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State/Territory Name: NY

State Plan Amendment (SPA) #: 13-37

This file contains the following documents in the order listed:

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



JAN 10 2014

Jason A. Helgeson
State Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs
NYS Department of Health
Corning Tower (OCP - 1211)
Albany, NY 12237

RE: TN 13-37

Dear Mr. Helgeson:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 13-37. Effective April 1, 2013, this amendment will extend the audit period for calendar year 2002 cost reports filed by Nursing Facilities through December 31, 2018. This SPA also formally informs the industry that certain 2007 and 2008 transitional payments made to nursing facilities will not be adjusted.

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 regulations at 42 CFR 447 Subpart C. This is to inform you that New York State plan amendment 13-37 is approved effective April 1, 2013. We have enclosed the HCFA-179 and the approved plan pages.

If you have any questions, please contact Tom Brady at 518-396-3810 or Rob Weaver at 410-786-5914.

Sincerely,

Cindy Mann
Director

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 13-37	2. STATE New York
FOR: HEALTH CARE FINANCING ADMINISTRATION		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 April 1, 2013	
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: §1902(a) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: a. FFY 04/01/13-09/30/13 \$0 b. FFY 10/01/13-09/30/14 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D: Pages 50, 50(b)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-D: Pages 50, 50(b)	
10. SUBJECT OF AMENDMENT: NH Rebasing Rates & Transition Payments (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:		16. RETURN TO: New York State Department of Health Bureau of HCRA Operations & Financial Analysis 99 Washington Ave – One Commerce Plaza Suite 810 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgeson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: June 26, 2013			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: JAN 10 2014	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: APR 01 2013		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Penny Thompson		22. TITLE: Deputy Director, Policy & Financial Mgt. P.H.C.S.	
23. REMARKS:			

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- (a) The operating cost component of residential health care facilities (RHCF's) rates of payment effective for the January 1, 2007 through December 31, 2007 and January 1, 2008 through December 31, 2008 rate periods, respectively, shall consist of the sum of the Direct, Indirect and Non-Comparable components of the rate
- (1) in effect as of October 1, 2006 and adjusted for inflation to the 2007 rate period;
 - (2) in effect as of December 31, 2006 and adjusted for inflation to the 2008 rate period;
 - (3) the rates shall be further adjusted as follows:
 - i. a per diem add-on reflecting the proportional amount of each facility's projected Medicaid benefit to total Medicaid benefit for all facilities of the imputed rate methodology to be effective April 1, 2009, including use of the allowable operating costs as reported in each facility's 2002 calendar year cost report, adjusted for inflation to the applicable rate period and reflecting the expiration of the productivity and efficiency limitation and the fiscal and administrative cap adjustments; and
 - ii. for those facilities which do not receive a benefit from the incorporation of 2002 allowable operating costs, rates for 2007 and 2008 shall be adjusted by a per diem add-on reflecting a proportional benefit of the expiration of the productivity and efficiency limitation and the fiscal and administrative cap adjustments.
 - (4) aggregate Medicaid payments for the rate adjustments as stated in (i) and (ii) of paragraph (3) of this section will not exceed \$137.5 million for the 2007 rate period, and \$167.5 million for the 2008 rate period, and such rate adjustments made prior to April 1, 2013 will not be subject to subsequent adjustment or reconciliation.
- (b) Additionally, the rates effective January 1, 2007 and January 1, 2008 shall
- (1) include any revisions to the 2006 rates occurring on and after January 1, 2007. Such revisions shall be incorporated into the 2007 and 2008 rate periods on an annual basis on or about November 30, 2007 and November 30, 2008, respectively. These rate adjustments shall be made on a retroactive and prospective basis;
 - (2) include the cost of local property taxes and payments made in lieu of local property taxes as reported in each facility's cost report for the period two years prior to the rate period;

TN <u> #13-37 </u>	Approval Date <u> JAN 10 2014 </u>
Supersedes TN <u> #09-33 </u>	Effective Date <u> APR 01 2013 </u>

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(~~[5]~~4) Cost reports submitted by facilities for the 2002 calendar year or any subsequent year used to determine the operating component of the 2009 rate shall be subject to audit through December 31, [~~2014~~] 2018. Facilities will therefore retain all fiscal and statistical records relevant to such costs reports. Any audit of the 2002 cost report, which is commenced on or before December 31, [~~2014~~] 2018, may be completed subsequent to that date and used for adjusting the Medicaid rates that are based on such costs.

(e) Additionally, the operating component of the rates effective April 1, 2009 shall

(1) be subject to a case mix adjustment through application of the relative Resource Utilization Groups System (RUGS-III) used by the federal government for Medicare, revised to reflect NYS wage and fringe benefits, and based on Medicaid only patient data. New York State wages are used to determine the weight of each RUG. The cost for each RUG is calculated using the relative resources for registered nurses, licensed practical nurses, aides, therapists, and therapy aides using the 1995 – 97 federal time study. The minutes from the study are multiplied by the NY average dollar per hour to determine the fiscal resources needed to care for that patient type for one day. This amount is multiplied by the number of patients in that RUG. RUG weights are assigned based on the distance from the statewide average. The RUGS-III weights shall be increased for the following resident categories:

- (i) 30 minutes for impaired cognition A;
- (ii) 40 minutes for impaired cognition B; and
- (iii) 25 minutes for reduced physical functions B.

Medicaid only case mix adjustments shall be made in January and July of each calendar year, except that no case mix adjustment shall be made in January 2011 and July 2011. The adjustments and related patient classifications for each facility shall be subject to audit review in accordance with regulations promulgated by the Commissioner of Health, and effective January 1, 2009 shall

- (2) incorporate the continuation, through 2009 and subsequent years, of the adjustment for extended care of persons with traumatic brain injury in accordance with the provisions of this Attachment;
- (3) incorporate the continuation, through 2009 and subsequent years, of the adjustment for the cost of providing Hepatitis B vaccinations in accordance with the provisions of this Attachment;
- (4) reflect a per diem add-on of \$8, trended from 2006 to 2009 and thereafter, for each patient who:

TN #13-37 _____

Approval Date JAN 10 2014

Supersedes TN #11-03 _____

Effective Date APR 01 2013