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State/Territory Name: **New York**

State Plan Amendment (SPA) #: **19-0012**

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850



Financial Management Group

May 20, 2019

Ms. Donna Frescatore
State Medicaid Director
Office of Health Insurance Programs
NYS Department of Health
One Commerce Plaza, Suite 1211
Albany, NY 12210

RE: State Plan Amendment (SPA) TN 19-0012

Dear Ms. Frescatore:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State Plan submitted under transmittal number (TN) 19-0012. Effective January 1, 2019 this amendment proposes to continue a pay for performance quality incentive payment program for non-specialty nursing facilities and a related proportional rate reduction.

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 implementing Federal regulations at 42 CFR Part 447. This letter is to inform you that New York 19-0012 is approved effective January 1, 2019. The CMS-179 and approved plan pages are enclosed.

If you have any questions, please contact Betsy Pinho at 518-396-3810.

Sincerely,




Kristin Fan
Director

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>1 9 - 0 0 1 2</u>	2. STATE New York
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE January 1, 2019	

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 §1902(r)(5) of the Social Security Act, and 42 CFR	7. FEDERAL BUDGET IMPACT a. FFY 01/01/19-09/30/19 \$ 0.00 b. FFY 10/01/19-09/30/20 \$ 0.00
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment: 4.19-D Part I: Pages 110(d)(21), 110(d)(22), 110(d)(22.1), 110(d)(22.2), 110(d)(23), 110(d)(25), 110(d)(25.1), 110(d)(26)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment: 4.19-D Part I: Pages 110(d)(21), 110(d)(22), 110(d)(22.1), 110(d)(22.2), 110(d)(23), 110(d)(25), 110(d)(25.1), 110(d)(26)

10. SUBJECT OF AMENDMENT
Nursing Home Quality Care Incentive Changes (FMAP=50%)

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL 	16. RETURN TO New York State Department of Health Division of Finance and Rate Setting 99 Washington Ave - One Commerce Plaza Suite 1432 Albany, NY 12210
13. TYPED NAME Donna Frescatore	
14. TITLE Medicaid Director, Department of Health	
15. DATE SUBMITTED MAR 29 2019	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED	18. DATE APPROVED MAY 20 2019
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL JAN 01 2019	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME Kristin Fan	22. TITLE Director, FMG

23. REMARKS

**New York
110(d)(21)**

The New York State Nursing Home Quality Pool (NHQP) is an annual budget-neutral pool of \$50 million dollars. The intent of the NHQP is to incentivize Medicaid-certified nursing facilities across New York State to improve the quality of care for their residents, and to reward facilities for quality based on their performance. The set of measures used to evaluate nursing homes are part of the Nursing Home Quality Initiative (NHQI). The performances of facilities in the NHQI determine the distribution of the funds in the NHQP.

NHQI is described below using MDS (Minimum Data Set) year and NHQI (Nursing Home Quality Initiative) year. MDS year refers to the year the assessment data is collected. NHQI year refers to the year when the nursing home performance is evaluated. For example, if the NHQI year is 2019, then the MDS year is 2018. For the [calendar year 2018] NHQI year, the Commissioner will calculate a score and quintile ranking based on data from the [2017 calendar year] MDS year (January 1[, 2017] of the MDS year through December 31[, 2017] of the MDS year), for each non-specialty facility. The score will be calculated based on measurement components comprised of Quality, Compliance, and Efficiency Measures. These measurement components and their resulting score and quintile ranking will be referred to as the Nursing Home Quality Initiative. From the NHQI, the Commissioner will exclude specialty facilities consisting of non-Medicaid facilities, Special Focus Facilities as designated by the Centers for Medicare and Medicaid Services (CMS), Continuing Care Retirement Communities, Transitional Care Units, specialty facilities, and specialty units within facilities. Specialty facilities and specialty units shall include AIDS facilities or discrete AIDS units within facilities, facilities or discrete units within facilities for residents receiving care in a long-term inpatient rehabilitation program for traumatic brain injured persons, facilities or discrete units within facilities that provide specialized programs for residents requiring behavioral interventions, facilities or discrete units within facilities for long-term ventilator dependent residents, facilities or discrete units within facilities that provide services solely to children, and neurodegenerative facilities or discrete neurodegenerative units within facilities. The score for each such non-specialty facility will be calculated using the following Quality, Compliance, and Efficiency Measures.

Quality Measures		Measure Steward
1	Percent of Long Stay High Risk Residents With Pressure Ulcers (As Risk Adjusted by the Commissioner)	CMS
2	Percent of Long Stay Residents Who Received the Pneumococcal Vaccine	CMS
3	Percent of Long Stay Residents Who Received the Seasonal Influenza Vaccine	CMS
4	Percent of Long Stay Residents Experiencing One or More Falls with Major Injury	CMS
5	Percent of Long Stay Residents Who have Depressive Symptoms	CMS
6	Percent of Low Risk Long Stay Residents Who Lose Control of Their Bowels or Bladder	CMS
7	Percent of Long Stay Residents Who Lose Too Much Weight (As Risk Adjusted by the Commissioner)	CMS

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New York
110(d)(22)

8	Percent of Long Stay Antipsychotic Use in Persons with Dementia	Pharmacy Quality Alliance (PQA)
9	Percent of Long Stay Residents Who Self-Report Moderate to Severe Pain (As Risk Adjusted by the Commissioner)	CMS
10	Percent of Long Stay Residents Whose Need for Help with Daily Activities Has Increased	CMS
11	Percent of Long Stay Residents with a Urinary Tract Infection	CMS
12	Percent of Employees Vaccinated for Influenza	NYS DOH
13	Percent of Contract/Agency Staff Used	NYS DOH
14	Rate of Staffing Hours per Day	NYS DOH
Compliance Measures		
15	CMS Five-Star Quality Rating for Health Inspections as of April 1[, 2018] of the NHQI year (By Region)	CMS
16	Timely Submission and Certification of Complete [2017] New York State Nursing Home Cost Report to the Commissioner for the MDS year	NYS DOH
17	Timely Submission of Employee Influenza Immunization Data for the September 1[, 2017] of the MDS year - March 31[, 2018] of the NHQI year Influenza Season by the deadline of May 1[, 2018] of the NHQI year	NYS DOH
Efficiency Measure		
18	Rate of Potentially Avoidable Hospitalizations for Long Stay Residents January 1[, 2017] of the MDS year - December 31[, 2017] of the MDS year (As Risk Adjusted by the Commissioner)	NYS DOH

The maximum points a facility may receive for the Quality Component is 70. The applicable percentages or ratings for each of the 14 measures will be determined for each facility. Two measures will be awarded points based on threshold values. The remaining 12 measures will be ranked and grouped by quintile with points awarded as follows:

Quintile	Points
1 st Quintile	5
2 nd Quintile	3
3 rd Quintile	1
4 th Quintile	0
5 th Quintile	0

Note: The following quality measures will not be ranked into quintiles and points will be awarded based on threshold values:

- Percent of employees vaccinated for influenza: facilities will be awarded five points if the rate is 85% or higher, and zero points if the rate is less than 85%.
- Percent of contract/agency staff used: facilities will be awarded five points if the rate is less than 10%, and zero points if the rate is 10% or higher.

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**New York
110(d)(22.1)**

Rate of Staffing Hours per Day

NYS DOH will calculate an annualized adjusted rate of staffing hours per resident per day using Payroll Based Journal Public Use Files (PBJ PUFs). PBJ PUFs are public data sets prepared by the Centers for Medicare & Medicaid Services (CMS). PBJ PUFs have daily data on nursing home staffing levels. For this measure, staff are defined as RNs, LPNs, and Aides. The rate of reported staffing hours and the rate of case-mix staffing hours will be taken from PBJ PUFs and the adjusted rate of staffing hours will be calculated using the formula below.

Rate Adjusted = (Rate Reported / Rate Case-Mix) * Statewide average

Awarding for Improvement

Nursing homes will be awarded improvement points from previous years' performance in selected measures in the Quality Component only. One improvement point will be awarded for a nursing home that improves in its quintile for a specific quality measure, compared to its quintile in the previous year for that quality measure. Nursing homes that obtain the top quintile in a quality measure will not receive an improvement point because maximum points per measure cannot exceed five. The [two] three quality measures below will not be eligible to receive improvement points:

- Percent of Employees Vaccinated for Influenza (based on threshold)

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**New York
110(d)(22.2)**

- Percent of Contract/Agency Staff Used (based on threshold)
- Rate of Staffing Hours per Day

The remaining [12] 11 quality measures that are eligible for improvement points are listed below:

- Percent of Long Stay High Risk Residents [W] with Pressure Ulcers
- Percent of Long Stay Residents Experiencing One or More Falls with Major Injury
- Percent of Long Stay Residents Who have Depressive Symptoms
- Percent of Low Risk Long Stay Residents Who Lose Control of Their Bowels or Bladder
- Percent of Long Stay Residents Who Lose Too Much Weight
- Percent of Long Stay Residents Who Self-Report Moderate to Severe Pain
- Percent of Long Stay Residents Whose Need for Help with Daily Activities Has Increased
- Percent of Long Stay Residents with a Urinary Tract Infection
- Percent of Long Stay Residents Who Received the Seasonal Influenza Vaccine
- Percent of Long Stay Antipsychotic Use in Persons with Dementia
- Percent of Long Stay Residents Who Received the Pneumococcal Vaccine
- [Rate of Staffing Hours per Day]

The grid below illustrates the method of awarding improvement points.

[2017] MDS year Performance						
[2018] NHQI year Performance	Quintiles	1 (best)	2	3	4	5
	1 (best)	5	5	5	5	5
	2	3	3	4	4	4
	3	1	1	1	2	2
	4	0	0	0	0	1
	5	0	0	0	0	0

For example, if [2017] MDS year [NHQI] performance is in the third quintile, and [2018] NHQI year [NHQI] performance is in the second quintile, the facility will receive four points for the measure. This is three points for attaining the second quintile and one point for improvement from the previous year's third quintile.

Risk Adjustment of Quality Measures

The following quality measures will be risk adjusted using the following covariates as reported in the MDS 3.0 data to account for the impact of individual risk factors:

- Percent of Long Stay Residents Who Self-Report Moderate to Severe Pain: the covariate includes cognitive skills for daily decision making on the prior assessment.
- Percent of Long Stay High Risk Residents with Pressure Ulcers: The covariates include gender, age, healed pressure ulcer since the prior assessment, BMI, prognosis of less than six months of life expected, diabetes, heart failure, deep vein thrombosis, anemia, renal failure, hip fracture, bowel incontinence, cancer, paraplegia, and quadriplegia.

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**New York
110(d)(25)**

Electrolyte imbalance		E860, E861, E869, E870, E871, E872, E873, E874, E875, E876, E878
Congestive heart failure		I0981, I501, I5020, I5021, I5022, I5023, I5030, I5031, I5032, I5033, I5040, I5041, I5042, I5043, I509
Anemia		D500, D501, D508, D509, D510, D511, D513, D518, D520, D521, D528, D529, D530, D531, D532, D538, D539, D62, D638

Reduction of Points Base: When the number of long stay residents that contribute to the denominator of the potentially avoidable hospitalization measure is less than 30, the number of points the measure is worth will be reduced from the base of 100 maximum NHQI points. The nursing home's total score will be the sum of its points divided by the base.

The following [rate adjustments] payments, which will be applicable to the [2018 calendar year] NHQI Year, will be made to fund the NHQP and to make payments based upon the scores calculated from the NHQI as described above.

- Each non-specialty facility will be subject to a Medicaid rate reduction to fund the NHQI, which will be calculated as follows:
- For each such facility, Medicaid revenues, calculated by multiplying each facility's NHQI Year promulgated rate in effect for such period by reported Medicaid days, as reported in a facility's MDS Year [2017] cost report, will be divided by total Medicaid revenues of all non-specialty facilities. The result will be multiplied by the \$50 million dollars, and divided by each facility's most recently reported Medicaid days as reported in a facility's cost report of the MDS Year. If a facility fails to submit a timely filed [2017] cost report in the MDS Year, the most recent cost report will be used.
- The total scores as calculated above for each such facility will be ranked and grouped by quintile. Each of the top three quintiles will be allocated a share of the \$50 million NHQI and each such facility within such top three quintiles will receive a payment. Such payments will be paid as a [per diem adjustment] lump sum payment outside of the Nursing Home rate for the [2018] NHQI Year [calendar year]. Such shares and payments will be calculated as follows:

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**New York
110(d)(25.1)**

Distribution of NHQP Payments			
Facilities Grouped by Quintile	A Facility's Medicaid Revenue Multiplied by Award Factor	B Share of \$50 Million [NHQI] NHQP Payments Allocated to Facility	[C Facility Per Diem Quality Payment]
1st Quintile	Each facility's [2017] MDS Year Medicaid days multiplied by [2018] Medicaid Rate as of January 1[, 2018] of the NHQI Year = Total Medicaid Revenue multiplied by an award factor of 3	Each facility's column A Divided by Sum of [Total Medicaid Revenue for all facilities] <u>Column A</u> , Multiplied by \$50 million	[Each facility's column B divided by the facility's 2017 Medicaid days]
2nd Quintile	Each facility's [2017] MDS Year Medicaid days multiplied by [2018] Medicaid Rate as of January 1[, 2018] of the NHQI Year = Total Medicaid Revenue multiplied by an award factor of 2.25	Each facility's column A Divided by Sum of [Total Medicaid Revenue for all facilities] <u>Column A</u> , Multiplied by \$50 million	[Each facility's column B divided by the facility's [2017] Medicaid days]
3rd Quintile	Each facility's [2017] MDS Year Medicaid days multiplied by [2018] Medicaid Rate as of January 1[, 2018] of the NHQI Year = Total Medicaid Revenue multiplied by an award factor of 1.5	Each facility's column A Divided by Sum of [Total Medicaid Revenue for all facilities] <u>Column A</u> , Multiplied by \$50 million	[Each facility's column B divided by the facility's 2017 Medicaid days]
Total	Sum of [Total Medicaid Revenue for all facilities] <u>Column A</u>	Sum of quality pool funds: \$50 million	--

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New York
110(d)(26)

The following facilities will not be eligible for [2018] NHQP payments and the scores of such facilities will not be included in determining the share of the NHQP payments:

- A facility with health inspection survey deficiency data showing a level J/K/L deficiency during the time period of July 1[, 2017] of the MDS year through June 30[, 2018] of the NHQI year. Deficiencies will be reassessed on October 1[, 2018] of the NHQI year to allow a three-month window (after the June 30[, 2018] of the NHQI year cutoff date) for potential Informal Dispute Resolutions (IDR) to process. The deficiency data will be updated to reflect IDRs occurring between July 1[, 2018] of the NHQI year and September 30[, 2018] of the NHQI year. Any *new* J/K/L deficiencies between July 1[, 2018] of the NHQI year and September 30[, 2018] of the NHQI year will *not* be included in the [2018] NHQI.

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