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State/Territory Name: NY

State Plan Amendment (SPA) #: 22-0012

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

December 16, 2022

Amir Bassiri
Medicaid Director
Office of Health Insurance Programs
New York State Department of Health
One Commerce Plaza Room 1605
Albany, NY 12237

Re: New York State Plan Amendment (SPA) 22-0012

Dear Director Bassiri:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number NY-220012. This amendment proposes to establish and authorize payment for Nutrition Services provided to children/youth by providers licensed under Article 29-I. Nutrition services are already reimbursed by providers under Article 25 and 28. This clarifies coverage under EPSDT in a statewide, comparable manner.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act. This letter informs you that New York's Medicaid SPA 22-0012 was approved on December 15, 2022, with an effective date of July 1, 2022.

Enclosed is a copy of the approved CMS-179 and approved SPA pages to be incorporated into the New York State Plan.

If you have any questions, please contact Melvina Harrison at (212) 616-2247 or via email at Melvina.harrison@cms.hhs.gov.

Sincerely

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

James G. Scott, Director
Division of Program Operations

Enclosures

cc: Regina Deyette, NYDOH

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

1. TRANSMITTAL NUMBER

2 2 — 0 0 1 2

2. STATE

N Y

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

July 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION

§1905(a)(4)(B), 1905(r), and 1905(a)(13)(c)

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 07/01/22 - 09/30/22 \$ 0
b. FFY 10/01/22 - 09/30/23 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1-A Supplement: Page 2(c.1.5), 2(c.1.6)
Attachment 3.1-B Supplement: Page 2(c.1.5), 2(c.1.6)

Attachment 4.19-B: Page(s) 1(a)(iii)(2.1)

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

Attachment 4.19-B: Page(s) 1(a)(iii)(2.1)

9. SUBJECT OF AMENDMENT

Nutrition Services in 29I

10. 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. TYPED NAME

Amir Bassiri

13. TITLE

Medicaid Director

14. DATE SUBMITTED

September 30, 2022

15. 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 CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

December 15, 2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

July 1, 2022

19. SIGN

20. TYPED NAME OF APPROVING OFFICIAL

James G. Scott

21. TITLE OF APPROVING OFFICIAL

Director, DPO

22. REMARKS

**New York
Page 1(a)(iii)(2.1)**

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: New York

1905(a)(13) Other Diagnostic, Screening, Preventive and Rehabilitative Services

Effective as of February 1, 2021, reimbursement for the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services listed below and provided by providers with a 29-I license as described in Attachment 3.1-A, Item 4b and Attachment 3.1-B, Item 4b will be paid based upon a Medicaid fee schedule established by the State of New York Department of Health for the following services:

- Alcohol and/or Drug Screening, Testing, Treatment, 15 min unit, Upstate and Downstate rates
- Developmental Test Administration, 15 min unit, Upstate and Downstate rates
- Psychotherapy (Individual and Family), 15 min unit, Upstate and Downstate rates
- Psychotherapy Group, 15 min unit, Upstate and Downstate rates
- Neuropsychological Testing/Evaluation Services, 15 min unit, Upstate and Downstate rates
- Psychiatric Diagnostic Examination, 15 min unit, Upstate and Downstate rates
- Office Visit, 15 min unit, Upstate and Downstate rates
- Smoking Cessation treatment, 15 min unit, Upstate and Downstate rates
- ECG, per occurrence, statewide rate
- Screening-Developmental/Emotional/Behavioral, per occurrence, Upstate and Downstate rates
- Hearing and Evaluation of Speech, 15 min unit, statewide rate
- Lab Services, statewide rate, see 29-I Health Facility Laboratory Fee Schedule for complete list of waived laboratory services and pricing

The following rates are effective as of September 1, 2021:

- Tuberculosis TB Rate
- Medical Language Interpretation

The following rates are effective as of July 1, 2022:

- Nutritional Services

Payments are made in accordance with a fee schedule developed by Department of Health and approved by Division of the Budget. Except as otherwise noted in the plan, state-developed fee schedules are the same for both governmental and private providers of these services, which are included under physician, other licensed practitioner, clinic and laboratory services. The agency's fee schedule was set as of February 1, 2021 and is effective for services provided on or after that date. All fees are published on the Department of Health website at:

https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/vol_foster_trans.htm

TN **#22-0012**

Approval Date **December 15, 2022**

Supersedes TN **#21-0057**

Effective Date **July 01, 2022**

**New York
2(c.1.5)**

**1905(a)(13) Other Diagnostic, Screening, Preventive and Rehabilitative Services
1905(a)(4)(b) and 1905(r) EPSDT**

13c. Preventive Services

Medical Nutrition Therapy Services

Medical nutrition therapy services are provided to children under the age of 21 when recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law to:

- 1) Prevent disease, disability, and other health conditions or their progression;
- 2) Prolong life; and
- 3) Promote physical and mental health and efficiency.

Medical nutrition therapy (MNT) services are covered when provided by a registered dietitian (RD), certified nutritionist (CN), or certified dietitian-nutritionist (CDN) working within their scope of practice. Medical nutrition therapy services are designed to provide medically necessary, diagnostic, therapy and counseling services for the management and prevention of nutrition related disease states. MNT involves the assessment of an individual's overall nutritional status followed by an individualized course of treatment to prevent or treat medical illness. Services must be provided under a treatment plan based on evidence-based assessment criteria and include realistic and obtainable goals. The following services are covered when provided by an RD, CN or CDN and must include coordination with the referring provider:

- a. An initial nutrition and lifestyle assessment
- b. One on one nutrition counseling, including:
 - i. Counseling related to long-term dietary change, increased physical activity, and behavior change strategies for weight control; and
 - ii. Counseling and skill building to facilitate the knowledge, skill, and ability necessary for self-care.
- c. Follow-up intervention visits to monitor progress

Services will be provided in the home, clinic, hospital out-patient facility, or any other setting as authorized. Service limits may be exceeded based on medical necessity.

TN #22-0012

Approval Date December 15, 2022

Supersedes TN #NEW

Effective Date July 01, 2022

**New York
2(c.1.6)**

**1905(a)(13) Other Diagnostic, Screening, Preventive and Rehabilitative Services
1905(a)(4)(b) and 1905(r) EPSDT**

13c. Preventive Services

Medical Nutrition Therapy Services (continued)

Individuals authorized to provide medical nutritional therapy related to long-term dietary change, increased physical activity, and behavior change strategies for weight control; counseling and skill building to facilitate the knowledge, skill, and ability necessary for self-care includes:

1. Registered Dietitians: Is registered as a dietitian or nutritionist by a national dietetic or national nutrition association having registration standards acceptable to the department.
2. Certified Nutritionist or Certified Dietician-Nutritionist: To be eligible for certification, an individual must 18 years of age or older; passed a background check, be a licensed by New York Office of Professions, received a bachelor of arts or science or associate's degree from a university accredited by the Commission on Accreditation for Dietetics Education (CADE) that includes a major focus on professional dietetics and nutrition before licensure; and satisfactorily completed a minimum of 800 hours of supervised work experience for applicants with Bachelor's degrees and 1,600 hours of supervised work experience for applicants with Associate's degrees and passed the certification exam given by the Commission on Dietetic Registration (CDR). In addition, Associate's degree applicants must provide endorsement from three dietitian-nutritionists who are licensed by the state of New York or are registered with an acceptable national organization.

All practitioners providing Medical Nutrition Therapy services must be employed by agencies enrolled in the New York Medicaid program under Article 25, 28, or 29-I.

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