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State/Territory Name: **New York**

State Plan Amendment (SPA) #: **20-0021**

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 601 East 12th Street, Suite 355
Kansas City, Missouri 64106-2898



Medicaid and CHIP Operations Group

May 11, 2020

Donna Frescatore
Deputy Commissioner
Office of Health Insurance Programs
New York State 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) #20-0021 has been approved on May 1, 2020, for adoption into the State Medicaid Plan with an effective date of April 1, 2020. This SPA removed limitations on tobacco cessation counseling.

Enclosed are copies of the approved SPA # 20-0021. If you have any questions or wish to discuss this SPA further, please contact Maria Tabakov. Ms. Tabakov may be reached at (212) 616-2503.

Sincerely,

A black rectangular redaction box covers the signature of James G. Scott.

James G. Scott, Director
Division of Program Operations

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

1. TRANSMITTAL NUMBER <u>2 0 — 0 0 2 1</u>	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
April 1, 2020

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 04/01/20-09/30/20 \$ 0.00

b. FFY 10/01/20-09/30/21 \$ 0.00

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1-A: Page 2
Attachment 3.1-A Supplement: Page 2
Attachment 3.1-B: Page 2a
Attachment 3.1-B Supplement: Page 2

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Attachment 3.1-A: Page 2
Attachment 3.1-A Supplement: Page 2
Attachment 3.1-B: Page 2a
Attachment 3.1-B Supplement: Page 2


10. SUBJECT OF AMENDMENT
Tobacco Cessation Counseling
(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
March 27, 2020

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
March 27, 2020

18. DATE APPROVED
May 01, 2020

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL
April 01, 2020

21. TYPED NAME
James G. Scott

20. SIGNATURE OF REGIONAL OFFICIAL


22. TITLE
**Director,
Division of Program Operations**

23. REMARKS

New York

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AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

- 4.a. Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.
 Provided: No limitations With limitations* Not provided
- 4.b. Early and periodic screening, diagnostic and treatment services for individuals under 21 years of age, and treatment of conditions found. (Limited to federal requirements under 1905(a) per section 1905(r) per PM 90-2.)
- 4.c.i. Family planning services and supplies for individuals of child-bearing age and for individuals eligible pursuant to Attachments 2.2-A and 2.2-B, if this eligibility option is elected by the State.
 Provided: No limitations With limitations* Not provided
- 4.c.ii. Family planning-related services provided under the above State Eligibility Option.
 Provided: No limitations With limitations*
- 4.c.iii. Fertility services for women ages 21 through 44
 Provided: No limitations With limitations*
 *Limited to the provision of office visits, hysterosalpingogram services, pelvic ultrasounds, and blood testing for women in the process of ovulation enhancing drugs.
- 4.d.1. **Face-to-Face Counseling Services provided:**
 (i) By or under supervision of a physician;
 (ii) By any other health care professional who is legally authorized to furnish such services under State law and who is authorized to provide Medicaid coverable services other than tobacco cessation services; or
 (iii) Any other health care professional legally authorized to provide tobacco cessation services under State law *and* who is specifically *designated* by the Secretary in regulations. (none are designated at this time)
- 4.d.2. **Face-to-Face Tobacco Cessation Counseling Services for Pregnant Women**
 Provided: No limitations With limitations*
 [*Any benefit package that consists of less than four (4) counseling sessions per quit attempt, with a minimum of two (2) quit attempts per 12 month period should be explained below.]
 All Medicaid recipients, including pregnant women, receiving tobacco cessation counseling services can receive these services without any limitation [as stated above].

Please describe any limitations:

* Description provided on attachment.

TN #20-0021

Approval Date 05/01/2020

Supersedes TN #17-0058

Effective Date 04/01/2020

New York
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- 4a. Prior approval is required for all out-of-state placements at Specialized Care Facilities for difficult to place individuals or High level Care facilities for the head injured.

Medicaid payments [shall] will not be authorized for nursing facilities which are not certified or have not applied for certification to participate in Medicare.

Care days in nursing facilities is reimbursed for Medicaid patients requiring and receiving medically necessary lower level of care services. Medical Assistance is provided until such time as the appropriate level of care becomes available.

[4d.i.] 4.d.1. **Face-to-Face Counseling Services**

[4d.ii.] 4.d.2. **Face-to-Face Tobacco Cessation Counseling Services for Pregnant Women**

Effective [October 1, 2013] April 1, 2020, Medicaid coverage of comprehensive counseling and pharmacotherapy for cessation of tobacco use by all Medicaid eligible recipients, including pregnant women, will be provided. Such services will be provided face-to-face, by or under the supervision of a physician and no cost sharing (co-pays) will apply. In accordance with section 4107 of the Patient Protection and Affordable Care Act, current coverage of smoking cessation services for all Medicaid recipients, including pregnant women, will be [modified to include a maximum of two quit attempts per 12 months, which will include a maximum of four face-to-face counseling sessions per quit attempt.] based on medical necessity and without limitation.

5. Prior approval is required for certain procedures which may be considered cosmetic or experimental. Physicians are informed of the specific prior approval requirements in the MMIS Physician Provider Manual.

- 5a. **Lactation consultant services:** effective September 1, 2012, reimbursement will be provided to physicians for breastfeeding health education and counseling services. Physicians must be currently registered and licensed by the State in accordance with 42 CFR 440.60(a) and also International Board Certified Lactation Consultants (IBCLC). Date of implementation will occur on the first day of the month following 30 days after Federal approval of this provision of the State Plan.

Collaborative Care Services: Effective January 1, 2015, Physician services [shall] will include Collaborative Care Services as set forth in item 9 of the Supplement to Attachment 3.1-A of the Plan. Physician Services are in accordance with 42 CFR §440.50 and requirements for claim submission comply with the State Medicaid Manual, §4281 titled Restriction on Payments for Physician Services.

6. Care and services will be provided only if they are in accordance with regulations of the Department of Health.

TN #20-0021 Approval Date 05/01/2020
Supersedes TN #14-0027 Effective Date 04/01/2020

New York
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**AMOUNT, DURATION AND SCOPE OF SERVICES PROVIDED
TO THE MEDICALLY NEEDY**

- 4.d.1. **Face-to-Face Counseling Services provided:**
- (i) By or under supervision of a physician;
 - (ii) By any other health care professional who is legally authorized to furnish such services under State law and who is authorized to provide Medicaid coverable services other than tobacco cessation services; or
 - (iii) Any other health care professional legally authorized to provide tobacco cessation services under State law *and* who is specifically *designated* by the Secretary in regulations. (none are designated at this time)

- 4.d.2. **Face-to-Face Tobacco Cessation Counseling Services for Pregnant Women**
- Provided: No limitations With limitations*
- [*Any benefit package that consists of less than four (4) counseling sessions per quit attempt, with a minimum of two (2) quit attempts per 12 month period should be explained below.]
- All Medicaid recipients, including pregnant women, receiving tobacco cessation counseling services can receive these services without any limitation [as stated above].

Please describe any limitations:

- 5.a. Physicians' services whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere.

Provided: No limitations With limitations* Not provided

- i. Lactation counseling services.

Provided: No limitations With limitations* Not provided

- b. Medical and surgical services furnished by a dentist (in accordance with section 1905(a) (5)(B) of the Act).

Provided: No limitations With limitations* Not provided

* Description provided on attachment

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Medicaid payments [shall] will not be authorized for nursing facilities which are not certified or have not applied for certification to participate in Medicare.

Care days in nursing facilities is reimbursed for Medicaid patients requiring and receiving medically necessary lower level of care services. Medical Assistance is provided until such time as the appropriate level of care becomes available.

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6. Care and services will be provided only if they are in accordance with regulations of the Department of Health.

TN#: #20-0021

Approval Date: 05/01/2020

Supersedes TN#: #14-0027

Effective Date: 04/01/2020