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State/Territory Name: NY

State Plan Amendment (SPA) #: 18-0066

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
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



New York Regional Operations Group

February 5, 2020

Donna Frescatore
Medicaid Director
NYS Department of Health
One Commerce Plaza
Suite 1211
Albany, NY 12210

RE: State Plan Amendment (SPA) 18-0066

Dear Ms. Frescatore:

We have reviewed the proposed amendment to Attachment 4.19-A of your Medicaid State plan submitted under transmittal number 18-0066. This amendment increase general hospital psychiatric rates while also reducing state operated mental health facilities reimbursement to comply with the upper payment limit. The effective date is October 1, 2018.

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 447 Subpart C. We have found that the proposed reimbursement methodology complies with applicable requirements and, therefore, have approved them with an effective date of October 1, 2018. We are enclosing the CMS-179 and the amended approved plan pages.

If you have any questions, please call Charlene Holzbaur at (609) 882-4103 Extension 104.



Director

cc:
R. Weaver
C. Holzbaur

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER
1 8 — 0 0 6 6

2. STATE
New York

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)
TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
October 1, 2018

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(a) of the Social Security Act, and 42 CFR 447

7. FEDERAL BUDGET IMPACT
a. FFY 10/01/18-09/30/19 \$ (8,319.08)
b. FFY 10/01/19-09/30/20 \$ (20,834.91)

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-A Page: 117(d)
Attachment 4.19-A Part II Pages: 2,3,4,5(b)

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable)

Attachment 4.19-A Page: 117(d)
Attachment 4.19-A Part II Pages: 2,3,4,6

10. SUBJECT OF AMENDMENT

Inpatient Psychiatric Services Base Rate Adjustments
(FMAP=50%)

11. GOVERNOR'S REVIEW (Check One)

☒ GOVERNOR'S OFFICE REPORTED NO COMMENT ☐ OTHER, AS SPECIFIED
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL

13. TYPED NAME

Donna Frescatore

14. TITLE

Medicaid Director, Department of Health

15. DATE SUBMITTED

December 31, 2018

16. 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

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED February 5, 2020

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

October 1, 2018

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

Kristin Fan

22. TITLE

Director, FMG

23. REMARKS

New York

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A. Medicare Certified Psychiatric Centers (Including Forensic Psychiatric Centers)

1. [Inpatient routine and ancillary per diem cost shall be obtained from the Medicare final settled cost reports for the fiscal year ended March 31, 2002.] The inpatient rates effective on and after April 1, 2019 will use the inpatient routine and ancillary per diem costs obtained from the Medicare final settled cost reports (CMS 2552) for the fiscal year ended March 31, 2016. The inpatient rates will be rebased no less frequently than every six years using the most currently available Medicare final settled cost reports. The next such rebasing will occur no later than the state fiscal year beginning April 1, 2025. [Medicare final settlements are issued by OMH's Medicare Fiscal Intermediary following their review and audit of the Medicare cost reports submitted by OMH for each of the Medicare participating providers it operates.]
2. Medicare final settlements are issued by the Centers for Medicare and Medicaid Services' Medicare Administrative Contractor (MAC) responsible for New York State following their review and audit of the Medicare cost reports submitted by OMH for each of the Medicare participating providers it operates.
3. [2.] Allowable inpatient cost [shall] will be inclusive of capital cost and [shall] will be determined without consideration of the Medicare facility-specific target rate limits or the Medicare national 75th percentile caps under 42 CFR § 413.40.
4. [3.] Allowable cost [shall] will include the professional services of hospital-based physicians. The allowable cost of physicians services [shall] will be determined subject to the Medicare reasonable compensation equivalent (RCE) limits under 42 CFR § 415.70. For purposes of applying this limitation the most recently issued RCE limits [shall] will be trended to the applicable rate year based upon the increase in the Consumer Price Index for All Urban Consumers (CPI-U).

B. Children's Psychiatric Centers

Since the Children's Psychiatric Centers are not Medicare participating providers Medicare final settlements are not processed for these providers. As such, the allowable inpatient cost for these facilities [shall] will be determined in accordance with the cost reporting and cost-finding methods developed by the Hospital Industry as adopted by the Medicare (Title XVIII) and Medicaid (Title XIX) Programs. In determining those items of cost that [shall] will be determined to be allowable, Medicaid (Title XIX) laws, rules and regulations [shall] will be applied in accordance with paragraph III.A. below. Children's Psychiatric Center base year per diems will be updated in accordance with the same schedule and methodology as Medicare Certified Psychiatric Centers referenced under paragraph II. A. above.

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III. ADJUSTMENTS FOR MEDICAID PURPOSES

In determining the allowable base year operating per diem outlined under paragraph II above adjustments [shall] will be made to reflect the following:

- A. Differences in Medicare vs. Medicaid Covered Services
The final Medicare inpatient payment rates as referenced under paragraphs II.A. and II.B. above [shall] will be adjusted to exclude the costs of any services included therein which have been determined to be non-reimbursable under the Medicaid Program. In addition the costs associated with any services covered under New York State's Medicaid Program but not reimbursable under the Medicare program (e.g. dental services) [shall] will be added to determine Medicaid allowable costs.

IV. TREND FACTOR

A trend factor [shall] will be utilized in order to project the base year operating per diems as developed under paragraphs II and III above to the applicable rate year. This trend factor will be developed by compounding the applicable increases in the Medicare [RPL (rehabilitation, psychiatric and long-term care)) Inpatient Psychiatric Facilities (IPF) market basket index between the base year and the rate year. In calculating the current year's rates the OMH [shall] will utilize estimates in instances where the actual increase in the [RPL] IPF market basket has

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not yet been determined for any particular years between the base year and the rate year. Once the actual increases in the [RPL] IPF have been determined the OMH will include an adjustment in the subsequent year's rate to compensate for any difference between the estimated and actual increases in the [RPL] IPF market basket. For purposes of this section the Medicare [RPL] IPF market basket index is that published by the Federal Centers for Medicare and Medicaid Services (CMS) for determining Medicare reimbursement to psychiatric hospitals under the inpatient psychiatric facilities prospective payment system (IPFs PPS).

IV. ACCREDITATION ADJUSTMENT

A per diem adjustment shall be incorporated in the inpatient Medicaid rates for OMH facilities to account for additional costs incurred subsequent to the base year used to develop the operating per diem pursuant to paragraph II above in order to meet minimum Medicaid and Medicare facility accreditation requirements. In addition, this adjustment may include additional accreditation costs expected to be incurred during the year for which the payment rates are being computed. For purposes of determining expected accreditation costs to be incurred during the rate year the Governor's Executive Budget submission to the legislature shall be utilized.]

[VII]V. VOLUME ADJUSTMENT

A per diem adjustment will be incorporated in the inpatient Medicaid rates for OMH facilities to account for

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significant changes in costs due to significant changes in the number of patient days. The adjustment will be made only if the change in total inpatient days between the base year and the rate year exceeds two percent (2%). In calculating the rate adjustment, it will be recognized that all the facility's capital costs are fixed. Operating costs will be considered eighty percent (80%) fixed and twenty percent (20%) variable. Under this formula if days increase more than two percent (2%), the rate for the applicable rate category will be reduced to allow only twenty percent (20%) of the operating per diem for the additional days. Alternatively, if days decrease over two percent (2%), the rate for the applicable rate category will be increased to allow eighty percent (80%) of the operating per diem for the lost days to be spread over the actual days for the rate period.

An estimated volume adjustment will be calculated and included in the rate calculation. The estimated volume adjustment will be calculated based upon the projected patient days for the upcoming rate year vs. the actual patient days for the base year used to calculate the rates. Following the close of the rate year a comparison would be made between the projected days used in calculating the estimated volume adjustment and the actual days incurred for the rate year. The volume adjustment will then be recalculated to reflect the actual days for the rate year. The difference, if [in] any, between the estimated volume adjustment and the final actual volume adjustment will be included as an [retroactive] adjustment in the rate for the following year.

VI[II]. REDUCED PAYMENT FOR INAPPROPRIATE LEVEL OF CARE

If it is determined by a utilization review committee that a Medicaid recipient no longer requires psychiatric hospital services but must remain in the hospital because a medically necessary skilled nursing facility or intermediate care facility bed is not available in the community ("alternate care day") and it is determined that the statewide rate of occupancy

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5(b)

VII. ADDITIONAL INPATIENT STATE PUBLIC HOSPITAL UPPER PAYMENT LIMIT (UPL) ADJUSTMENTS

1. Effective for State UPL demonstrations for calendar year 2019 and after, if CMS determines that payments for inpatient hospital services provided by State government-owned hospitals exceed the UPL, the State will remit such amount in excess of the UPL as follows: The State will process a lump sum reduction equivalent to the value of the UPL excess upon approval of the UPL.
2. For the period beginning January 1, 2019 and each calendar year thereafter, the State will provide a supplemental payment for all inpatient services provided by State government-owned hospitals. The amount of the supplemental payment, when aggregated with other Medical assistance payments, will not exceed 100% of a reasonable estimate of the amount that would be paid for such services under Medicare payment principles for State government-owned hospitals. Such a supplemental payment will be allocated and paid to OMH-operated hospitals based on the proportionate share of total base year Medicaid days used for the inpatient rate calculation and will be factored into facility-specific Disproportionate Share (DSH) limit calculations.

For the period January 1, 2019 through December 31, 2019, the supplemental payment will be \$5,046,499 and will be payable as a one-time lump sum.

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117(d)**

8. *Inpatient psychiatric services provided in general hospitals, or distinct units of general hospitals, specializing in such inpatient psychiatric services, for patients admitted on and after October 20, 2010, will be reimbursed on a per diem basis as follows:*

- a. Reimbursement will use the All Patient Refined Diagnostic Related Group (APR-DRG) patient classification system.
- b. The operating component of the rate will be a statewide price, calculated utilizing 2005 Medicaid fee-for-service (FFS) inpatient costs developed using the ratio of cost to charges approach to determine costs and a regression model to price out various components of the costs to determine cost significance in such components. The components include patient age, rural designation, comorbidities, length of stay, and presence of mental retardation. The costs of these components as developed in the regression model were excluded in developing the statewide price.
 - i. The facility-specific old operating per diem rates were trended to 2010, and for each case, these rates were multiplied by the length of stay (LOS) to calculate the "old payment."
 - ii. Facility-specific 2005 Direct Graduate Medical Education (DGME) costs were divided by 2005 patient days to calculate DGME per diem rates. These rates were then trended to 2010.
 - iii. The 2010 payment rate for Electroconvulsive Therapy (ECT) was established as \$281 (based on the ECT rate in effect for Medicare psychiatric patients during the first half of 2010). This rate was then adjusted by each facility's wage equalization factor (WEF).
 - iv. For each case, the proper DGME payment (DGME rate multiplied by the LOS) and ECT payment (WEF-adjusted ECT rate times the number of ECT treatments) was subtracted from the "old payments" to derive the "old payments subject to risk adjustment."
 - v. For each case, a payment adjustment factor was derived based on the regression model, including the LOS adjustment factor as defined by the new payment methodology.
 - vi. The sum of the old payments subject to risk adjustment from step iv (\$502,341,057), was divided by the sum of payment adjustment factors from step v (\$831,319), which resulted in the statewide per diem rate of \$604.27 as of October 20, 2010.

The current statewide per diem rate of \$642.66 reflects the effect of restoring transition funds back into the statewide price pursuant to the Transition Fund Pool section of this Attachment. Effective October 1, 2018, the statewide price will be increased to \$676.21.

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