter through 2022. For 2018, the State used 2014-2015 CFR cost report data and adjusted any wages reported therein below the 12/31/16 minimum wage up to such statutory minimum wage prior to calculating the minimum wage increase percentage.
 - i. The average hourly wages of employees in occupational titles where the calculated average hourly wage, after controlling for overtime, is below the regional statutory minimum wage are identified.
 - ii. The total payroll hours of the titles identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the CFR cost report is then subtracted from the projected payroll resulting in the expected minimum wage cost increase attributable to salary.
 - iii. Fringe benefit costs are identified on the CFR and the statewide average fringe benefit percentage is calculated.
 - iv. The fringe benefit percentage is applied to the increased minimum wage costs attributable to salary and the result is then added to the minimum wage cost increase attributable to salary, resulting in total minimum wage costs.
 - v. The total minimum wage cost is divided by total operating expenditures reported in the CFR cost report to derive a minimum wage increase percentage.

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**New York
3k(6)**

- b. Rates for Partial Hospitalization and Continuing Day Treatment Services and Day Treatment Services for Children are adjusted for minimum wage costs by multiplying rates then in effect by the minimum wage increase percentage as determined pursuant to section (a), above.
- c. After the end of each CFR reporting year beginning in 2018, the Office of Mental Health will review providers' CFR submissions to ensure the average hourly wages of employees in all occupational titles comply with minimum wage standards. OMH may reconcile and recoup minimum wage rate increases paid to providers that do not submit their CFRs according to established reporting deadlines or that are found not to be in compliance with wage standards if the Office of Mental Health deems such recoupment to be cost effective. In addition, OMH will investigate provider compliance with applicable labor laws and refer noncompliant providers to the Office of the Medicaid Inspector General.

II. Direct Support, Direct Care and Clinical Professionals Compensation Increases

Effective on both January 1, 2018 and April 1, 2018, a direct care compensation increase will be developed and implemented for Direct Support and Direct Care Professionals. Also, effective April 1, 2018, a clinical compensation increase will be developed and implemented for Clinical Professionals. Such increases shall apply to the rates for OMH-licensed Partial Hospitalization and Continuing Day Treatment Services and Day Treatment Services for Children, except rates for State-operated. Employee wage information is based on 2014-2015 CFR cost report data.

- a. Rate increases effective January 1, 2018 are calculated as follows:
- i. The total wages of employees in Direct Support and Direct Care Professional occupational titles (adjusted by any applicable minimum wage increases) are increased by 3.25%.
 - ii. Such wage increase is divided by the total operating expenditures reported in the CFR to derive a direct care compensation factor.
 - iii. Rates for Partial Hospitalization and Continuing Day Treatment Services and Day Treatment Services for Children are adjusted for direct care compensation by multiplying the rates then in effect by the direct care compensation factor calculated pursuant to subsection a(ii).
- b. Rate increases effective April 1, 2018 are calculated as follows:
- i. The total wages of employees in Direct Support and Direct Care Professional occupational titles (adjusted by any applicable minimum wage increases and the increase specified in subsection (a)(i), above) are increased by 3.25%.
 - ii. The total wages of employees in Clinical Professional occupational titles are increased by 3.25%.
 - iii. Wage increases calculated pursuant to subsections (b)(i) and (ii), above are combined and then the sum is divided by the total operating expenditures reported in the CFR to derive a direct care and clinical compensation factor.
 - iv. Rates for Partial Hospitalization and Continuing Day Treatment Services and Day Treatment Services for Children are adjusted for direct care and clinical compensation by multiplying the rates then in effect by the direct care and clinical compensation factor calculated pursuant to subsection b(iii).

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