

Table of Contents

State/Territory Name: New York

State Plan Amendment (SPA) #: 17-0026

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
New York Regional Office
26 Federal Plaza, Room 37-100
New York, NY 10278



DIVISION OF MEDICAID AND CHILDREN'S HEALTH OPERATIONS

DMCHO: JH:SPA-NY-17-0026-Approval

February 1, 2018

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

Dear Commissioner Helgersen:

On January 27, 2017, the Centers for Medicare and Medicaid Services (CMS) received New York State Plan Amendment (SPA), transmittal number 17-0026, which proposes to revise the Personal Care Services reimbursement methodology to increase rates of payment due to a minimum wage increase effective January 1, 2017.

Enclosed is a copy of the HCFA-179 form as well as the approved pages for incorporation into the New York State Plan.

If you have any questions regarding this amendment, please call Joanne Hounsell at 212.616.2446 or e-mail at joanne.hounsell@cms.hhs.gov.

Sincerely,


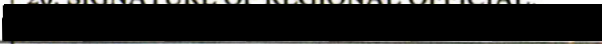
[Redacted Signature]
Michael Melendez, LMSW
Associate Regional Administrator
Division of Medicaid and Children's Health Operations

Enclosures: HCFA-179 Form
State Plan Pages

cc: J. Ulberg
R. Deyette
P. LaVenja
M. Levesque

R. Weaver
R. Holligan
N. McKnight
M. Tabakov

J. Hounsell
M. Lopez

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 17-0026	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 January 1, 2017	
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: Section 1905(r)(5) of the Social Security Act and 42 CFR 447		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 01/01/17-09/30/17 \$ 3,042.00 b. FFY 10/01/17-09/30/18 \$ 7,098.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B – Page 6(a)(2), 6(a)(3), 6(a)(4)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B – Page 6(a)(2)	
10. SUBJECT OF AMENDMENT: Minimum Wage – ALL Personal Care (NYC and Non-NYC) (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 Federal Relations & Provider Assessments 99 Washington Ave – One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: JAN 27 2017			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: FEBRUARY 01, 2018	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: JANUARY 01, 2017		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: MICHAEL MELENDEZ		22. TITLE: ASSOCIATE REGIONAL ADMINISTRATOR DIVISION OF MEDICAID & CHILDREN'S HEALTH	
23. REMARKS:			

New York 6(a)(2)

Such rates of payment [shall] will be further adjusted to reflect costs associated with the recruitment and retention of non-supervisory workers. For programs providing services in local social service districts which include a city with a population of over one million persons, such rate adjustments will be calculated by allocating the total dollars available for the applicable rate period to each individual provider proportionally based on total claimed hours of services for personal care services provided in the district to recipients of medical assistance. The allocated dollars will be included as a reimbursable cost add-on to the Medicaid rates of payment based on the Medicaid utilization data as adjudicated through the Medicaid Management Information System (MMIS), or any successor entity, utilizing the most recently available total claimed hours of Medicaid services data, as agreed to by New York State and the district.

For payment periods January 1, 2017, and thereafter, the Commissioner of Health will increase the rates of payment for services provided by all Personal Care providers in accordance with the wage chart shown below to address cost increases resulting from increases to the minimum wage in New York State. Final rates for providers can be found on the Department of Health website:

For New York City Personal Care:

http://www1.nyc.gov/assets/hra/downloads/pdf/services/micsa/rate_chart.pdf

For non New York City Personal Care:

https://www.health.ny.gov/facilities/long_term_care/reimbursement/pcr/

Minimum Wage Chart

Minimum Wage (MW) Region	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021
New York City (Large employers)	\$11.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00
New York City (Small employers)	\$10.50	\$12.00	\$13.50	\$15.00	\$15.00	\$15.00
Nassau, Suffolk, & Westchester counties	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00
Remainder of the State	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	\$12.50

Minimum wage costs will mean the additional costs incurred beginning January 1, 2017, and thereafter, as a result of New York state statutory increases to minimum wage. Minimum wage cost development will be based on survey data collected.

1. Survey data will be collected for facility specific wage data.

TN <u>#17-0026</u>	Approval Date <u>02/01/2018</u>	
Supersedes TN <u>#09-0069</u>	Effective Date <u>01/01/2017</u>	

**New York
6(a)(3)**

2. Facilities will report by specified wage bands, the total count of FTEs and total hours paid to employees earning less than the statutory minimum wage applicable for each minimum wage region.
3. Facilities will report an average fringe benefit percentage for the employees directly affected by the minimum wage increase.
4. The minimum wage costs are calculated by multiplying the total hours paid by the difference between the statutory minimum wage and the midpoint of each wage band where the facility has reported total hours paid. To this result, the facility's average fringe benefit percentage is applied and added to the costs.
5. The 2017 minimum wage costs will be developed based on collected survey data received and attested to by Personal Care Agencies. The cost report will not be used because it does not contain wage data at the level of detail needed to calculate a minimum wage adjustment. Therefore, if the providers do not respond to the survey they will not receive a minimum wage add-on.
6. In subsequent years until the minimum wage is completely implemented statewide, the Department will survey Personal Care Agencies (PCA). If a PCA fails to submit the survey its minimum wage add-on will not be calculated. Once the costs are included in the base year cost report, the minimum wage add-on will be excluded from the rate.
7. A minimum wage add-on will be developed by multiplying minimum wage costs pursuant to "4." above by a percentage of Medicaid hours to total hours, divide by total Medicaid hours for each rate.

Minimum Wage Reconciliation - After the end of each calendar year, the Department of Health will survey providers to obtain the following information for the purpose of reconciling annual minimum wage reimbursement. The state will release the survey by the end of March and providers will have two weeks to complete the survey or request an extension if a provider determines it is unable to complete the survey within that time. Approval of extensions, and the time of the extension, is at the discretion of the state. If the reconciliation survey is not submitted within the two weeks or within the extension time frame, should one be granted, the provider's minimum wage add-on for the calendar year covered by the survey will be recouped.

TN #17-0026

Approval Date 02/01/2018
01/01/2017

Supersedes TN New

Effective Date _____

**New York
6(a)(4)**

1. Total annual minimum wage funding paid to the provider (as determined from the minimum wage add-on to claims paid for services rendered in the prior calendar year) for the Medicaid share of the minimum wage law increase requirement. (This information will be supplied by the Department of Health.) Medicaid's share is the percentage of minimum wage costs that are attributable to Medicaid services based on the proportion of Medicaid services to a provider's total services.
2. Medicaid's share of the total amount the provider was obligated to pay to bring salaries up to the minimum wage for the calendar year. (This information will be completed by the provider.)
3. Minimum wage funds to be recouped or additional funds to be received by the provider. (This information will be completed by the provider.) This will be the difference between the amount paid to the provider for the Medicaid share of the minimum wage law increase requirement and the corresponding amount the provider determined it was actually obligated to pay.
4. The State agency will review providers' submissions for accuracy and reasonableness, following which it will process associated payments and recoupments via retroactive per unit rate adjustments as quickly as practical thereafter.

The agency's Chief Executive Officer or Chief Financial Officer must sign an Attestation verifying the data that is supplied in the survey.

TN #17-0026

Approval Date 02/01/2018

01/01/2017

Supersedes TN New

Effective Date _____