

## **Table of Contents**

**State/Territory Name: NY**

**State Plan Amendment (SPA): NY-22-0081**

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**

December 12, 2023

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

**RE: New York Plan Amendment (SPA) Transmittal Number 22-0081**

Dear Director Bassiri:

We have reviewed the proposed New York State Plan Amendment (SPA) to Attachment 4.19-B submitted under TN-22-0081, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on September 30<sup>th</sup>, 2022. This plan proposes updates to Ambulatory Patient Group (APG) rates for freestanding clinics and reimbursement for Licensed Mental Health Counselors (LMHCs) services and Licensed Marriage and Family Therapists (LMFTs) services.

Based upon the information provided by the State, we have approved the amendment with an effective date of July 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,



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 8 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 <b>July 01, 2022</b>
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5. FEDERAL STATUTE/REGULATION CITATION <b>1905(a)(9) Clinic Services</b>	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY <u>07/01/22-09/30/22</u> \$ <u>282,798</u> b. FFY <u>10/01/22-09/30/23</u> \$ <u>1,131,194</u>
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7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT <b>Attachment 4.19-B Pages: 2(g)(2), 2(g)(3), 2(p)(i), 2(p)(i.a)</b>	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) <b>Attachment 4.19-B Pages: 2(g)(2), 2(g)(3), 2(p)(i)</b>
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9. SUBJECT OF AMENDMENT  
**July 2022 APG Updates- Freestanding Clinic**

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 [Redacted]	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 <b>Amir Bassiri</b>	
13. TITLE <b>Medicaid Director</b>	
14. DATE SUBMITTED <b>September 30, 2022</b>	

FOR CMS USE ONLY	
16. DATE RECEIVED <b>09/30/2022</b>	17. DATE APPROVED <b>December 12, 2023</b>

PLAN APPROVED - ONE COPY ATTACHED	
18. EFFECTIVE DATE OF APPROVED MATERIAL <b>07/01/2022</b>	19. SIGNATURE OF APPROVING OFFICIAL [Redacted]
20. TYPED NAME OF APPROVING OFFICIAL <b>Todd McMillion</b>	21. TITLE OF APPROVING OFFICIAL <b>Director, Division of Reimbursement Review</b>

22. REMARKS

**New York  
2(g)(2)**

**1905(a)(9) Clinic Services****APG Reimbursement Methodology – Freestanding Clinics**

The following links direct users to the various definitions and factors that comprise the APG reimbursement methodology, which can also be found in aggregate on the APG website at [http://www.health.ny.gov/health\\_care/medicaid/rates/apg/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/apg/index.htm). In addition, prior period information associated with these links is available upon request to the Department of Health.

**Contact Information:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/apg/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/apg/index.htm) Click on "Contacts."

**3M APG Crosswalk\*:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/apg/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/apg/index.htm) Click on "3M Versions and Crosswalks," then on "3M APG Crosswalk" toward bottom of page, and finally on "Accept" at bottom of page.

**APG Alternative Payment Fee Schedule; updated as of 07/01/22:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "Alternative Payment Fee Schedule."

**APG Consolidation Logic; logic is from version 3.17.22.3 and 3.17.22.4, updated as of 07/01/22 and 10/01/22:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/bundling/](http://www.health.ny.gov/health_care/medicaid/rates/bundling/) Click on "2022"

**APG 3M Definitions Manual; version 3.17 updated as of 07/01/22 and 10/01/22:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "3M Versions and Crosswalk."

**APG Investments by Rate Period; updated as of 07/01/10:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "Investments by Rate Period."

**APG Relative Weights; updated as of 07/01/22:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "Weights, Proc Weights, and APG Fee Schedule Amounts."

**Associated Ancillaries; updated as of 01/01/20:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/apg/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/apg/index.htm) Click on "Ancillary Policy."

\*Older 3M APG crosswalk versions available upon request.

**TN**           #22-0081          

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**New York  
2(g)(3)**

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

**Carve-outs; updated as of 10/01/12. The full list of carve-outs is contained in Never Pay APGs and Never Pay Procedures:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "Carve Outs."

**Coding Improvement Factors (CIF); updated as of 04/01/12 and 07/01/12:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "CIFs by Rate Period."

**If Stand Alone, Do Not Pay APGs; updated 01/01/15:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "If Stand Alone, Do Not Pay APGs."

**If Stand Alone, Do Not Pay Procedures; updated 07/01/22:**

[http://www.health.state.ny.us/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.state.ny.us/health_care/medicaid/rates/methodology/index.htm) Click on "If Stand Alone, Do Not Pay Procedures."

**Modifiers; updated as of 07/01/22:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "Modifiers."

**Never Pay APGs; updated as of 07/01/21:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "Never Pay APGs."

**Never Pay Procedures; updated as of 07/01/22:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "Never Pay Procedures."

**No-Blend APGs; updated as of 01/01/20:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "No Blend APGs."

**No-Blend Procedures; updated as of 01/01/11:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "No-Blend Procedures."

**No Capital Add-on APGs; updated as of 01/01/20:**

[http://www.health.ny.gov/health\\_care/medicaid/rates/methodology/index.htm](http://www.health.ny.gov/health_care/medicaid/rates/methodology/index.htm) Click on "No Capital Add-on APGs."

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New York  
2(p)(i)

1905(a)(9) Clinic Services

Effective for dates of service on and after September 1, 2009, payments to freestanding clinics for the following services will be based on fees or rates established by the Department of Health: (1) wheelchair evaluations, (2) eyeglass dispensing, and (3) individual psychotherapy services provided by licensed social workers to persons under the age of 21, and to persons requiring such services as a result of or related to pregnancy or giving birth, and (4) individual psychotherapy services provided by licensed social workers at freestanding clinics that provided, billed for, and received payment for these services between January 1, 2007 through December 31, 2007. Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers. A link to the APG alternative rates for all periods is available in the APG Reimbursement Methodology – Freestanding Clinics section.

Effective for dates of service on and after July 1, 2022, Medicaid will reimburse freestanding clinics for services provided by Licensed Mental Health Counselors (LMHCs), operating within their scope of practice and for services rendered by LMHC limited permit holders operating under the supervision of an LMHC. Reimbursement for LMHCs and LMHC limited permit holders will be based on rates established by the Department of Health. Except as otherwise noted in the plan, state-developed rates are the same for both governmental and private providers. Reimbursement for LMHC services will be done via rate codes, which are published by the Department on the "Alternative Payment Fee Schedule" and are effective for services provided on or after July 1, 2022. The rates are published on the Department of Health website at the following link:

[https://www.health.ny.gov/health\\_care/medicaid/rates/methodology/alt\\_payment\\_fee.htm](https://www.health.ny.gov/health_care/medicaid/rates/methodology/alt_payment_fee.htm)

Effective for dates of service on and after July 1, 2022, Medicaid will reimburse freestanding clinics for services provided by Licensed Marriage and Family Therapists (LMFTs), operating within their scope of practice and for services rendered by LMFT limited permit holders operating under the supervision of an LMFT. Reimbursement for LMFTs and LMFT limited permit holders will be based on rates established by the Department of Health. Except as otherwise noted in the plan, state-developed rates are the same for both governmental and private providers. Reimbursement for LMFT services will be done via rate codes, which are published by the Department on the "Alternative Payment Fee Schedule", and are effective for services provided on or after July 1, 2022. The rates are published on the Department of Health website at the following link:

[https://www.health.ny.gov/health\\_care/medicaid/rates/methodology/alt\\_payment\\_fee.htm](https://www.health.ny.gov/health_care/medicaid/rates/methodology/alt_payment_fee.htm)

VII. Rates for services provided in freestanding clinic and ambulatory surgery center facilities located outside of New York State will be as follows:

- APG rates in effect for similar services for providers located in the downstate region of New York State will apply to services provided by out-of-state providers located in the New Jersey counties of Sussex, Passaic, Bergen, Hudson, Essex, Union, Middlesex and Monmouth; in the Pennsylvania county of Pike; and in the Connecticut counties of Fairfield and Litchfield;

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**New York  
2(p)(i.a)**

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

- and rates in effect for similar services for providers located in the upstate region of New York State will apply to all other out-of-state providers.
- In the event the Department determines that an out-of-state provider is providing services which are not available within New York State, the Department will negotiate payment rates and conditions with such a provider up to, but not in excess of, the provider's usual and customary charges. Prior approval by the Department will be required with regard to services provided by such providers.
- For the purpose of APG reimbursement to out-of-state providers, the downstate region of New York State will consist of the New York counties of Bronx, New York, Kings, Queens, Richmond, Nassau, Suffolk, Westchester, Rockland, Orange, Putnam and Dutchess, and the upstate region of New York State will consist of all other New York counties.

**System updating**

The following elements of the APG reimbursement system will be updated no less frequently than annually:

- the listing of reimbursable APGs and the relative weight assigned to each APG;
- the base rates;
- the applicable ICD-10-CM codes utilized in the APG software system;
- the applicable CPT-4/HCPCS codes utilized in the APG software system; and
- the APG software system.

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