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State/Territory Name: NY

State Plan Amendment (SPA) #: 22-0025

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 S3-14-28
Baltimore, Maryland 21244-1850



Financial Management Group

July 7, 2023

Amir Bassiri
Medicaid Director
New York State Department of Health
99 Washington Ave – One Commerce Plaza Suite 1432
Albany, NY 12210

Reference: TN 22-0025

Dear Medicaid Director:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 22-0025. This amendment proposes to increase the minimum wage yearly for specialty and non-specialty Nursing Homes until the minimum wage reaches the per hour wage as statutorily described.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C.

This is to inform you that Medicaid State plan amendment NY-22-0025 is approved effective January 1, 2022. The CMS-179 and the amended plan page(s) are attached.

If you have any additional questions or need further assistance, please contact Kristina Mack at 617-565-1225 or Kristina.Mack-Webb@cms.hhs.gov.

Sincerely,



Rory Howe
Director

Enclosures

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

1. TRANSMITTAL NUMBER

2 2 — 0 0 2 5

2. STATE

NY

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

January 01, 2022

5. FEDERAL STATUTE/REGULATION CITATION ~~§ 1905(r)(5) of the Social Security Act and 42 CFR 447~~ ^{§ 1905(a)(4)(A) Nursing Facility Services}

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 01/01/22-09/30/22 \$ 551,273
b. FFY 10/01/22-09/30/23 \$ 735,031

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-D Part I - Pages: 110(d)(27), 110(d)(27.1)

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 4.19-D Part I - Page: 110(d)(27)

9. SUBJECT OF AMENDMENT

Minimum Wage- Nursing Home

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:

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME

Brett R. Friedman

13. TITLE

Acting Medicaid Director

14. DATE SUBMITTED

March 31, 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

March 31, 2022

17. DATE APPROVED

July 7, 2023

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

January 1, 2022

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

Rory Howe

21. TITLE OF APPROVING OFFICIAL

Director, Financial Management Group

22. REMARKS

The State authorizes the following pen and ink changes to the 179:
Box 5. Federal Statute/ Regulation Citation: § 1905(a)(4)(A) Nursing Facility Services

**New York
110(d)(27)**

1905(a)(4)(A) Nursing Facility Services

Adjustment for Minimum Wage Increases. Effective January 1, 2017, 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 specialty and non-specialty Nursing Home rate.

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	\$11.00	\$13.00	\$15.00	\$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	\$13.20*

*Effective January 1, 2022, the minimum wage value for the Remainder of the State will be \$13.20.

The minimum wage adjustment will be developed and implemented as follows:

1. 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 wages until all regions of the state reach \$15.00 per hour.
2. The 2017 facility specific minimum wage add-on will be developed based on collected survey data received and attested to by nursing facility providers. If a facility does not submit a survey, the minimum wage add-on will be calculated based on the facility's Residential Health Care Facility (RHCF) cost report wage data from two years prior to the period being calculated. If a facility fails to submit both the attested survey and the cost report, the facility's minimum wage add-on will not be calculated.
 - i. Minimum wage cost development based on survey data collected.
 - a. Survey data will be collected for facility specific wage data.
 - b. Facilities will report by wage bands, the total count of FTEs and total hours paid to all employees (contracted and non-contracted staff) earning less than the statutory minimum wage applicable for each region.
 - c. Facilities will report an average fringe benefit percentage for the employees directly affected by the minimum wage increase.
 - d. 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.

New York
110(d)(27.1)

1905(a)(4)(A) Nursing Facility Services

Adjustment for Minimum Wage Increases (continued)

- ii. Minimum wage cost development based on the RHCFC cost report data.
 - a. The average hourly wages of employees where the reported average hourly wage is below the regional statutory minimum wage are identified.
 - b. The total payroll hours of the employees identified are then multiplied by the regional statutory minimum wage resulting in a projected payroll. The actual payroll as reported in the cost report is then subtracted from the projected payroll resulting in the expected wage costs increase.
 - c. The facility's fringe benefit costs directly affected by the wage increase are identified, and the average fringe benefit percentage is calculated.
 - d. The fringe benefit percentage is applied to the increased wage costs and added resulting in the minimum wage costs.