

## **Table of Contents**

**State/Territory Name: NY**

**State Plan Amendment (SPA): NY-22-0035**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Centers for Medicare & Medicaid Services  
Center for Medicaid & CHIP Services  
233 North Michigan Ave., Suite 600  
Chicago, Illinois 60601



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**Financial Management Group**

February 1, 2023

Amir Bassiri  
Acting Medicaid Director  
99 Washington Ave – One Commerce Plaza Suite 1432  
Albany, NY 12210

**RE: New York Plan Amendment (SPA) Transmittal Number 22-0035**

Dear Mr. Amir Bassiri:

We have reviewed the proposed New York State Plan Amendment (SPA) to Attachment 4.19-B submitted under TN-22-0035, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on June 30<sup>th</sup>, 2022. This plan revises the methodology for distributing Clinic Safety Net (CSN) payments for non-FQHCs.

Based upon the information provided by the State, we have approved the amendment with an effective date of April 1<sup>st</sup>, 2022. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Jerica Bennett at 1-410-786-1167 or [jerica.bennett@cms.hhs.gov](mailto:jerica.bennett@cms.hhs.gov).

Sincerely,

A solid black rectangular box redacting the signature of Todd McMillion.

Todd McMillion  
Director  
Division of Reimbursement Review

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 2 — 0 0 3 5

2. STATE

N Y

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX  XXI

TO: CENTER DIRECTOR  
CENTERS FOR MEDICAID & CHIP SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

April 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION

§ 1902(a) of the Social Security Act and 42 CFR 447

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 04/01/22-09/30/22 \$ 0  
b. FFY 10/01/22-09/30/23 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-B: Pages 2(an), 2(an)(1), 2(an)(1.1)

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-B: Pages 2(an), 2(an)(1), 2(an)(1.1)

9. SUBJECT OF AMENDMENT

Non-FQHC Clinic Safety Net Distribution Methodology Change

10. 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:

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME

Amir Bassiri

13. TITLE

Acting Medicaid Director

14. DATE SUBMITTED

June 30, 2022

15. 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

**FOR CMS USE ONLY**

16. DATE RECEIVED  
06/30/2022

17. DATE APPROVED  
February 1, 2023

**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
04/01/2022

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

Todd McMillion

21. TITLE OF APPROVING OFFICIAL

Director, Division of Reimbursement Review

22. REMARKS

**New York  
2(an)**

**1905(a)(9) Clinic Services**

**Diagnostic and Treatment Centers (D&TCs) Safety Net Payment**

1. For the period December 1, 2018, through March 31, 2019, and for annual state fiscal years thereafter, up to \$17,350,000 of additional payments will be made to eligible Medicaid safety net diagnostic and treatment centers (D&TCs), except for Federally Qualified Health Centers (FQHCs), to sustain access to services. The amount of \$17,350,000 is subject to modification by the transfers described in paragraphs (2) and (3) of this section.
  - a. "Eligible Medicaid safety net diagnostic and treatment centers", for purposes of this section, will mean voluntary non-profit and publicly sponsored diagnostic and treatment centers licensed by the Department of Health or the Office of Mental Health, and must meet the following criteria: deliver comprehensive range of health care or mental health services; provide at least 5% of their annual visits to uninsured individuals and, for distribution periods beginning on and after April 1, 2022, provide at least 3% of their annual visits to uninsured individuals; and have a process in place to collect payment from third party payers.
  - b. The base year data used for the period commencing on December 1, 2018 through March 31, 2019 will be the 2016 certified cost report and will be advanced one year thereafter for each subsequent period. In order to be included in the distribution calculation, a provider must timely submit a certified cost report for the base year used in the distribution calculation.
  - c. New providers which do not have a full year cost or visit experience in the base year used for the distribution may qualify to be included in the distribution as follows:
    - i. The provider meets the criteria in paragraph (1)(a).
    - ii. The provider must be eligible to receive a Medicaid rate.
    - iii. The provider must submit a request to the Department of Health to participate in the distribution. This request must include annualized patient visits, by payer source, which are certified by the Chief Executive Officer, or a similar executive position.
    - iv. The effective date to be included in the distribution will be the first state fiscal year distribution calculation after the provider qualifies to be included based on the requirements in paragraphs (1)(c)(i) through (1)(c)(iii) (herein after referred to as paragraph (1)(c)) or the first state fiscal year distribution calculation after the date a request is made to the Department of Health to be included in the distribution, whichever is later.
    - v. The distribution method applied to a new provider that qualifies to be included in the distribution based on paragraph (1)(c) of this section will be in accordance with the distribution method for other providers in this section. However, the annual distribution for a provider that qualifies based on paragraph (1)(c) of this section will not exceed \$100,000.
    - vi. The distribution for a provider that qualifies based on paragraph (1)(c) of this section will be included in the total safety net distribution amount as described in paragraph (1) of this section.

**TN**           #22-0035          

**Approval Date** February 1, 2023          

**Supersedes TN**           #18-0067          

**Effective Date** April 1, 2022

**New York  
2(an)(1)**

**1905(a)(9): Clinic Services****Diagnostic and Treatment Centers (D&TCs) Safety Net Payment (continued):**

- d. (i) Each eligible D&TC will qualify for a rate add-on based on its percentage of uninsured visits to total visits according to the following tiers:

<b>% of eligible uninsured visits to total visits</b>							
<b>Upstate</b>				<b>Downstate</b>			
Low (at Least)	High (Less Than)	Amount	Tier	Low (at Least)	High (Less Than)	Amount	Tier
0%	5%	\$0	0	0%	5%	\$0	0
5%	10%	\$30	1	5%	15%	\$47	1
10%	15%	\$40	2	15%	20%	\$57	2
15%	20%	\$51	3	20%	25%	\$68	3
20%	25%	\$63	4	25%	35%	\$80	4
25% or more		\$76	5	35% or more		\$93	5

- (ii) For the distribution periods beginning on and after April 1, 2022, the tiers will not apply and all eligible D&TC's will receive a uniform add-on which will be calculated by dividing the total D&TC Safety Net Payment available, as stated in paragraph 1 of this section, by the sum of the total number of uninsured visits and Medicaid fee-for-service visits for all eligible D&TCs reported on the base year certified cost report. Any visit which Medicaid is not the only payer will not be included in the calculation.
- e. (i) For the distribution periods prior to April 1, 2022, safety net payments will be calculated by multiplying each facility's rate add-on, based on the tiers in paragraph (1)(d)(i) of this section, by the number of Medicaid fee-for-service visits reported on the base year certified cost report.
- (ii) For the distribution periods beginning on and after April 1, 2022, each eligible D&TC's safety net payment will be calculated by multiplying the uniform rate add-on, calculated based on paragraph (1)(d)(ii) of this section, by the sum of each D&TC's uninsured visits and Medicaid fee-for-service visits reported on the base year certified cost report. The uninsured and Medicaid fee-for-service visits used in the facility's distribution calculation will be the same visits utilized in the uniform rate add-on calculation described in paragraph (1)(d)(ii) of this section.
- f. The safety net rate adjustment for each eligible D&TC that is determined based on the tier system in paragraph (1)(d)(i) of this section will be scaled based on the ratio of the total funds allocated for distribution, using the tier system, to the total statewide safety net payment that is available for all eligible D&TCs. The safety net rate adjustment for each eligible D&TC that is determined based on the uniform rate add-on in paragraph (1)(d)(ii) of this section will no longer require the rate adjustment be scaled.
- g. Adjustments to rates of payment made pursuant to this section will be made quarterly as aggregate payments to eligible diagnostic and treatment centers and will not be subject to subsequent adjustment or reconciliation.

TN           #22-0035          Approval Date February 1, 2023Supersedes TN           #18-0067          Effective Date April 1, 2022

**New York  
2(an)(1.1)**

**1905(a)(9) Clinic Services**

**Diagnostic and Treatment Centers (D&TCs) Safety Net Payment (continued):**

2. In the event that a provider that is included in this D&TCs Safety Net Payment section receives FQHC designation during a state fiscal year, the newly designated FQHC provider will be removed from this D&TCs Safety Net Payment section and included in section for the FQHCs Safety Net Payment as follows:
- a. The effective date of the transfer will be the later of the following:
    - i. The first state fiscal year distribution calculation after the FQHC designated approval date; or
    - ii. The first state fiscal year distribution calculation after the date the Department of Health is notified of the FQHC designation.
  - b. The funds that were allocated to the new FQHC provider in this D&TCs Safety Net Payment section will be transferred to the FQHC Safety Net Payment section based on the prior state fiscal year calculation.
    - i. The transfer of funds will be at the same time the new FQHC provider is included in the FQHC Safety Net Payment section distribution.
    - ii. Due to the transfer of the newly designated FQHC's funds to the FQHCs Safety Net Payment section, the total value of the additional payment, as described in paragraph (1) of this section for the additional annual payment, will decrease.
  - c. In no event will the sum of the total safety net distribution amount of the FQHCs Safety Net Payment in this section and the D&TCs Safety Net Payment section exceed \$151,500,000 for the period July 28, 2016, through March 31, 2017, and \$110,000,000 for the annual state fiscal periods thereafter.
3. In the event that a provider that is included in the FQHCs Safety Net Payment section loses its FQHC designation, the FQHCs Safety Net Payment distribution to the provider calculated for the state fiscal year during which the provider lost its FQHC designation will be transferred to this section as follows:
- a. The provider will be removed from the distribution calculated in the FQHC Safety Net Payment section and included in this section for the D&TC Safety Net Payment.
  - b. The effective date of the transfer will be the first state fiscal year distribution calculation after the date the provider lost their FQHC designation.
  - c. The funds allocated to the provider in the FQHC Safety Net Payment section will be transferred to this D&TC Safety Net Payment section based on the portion of the distribution pertaining to the Medicaid fee-for-service visits applied to the tier add-on payment. The transfer of funds will be at the same time the provider is included in this D&TC Safety Net Payment section distribution, as stated in paragraph (3)(b) of this section, increasing the total value of the additional payment as described on paragraph (1) of this section.

**TN**           #22-0035           **Approval Date**           February 1, 2023          

**Supersedes TN**           #18-0067           **Effective Date**           April 1, 2022