Table of Contents

State/Territory Name: NY

State Plan Amendment (SPA) #:16-0029

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

CENTERS FOR MEDICARE & MEDICAID SERVICES

Financial Management Group

MAR 22 2017

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

RE: State Plan Amendment (SPA) 16-0029

Dear Commissioner Helgerson:

We have reviewed the proposed amendment to Attachment 4.19-A of your Medicaid State Plan submitted under transmittal number (TN) 16-0029. Effective May 12, 2016 this amendment proposes to enhance the medical rehabilitation rate for inpatient hospital pediatric ventilator beds.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a) and 1923 of the Social Security Act and the implementing Federal regulations at 42 CFR Part 447. This letter is to inform you SPA 16-0029 is approved effective May 12, 2016. We are enclosing the CMS-179 and the amended approved plan page.

If you have any questions, please contact Charlene Holzbaur at 609-882-4103 Ext. 104.

Sincerely,

[redacted]

Kristin Fan
Director

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: **16-0029**

2. STATE: **New York**

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
May 12, 2016

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 447

7. FEDERAL BUDGET IMPACT: **(in thousands)**
a. FFY 05/12/16-09/30/16 $ 344.67
b. FFY 10/01/16-09/30/17 $ 919.12

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Attachment 4.19-A – Page 115, 115.1, 115.2

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Attachment 4.19-A – Page 115

10. SUBJECT OF AMENDMENT:
Pediatric Ventilator Bed Rate Increases
(FMAP = 50%)

11. 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:

12. SIGNATURE OF STATE AGENCY OFFICIAL:
[redacted]

13. TYPED NAME: **Jason A. Helgerson**

14. TITLE: **Medicaid Director**
Department of Health

15. DATE SUBMITTED: JUN 20 2016

16. RETURN TO:
New York State Department of Health
Bureau of Federal Relations & Provider Assessments
99 Washington Ave – One Commerce Plaza
Suite 1435
Albany, NY 12210

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

18. DATE APPROVED: MAR 22 2017

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: MAY 12 2016

20. SIGNATURE OF REGIONAL OFFICIAL:
[redacted]

21. TYPED NAME: Kristin Fan

22. TITLE: Director, FMG

23. REMARKS:

Box 7 reflects the incremental cost of the new service. However, offsetting savings of other settings could reduce or eliminate the cost.

FORM HCFA-179 (07-92)

New York
115

Exempt units and hospitals.

1. *Physical medical rehabilitation inpatient services* shall qualify for reimbursement as an exempt unit/hospital pursuant to this paragraph for periods on and after December 1, 2009, only if such services are provided in a hospital specializing in such services or in a distinct unit within a general hospital designated for such services and only if:

   a. Such hospital or such unit qualified for exempt unit status for purposes of reimbursement under the federal Medicare prospective payment system as of December 31, 2001; or

   b. On or before July 1, 2009, the hospital submitted a written request to the Department for exempt status providing assurances acceptable to the Department that the hospital or unit within the hospital meets the exempt status for 2009 for periods prior to December 1, 2009.

      i. For periods on and after January 1, 2010, a hospital seeking exempt status for a hospital or a distinct unit within the hospital not previously recognized by the Department as exempt for reimbursement purposes shall submit a written request to the Department for such exempt status and shall provide assurances and supporting documentation acceptable to the Department that the hospital or unit meets qualifying exempt status criteria in effect at the time such written request is submitted . Approval by the the Department of such exempt status shall, for reimbursement purposes, be effective on the January 1 following such approval, provided that the request for such exempt unit status was received at least 120 days prior to such date.

      ii. For days of service occurring on and after December 1, 2009, the operating component of rates of payment for inpatient services for facilities subject to this subdivision shall be a per diem amount reflecting the facility's reported 2005 operating costs as submitted to the Department prior to July 1, 2009, not including reported direct medical education costs, and held to a ceiling of 110% of the average of such costs in the region in which the facility is located, as described in paragraph (9) of this section. Such rates shall reflect trend adjustments in accordance with the applicable provisions this Attachment.

      iii. <u>For days of service occurring on and after May 12, 2016, the rates of payment for inpatient services for physical medical rehabilitation will be revised to include costs for pediatric ventilator services that receive Certificate of Need (CON) approval.</u>

      <u>(1) A hospital that has been approved through the CON process to include pediatric ventilators within their physical medical rehabilitation unit will provide or report the following:</u>

New York
115.1

(a) Documentation of CON approval of the pediatric ventilator service within their physical medical rehabilitation unit.

(b) Discretely report the costs and statistics for these services on a hospital's Institutional Cost Report.

(2) A hospital that has a full year experience of pediatric ventilator service costs (defined as audited costs) and statistics will have their physical medical rehabilitation rate, which includes pediatric ventilator service, calculated as follows:

(a) A separate rate will initially be calculated for the physical medical rehabilitation service, using data in 1(b)(ii), and for the pediatric ventilator service using the same base year data as utilized for the medical rehabilitation service (subject to the provisions in paragraph 3 below). Two separate rates will then be combined as detailed in 2(c) to develop one physical medical rehabilitation rate for payment.

(b) The method for calculating the pediatric ventilator service rate, prior to developing the combined rate, will be the same as utilized for the physical medical rehabilitation rate, as described in this section, with the exception that the pediatric ventilator services will not be held to the 110% ceiling of the regional average costs. The pediatric ventilator service rate will not be included in the physical medical rehabilitation services 110% ceiling regional average.

(c) A combined per day payment rate for medical rehabilitation services will be developed from the two separate rates as follows:

(i) The percentage of Medicaid days for each of the two services to the total Medicaid days for the two services is multiplied by each service's per day payment.

(ii) The Medicaid days utilized for this proportional calculation are those as referenced in 1(b)(iii)(2)(a).

(iii) The results of multiplying the respective proportional percentage to each service's respective per day rate are then added together to develop the physical medical rehabilitation rate to be paid for both the physical medical rehabilitation and pediatric ventilator service days.

(3) A hospital without an initial full year of pediatric ventilator service cost and statistics experience will have their physical medical rehabilitation rate, which includes the pediatric ventilator service, calculated as above in 1(b)(iii)(2). Except rather than data from 1(b)(iii)1(b) the costs and statistics used for the pediatric ventilator service will be based on budgeted CON approved costs. The budgeted costs will be subject to review and limitation based on a comparison to other hospitals and nursing homes providing the service.

(a) Budgeted base year costs will be replaced with actual audited costs at the time a full year of actual audited costs are available using data in 1(b)(iii)(1)(b).

(b) The pediatric ventilator service rate developed from actual audited costs will be subject to the same review and limitation based on a comparison to other hospitals and nursing homes providing the service that was initially completed for budgeted costs.

2. *Chemical dependency rehabilitation inpatient services* shall qualify for reimbursement pursuant to this paragraph for periods on and after December 1, 2009, only if such services are provided in a hospital specializing in such services or in a distinct unit within a general hospital designated for such services and only if: