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State/Territory Name: NY

State Plan Amendment (SPA): NY-22-0061

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
230 South Dearborn
Chicago, Illinois 60604



Financial Management Group

June 28, 2024

Amir Bassiri
New York State Medicaid Director
Department of Health (DOH)
99 Washington Ave-One Commerce Plaza Suite 1432
Albany, NY 12210

RE: TN 22-0061

Dear Director Bassiri:

The Centers for Medicare & Medicaid Services (CMS) has reviewed the proposed New York state plan amendment (SPA) to Attachment 4.19-B of NY-22-0061, which was submitted to CMS on June 30, 2022. This plan amendment implements a 5.4% Cost of Living Adjustment (COLA) for mental health and rehabilitative programs.

We reviewed your SPA submission for compliance with statutory requirements including in sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903 as it relates to the identification of an adequate source for the non-federal share of expenditures under the plan, as required by 1902(a)(2), of the Social Security Act and the applicable implementing Federal regulations.

Based upon the information provided by the state, we have approved the amendment with an effective date of April 1, 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 410-786-1167 or via email at 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 <u>2 2</u> — <u>0 0 6 1</u>	2. STATE <u>NY</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE April 1, 2022
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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 <u>04/01/22-09/30/22</u> \$ <u>19,085,411</u> b. FFY <u>10/01/22-09/30/23</u> \$ <u>38,170,822</u>
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7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment: 4.19-B Pages: 3(j.1a), 3(j.2), 3k(1a), 3k(1b.1), 3k(2.a), 3k(4), 3L-4, 3M, 8a	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment: 4.19-B Pages: 3(j.1a), 3(j.2), 3k(1a), 3k(1b.1), 3k(2.a), 3k(4), 3L-4, 3M, 8a
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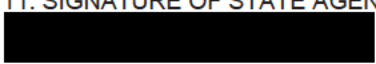
9. SUBJECT OF AMENDMENT

2022 Human Services Cost of Living Adjustment at 5.4% for qualifying programs


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 	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
12. TYPED NAME Amir Bassiri	
13. TITLE Acting Medicaid Director	
14. DATE SUBMITTED June 30, 2022	

FOR CMS USE ONLY	
16. DATE RECEIVED 06/30/2022	17. DATE APPROVED 06/28/2024

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
3(j.1a)

1905(a)(9) Clinic Services

Regional Continuing Day Treatment Rates for Freestanding Clinic (Non-State Operated)

The agency's fee schedule rate was set as of April 1, 2022 and is effective for services provided on or after that date. All rates are published on the State's website at:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/cdt-base-rate.xlsx

TN #22-0061

Approval Date June 28, 2024

Supersedes TN #21-0044

Effective Date April 1, 2022

New York
3(j.2)

1905(a)(9) Clinic Services

Continuing Day Treatment Services:

Reimbursement Methodology for Outpatient Hospital Services

Definitions:

- **Group Collateral** - A unit of service in which services are provided to collaterals of more than one individual at the same time. Group Collateral Visit will not include more than 12 individuals and collaterals. Reimbursement for group collateral visits of 30 minutes or more is provided for each individual for whom at least one collateral is present.
- **Units of Service** - Half Day – Minimum two hours
 Full Day – Minimum four hours
 Collateral Visit – minimum of 30 minutes
 Preadmission and Group Collateral Visits – minimum of one hour
 Crisis Visit – any duration

Cumulative hours are calculated on a monthly basis. A Half Day visit counts as two hours and a Full Day counts as four hours towards an individual’s monthly cumulative hours. Time spent during a crisis, collateral, group collateral, or preadmission visit is excluded from the calculation of monthly cumulative hours. Time spent during a crisis, collateral, group collateral, or preadmission visit is also excluded from the minimum service hours necessary for Half Day and Full Day visits.

When the hours of any single visit include more than one rate because the individual surpassed the monthly utilization amount within a single visit, reimbursement is at the rate applicable to the first hour of such visit.

The agency’s fee schedule rate was set as of April 1, 2022 and is effective for services provided on or after that date. All rates are published on the State’s website at: https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/cdt-base-rate.xlsx

TN #22-0061

Approval Date June 28, 2024

Supersedes TN #21-0044

Effective Date April 1, 2022

New York
3k(1a)

1905(a)(9) Clinic Services

**Regional Partial Hospitalization Rates for Freestanding Clinic and Outpatient Hospital
Partial Hospitalization Services effective April 1, 2022**

The agency's fee schedule rate was set as of April 1, 2022 and is effective for services provided on or after that date. All rates are published on the State's website at:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/partial-hospitalization.xlsx

TN #22-0061

Approval Date June 28, 2024

Supersedes TN #21-0044

Effective Date April 1, 2022

**New York
3k(1b.1)**

RESERVED

TN **#22-0061**

Approval Date June 28, 2024

Supersedes TN **#21-0044**

Effective Date **April 1, 2022**

**New York
3k(2a)**

1905(a)(9) Clinic Services

Day Treatment Services for Children:

Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of OMH Day Treatment Services for Children providers. The agency's fee schedule rate was set as of April 1, 2022, and is effective for services provided on or after that date. All rates are published on the State's website at:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/day-treatment.xlsx

TN **#22-0061**

Approval Date June 28, 2024

Supersedes TN **#21-0044**

Effective Date **April 1, 2022**

**New York
3k(4)**

1905(a)(9) Clinic Services

**Regional Day Treatment for Children Rates for Outpatient Hospital Services
(Non-State Operated)**

Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of OMH Day Treatment Services for Children providers. The agency's fee schedule rate was set as of April 1, 2022, and is effective for services provided on or after that date. All rates are published on the State's website at:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/day-treatment.xlsx

Reimbursement will include a per-visit payment for the cost of capital, which will be determined by dividing the provider's total allowable capital costs, as reported on the Institutional Cost Report (ICR) for its licensed Mental Health Outpatient Treatment and Rehabilitative Services, Continuing Day Treatment and Day Treatment Services for children, by the sum of the total annual number of visits for all of such services. The per-visit capital payment will be updated annually and will be developed using the costs and visits based on an ICR that is 2-years prior to the rate year. The allowable capital, as reported on the ICR, will also be adjusted prior to the rate add-on development to exclude costs related to statutory exclusions as follows: (1) forty-four percent of the costs of major moveable equipment and (2) staff housing.

TN #22-0061

Approval Date June 28, 2024

Supersedes TN #21-0044

Effective Date April 1, 2022

New York
3L-4

1905(a)(13) Rehabilitative Services

Intensive Rehabilitation (IR):

In addition to the monthly base rate (and reimbursement for Clinical Treatment, if applicable), PROS providers will receive an additional monthly add-on for providing at least one IR service to an individual who has received at least six units during the month.

In instances where a PROS provider provides IR services to an individual, but CRS services are provided by another PROS provider or no CRS services are provided in the month, the minimum six units required will be limited to the provision of IR services and only the IR add-on will be reimbursed.

The maximum number of IR add-on payments to a PROS provider will not exceed 50 percent of that provider's total number of monthly base rate claims reimbursed in the same calendar year.

Ongoing Rehabilitation and Support (ORS):

In addition to the monthly base rate (and reimbursement for Clinical Treatment, if applicable), PROS providers will receive an additional monthly add-on for providing ORS services. Reimbursement requires a minimum of two face-to-face contacts per month, which must occur on two separate days. A minimum contact is 30 continuous minutes in duration. The 30 continuous minutes may be split between the individual and the collateral. At least one visit per month must be with the individual only.

The ORS or IR add-on payment can be claimed independently or in addition to the base rate (and Clinical Treatment, if applicable). ORS and IR will not be reimbursed in the same month for the same individual.

Pre-admission Screening Services:

PROS providers will be reimbursed at a regional monthly case payment for an individual in pre-admission status. Reimbursement for an individual in pre-admission status is limited to the pre-admission rate. If the individual receives pre-admission screening services during the month of admission, the base rate is calculated using the entire month but no reimbursement is permitted to Clinical Treatment, IR or ORS.

Reimbursement for pre-admission screening services is limited to two consecutive months.

PROS Rates of Payment: PROS rates of payment are adjusted, effective July 1, 2021, for a one percent cost of living adjustment increase. 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 is adjusted as of April 1, 2022 and such rate is effective for services provided on or after that date. All rates are published on the OMH website at:

http://www.omh.ny.gov/omhweb/medicaid_reimbursement/excel/pros.xlsx

TN #22-0061

Approval Date June 28, 2024

Supersedes TN #21-0044

Effective Date April 1, 2022

**New York
3M**

1905(a)(13) Other diagnostic, screening, preventive, and rehabilitative services

13d. Rehabilitative Services

Assertive Community Treatment (ACT) Reimbursement

ACT services are reimbursed regional monthly fees per individual for ACT teams serving either 36, 48, or 68 individuals, as follows. Except as otherwise noted in the plan, monthly fees are the same for both governmental and non-governmental providers of ACT services. The agency's fee schedule rate is adjusted as of April 1, 2022 and such rate is effective for services provided on or after that date. All rates are published at the following link:

https://www.omh.ny.gov/omhweb/medicaid_reimbursement/excel/act.xlsx

Monthly fees are based on projected costs necessary to operate an ACT team of each size and are calculated by dividing allowable projected annual costs by 12 months and by team size. Such monthly fee is then adjusted by a factor to account for fluctuations in case load or when the provider cannot submit full or partial month claims because the minimum contact threshold cannot be met. No costs for room and board are included when calculating ACT reimbursement rates.

ACT services are reimbursed either the full or partial/stepdown fee based on the number of discrete contacts of at least 15 minutes in duration in which ACT services are provided during a month. Providers may not bill more than one monthly fee for the same individual in the same month.

ACT services are reimbursed the full fee for a minimum of six contacts per month, at least three of which must be face-to-face with the individual. ACT services are reimbursed the partial/stepdown fee for a minimum of two and fewer than six contacts per month, of which two must be face-to-face with the individual. ACT services are also reimbursed the partial/stepdown fee for a maximum of five months for a minimum of two contacts per month for individuals admitted to a general hospital for the entire month, however the full fee may be reimbursed in the month of the individual's admission or discharge if the provider meets the minimum of six contacts per month, of which up to two contacts may be provided while the individual was in the hospital. For purposes of this provision, an inpatient admission is considered continuous if the individual is readmitted within 10 days of discharge.

TN **#22-0061**

Approval Date June 28, 2024

Supersedes TN **#21-0058**

Effective Date **April 1, 2022**

**New York
8a**

1905(a)(13) Rehabilitative Services

Rehabilitative Services (42 CFR 440.130(d)): OMH outpatient mental health services - Reimbursement Methodology continued

I. Definitions: The list of definitions in the “Ambulatory Patient Group System - freestanding clinic” section of this attachment will also apply to the methodology for OMH outpatient mental health services except as follows:

- **After hours** means outside the time period 8:00 am – 6:00 pm on weekdays or any time during weekends.

II. Quality Improvement (QI) Program

An enhanced APG peer group base rate is available for participating in the OMH quality improvement program. To become eligible for this enhancement, providers must complete a Memorandum of Agreement agreeing to the terms and conditions under which the enhanced APG peer group base rate will be paid, develop and submit a quality improvement plan that is subsequently approved by the OMH, identify the process or outcome indicators that will be monitored, and submit the QI finding and results to the OMH.

Providers that discontinue their involvement in the QI program will revert to the APG peer group base rate for their region that does not include the enhancement.

III. Minimum Wage Increases

The minimum wage methodology described in the “Minimum Wage Rate Increases for Non-State-operated Freestanding OMH-Licensed Mental Health Clinics” section of this attachment will also apply to the minimum wage methodology for OMH outpatient community-based mental health rehabilitative services.

IV. Reimbursement Rates: Effective for dates of service on or after April 1, 2022, the state sets APG peer group base rates for all OMH outpatient mental health services providers, including base rates for providing participating in the OMH Quality Improvement program. Base rates are published on the State’s website at:

https://omh.ny.gov/omhweb/medicaid_reimbursement/excel/apg-peer-group-base-rate.xlsx

TN #22-0061

Approval Date June 28, 2024

Supersedes TN #22-0014

Effective Date April 1, 2022