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State/Territory Name: New York

State Plan Amendment (SPA) #: 18-0007

This file contains the following documents in the order listed:

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



DIVISION OF MEDICAID AND CHILDREN'S HEALTH OPERATIONS

DMCHO: JH:SPA-NY-18-0007-Approval

July 30, 2018

Ms. Donna Frescatore
State Medicaid Director
Office of Health Insurance Programs
NYS Department of Health
One Commerce Plaza, Suite 1211
Albany, NY 12210

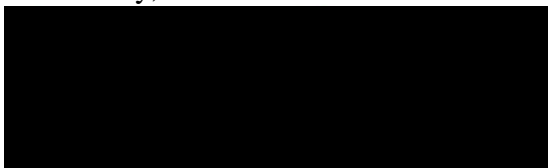
Dear Ms. Frescatore:

This is to notify you that New York State Plan Amendment (SPA) #18-0007 has been approved for adoption into the State Medicaid Plan with an effective date of January 1, 2018. This SPA adjusts Article 16 clinic rates for increased labor costs due to statutorily required increases in New York State minimum wages.

Enclosed are copies of the Plan Pages for SPA #18-0007 and the HCFA-179 form, as approved. "Pen & Ink" changes have been made to the Form 179 as instructed by New York.

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.

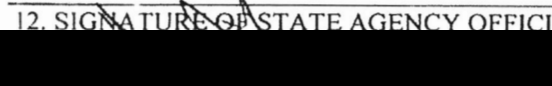
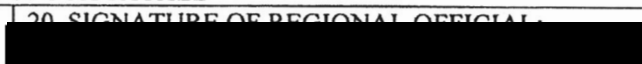
Sincerely,



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

Enclosures: HCFA-179 Form
State Plan Pages

cc:	R. Deyette	R. Holligan
	P. LaVenía	N. McKnight
	M. Levesque	M. Tabakov
	J. Yungandreas	J. Hounsell
	R. Weaver	M. Lopez

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 18-0007	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, 2018	
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: - insert appropriate citation -		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 01/01/18-09/30/18 \$ 10.01 b. FFY 10/01/18-09/30/19 \$ 13.35	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-B Pages: 2(t.7); 2(t.8); 2(t.9); 2(t.5)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-B Page: 2(t.5)	
10. SUBJECT OF AMENDMENT: Article 16 Minimum Wage (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 Division of Finance & Rate Setting 99 Washington Ave - One Commerce Plaza Suite 1432 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgeson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: MAR 20 2018			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: JULY 30, 2018	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: JANUARY 01, 2018		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: MICHAEL MELENDEZ		22. TITLE: ASSOCIATE REGIONAL ADMINISTRATOR DIVISION OF MEDICAID & CHILDREN'S HEALTH	
23. REMARKS: Pen & Ink Changes were made to Boxes 8 & 9 as instructed by New York.			

**New York
2(t.5)**

- (v) Article 16 (OPWDD) clinics may offer a wider variety of services delivered in group settings than Article 28 (DOH) clinics. The following Article 16 clinic services can be delivered in group setting and reimbursed through the APG payment methodology:
 - (a) Group Physical and Occupational Therapy (APG 274)
 - (b) Group Speech Therapy (APG 275)
 - (c) Group Psychotherapy (APG 310)
 - (d) Group Self-Management Education Services (APG 429)
 - (e) Nutrition therapy services (APG 118). In the case of nutrition therapy services, when claimed using HCPCS codes that specifically permit group services.
- (vi) When explicitly ordered and referred by a physician, Article 16 clinics may use registered nurses (in addition to physicians, physician assistants, and nurse practitioners) to deliver preventive counseling services (procedure codes 99401-99404 and 99411-99412) within the scope of their competence. Such preventive counseling services need not be provided on the same day as a physician medical service.
- (vii) Article 16 clinic facilities are not certified to provide laboratory and radiological services. As such the Article 28 ancillary services policy, which includes the costs of laboratory and radiology services within medical visit APG reimbursement, will not apply to Article 16 clinic facilities. In very limited instances such services are ordered by an Article 16 physician, the patient will be referred to an external provider and the ancillary service will be separately billed to Medicaid.

IV. Capital Costs:

If a visit includes a service which maps to an APG that allows a capital add-on, there will be a capital add-on to the operating component of the APG payment for the visit.

- (1) For each visit, the capital cost component will be a fixed amount equal to the capital cost component of the clinic's regular visit fee in effect on June 30, 2011 and can be found at the following webpage:

http://www.health.ny.gov/health_care/medicaid/rates/mental_hygiene/apg/2011-07-01_capital_add_on.htm

- (2) A capital add-on is allowable for most APG claims and is payable on a per-visit basis. If the visit entails a specific APG or APG Procedure as a standalone, meaning that it is the only visit listed on the claim, then capital will not be reimbursed for this visit. The links for the "No Capital Add-on APG List" and the "No Capital Add-on Procedure List" can be found at the following webpage:

http://www.health.ny.gov/health_care/medicaid/rates/methodology/no_capital_add-on
http://www.health.ny.gov/health_care/medicaid/rates/methodology/no_capital_add-on_procedures

V. New Clinics:

Clinics that began or will begin operation on or after July 1, 2011 will be reimbursed in accordance with the OPWDD transition schedule, except that the average legacy rate across all OPWDD clinics, in the amount of \$107.82, will be used in place of a clinic-specific rate when calculating the reimbursement during the transition period. These new clinics will be assigned a peer group, based on their geographical location, and receive a rate which is calculated the same as other clinics using a percentage of the state wide average legacy rate and the peer group APG. The aforementioned methodology includes the capital add-on rate of \$6.16 for new clinics that was in effect on June 30, 2011.

TN #18-0007 Approval Date 07/30/2018

Supersedes TN #10-0018 Effective Date 01/01/2018

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2(t.7)**

Minimum Wage – OPWDD-licensed Article 16 Clinics

Effective January 1, 2018, and every January 1 thereafter until the minimum wage reaches the state statutorily described per hour wage as shown below, a minimum wage add-on will be developed and applied to the Ambulatory Patient Group (APG) rate for OPWDD licensed Article 16 clinics.

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

The APG capital rate that is adjusted for the minimum wage add-on will be posted to the Mental Hygiene Services Rates webpage.

https://www.health.ny.gov/health_care/medicaid/rates/mental_hygiene/apg/capital_add_on.htm

The minimum wage add-on will be developed and implemented as follows:

- a. Minimum wage costs will mean the additional costs incurred beginning January 1, 2018, and thereafter, as a result of New York state statutory increases to minimum wage.
 - i. Minimum wage cost development based on survey data collected.
 1. Survey data will be collected for facility specific wage data.
 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 MW 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.
 - ii. Minimum wage cost development based on the 2016 Consolidated Fiscal Report (CFR) cost report data.
 1. The average hourly wages of employees in occupational titles where the reported average hourly wage is below the regional statutory minimum wage are identified.
 2. The total payroll hours of the titles identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the CFR cost report is then subtracted from the projected payroll resulting in the expected wage costs increase.

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2(t.8)**

3. The facility's fringe benefit costs directly affected by the wage increase are identified, and the average fringe benefit percentage is calculated.
 4. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.
 5. Overtime will be applied based on prior years historical experience.
- b. The 2018 minimum wage costs will be developed based on collected survey data received and attested to by clinics. If a clinic did not submit a survey, its minimum wage costs will be calculated based on 2016 CFR cost report wage data. If a clinic fails to submit both the survey and the 2016 CFR cost report, its minimum wage add-on will not be calculated.
 - c. In the subsequent years until the minimum wage is completely implemented statewide, the Department will survey clinics utilizing the methodology employed in year one. If a clinic fails to submit the minimum wage survey, the calculation for minimum wage costs will default to the use of the personnel wage data reported on the statewide latest available CFR. If a clinic fails to submit both the survey and the latest CFR, its minimum wage add-on will not be calculated. Once the minimum wage costs are included in the development of the upstate/downstate APG base rate, the minimum wage add-on will be excluded from the rate.
 - d. A minimum wage add-on will be developed by dividing minimum wage costs, pursuant to subdivision (a) above, by the total clinic visits as reported in the provider's 2016 CFR cost report to determine an average add-on cost per visit. The add-on will be paid over Medicaid clinic visits.
 - e. 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 the annual minimum wage add-on reimbursement provided for in subdivision (d) above. The state will release the reconciliation 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.
 - i. 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. The Medicaid share of the annual minimum wage funding will be supplied in the reconciliation survey by the Department of Health. Medicaid's share is defined as 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.

TN #18-0007 Supersedes TN New Approval Date 07/30/2018 Effective Date 01/01/2018

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- ii. 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.)
- iii. 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 equal the difference between the amount paid to the provider for the Medicaid share of the minimum wage law increase requirement and the actual amount the provider was obligated to pay.
- iv. The Department 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.
- v. The provider's Chief Executive Officer or Chief Financial Officer must sign an Attestation verifying the data that is supplied in the survey.

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