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State/Territory Name: New York

State Plan Amendment (SPA) #: 22-0032-0

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

April 28, 2023

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) NY-22-0032-0

Dear Medicaid Director Bassiri:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number NY-22-0032-0. This amendment proposes to expand Medicaid Harm Reduction Services for people who actively use drugs, provided at New York State Commissioner of Health waived comprehensive harm reduction programs. Proposed reimbursement changes include increasing Rest of State and group service rates, as well as adding reimbursement for the provision of off-site services. Proposed service changes include adding reimbursement for a new service - Linkage and Navigation, clarifying service definitions for existing services, and clarifying qualified providers and organizations that can provide Medicaid Harm Reduction Services.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act. This letter is to inform you that New York Medicaid SPA 22-0032-0 was approved on April 28, 2023, with an effective date of April 1, 2022. Enclosed are copies of the CMS-179 summary form 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 solid black rectangular box redacting 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 <u>2 2</u> — <u>0 0 3 2</u>	2. STATE <u>NY</u>
3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT <input checked="" type="radio"/> XIX <input type="radio"/> XXI	

TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE April 1, 2022
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5. FEDERAL STATUTE/REGULATION CITATION 1905(a)(13) § 1902(a) of the Social Security Act and 42-CFR 447	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a FFY <u>04/01/22-09/30/22</u> \$ <u>6,201</u> b FFY <u>10/01/22-09/30/23</u> \$ <u>12,402</u>
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7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 4.19-B Pages: 11(h), 11(h.1) Attachment 3.1-A Supplement: Pages 2(c.2), 2(c.2)(a), 2(c.3), 2(c.3)(a), 2(c.4), 2(c.4)(a), 2(c.4)(a)(1), 2(c.5) Attachment 3.1-B Supplement: Pages 2(c.2), 2(c.2)(a), 2(c.3), 2(c.3)(a), 2(c.4), 2(c.4)(a), 2(c.4)(a)(1), 2(c.5)	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 3.1-A Supplement: Pages 2(c.2), 2(c.3), 2(c.4), 2(c.5) Attachment 4.19-B Pages: 11(h) Attachment 3.1-B Supplement: Pages 2(c.2), 2(c.3), 2(c.4), 2(c.5)
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9. SUBJECT OF AMENDMENT
Harm Reduction

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 	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
12. TYPED NAME Amir Bassiri	
13. TITLE Acting Medicaid Director	
14. DATE SUBMITTED June 29, 2022	

FOR CMS USE ONLY

16. DATE RECEIVED June 29, 2022	17. DATE APPROVED April 28, 2023
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PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL April 1, 2022	19. SIGNATURE OF APPROVING OFFICIAL
20. TYPED NAME OF APPROVING OFFICIAL James G. Scott	21. TITLE OF APPROVING OFFICIAL Director, DPO

22. REMARKS **The State authorizes the following pen and ink revisions to the HCFA 179:**
Box 5. Federal Statute/Regulation Citation: 1905(a)(13): Other Diagnostic, Screening, Preventive, and Rehabilitative services
Box 7. Page Number of the Plan Section or Attachment: Attachment 3.1-A Supplement Pages: 2(c.2), 2(c.2)(a), 2(c.3), 2(c.3)(a), 2(c.4), 2(c.4)(a), 2(c.4)(a)(1), 2(c.5)
Attachment 3.1-B Supplement Pages: 2(c.2), 2(c.2)(a), 2(c.3), 2(c.3)(a), 2(c.4), 2(c.4)(a), 2(c.4)(a)(1), 2(c.5), Attachment 4.19-B Pages: 11(h), 11(h.1)

Box 8. Page Number of the Superseded Plan Section or Attachment (If Applicable)
Attachment 3.1-A Supplement Pages: 2(c.2), 2(c.3), 2(c.4), 2(c.5)
Attachment 3.1-B Supplement Pages: 2(c.2), 2(c.3), 2(c.4), 2(c.5)
Attachment 4.19-B Pages: 11(h)

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

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

13d. Harm Reduction Services

Harm reduction services represent a fully integrated client-oriented approach to care. Such services are remedial services recommended by a physician or other licensed practitioner and are for maximum restoration of a beneficiary to his or her best possible functional level. Harm reduction services pursue incremental change and progress towards individual goals identified and set by the individual. Harm reduction services begin immediately as service needs are assessed. The determination of the type(s) of service, frequency, and intensity is an ongoing responsibility of the harm reduction staff, and there is no limitation in the amount, duration, and scope of services. Harm reduction services continue until the staff determine that the service goals have been met or if the client decides he/she no longer wants to participate in programming.

Harm reduction programs will provide the following:

1. Brief Assessment and Treatment Planning
2. Individual/Group Harm Reduction Counseling
3. Linkage and Navigation
4. Medication Management and Treatment Adherence Counseling
5. Psychoeducation - Support groups

TN #22-0032

Approval Date April 28, 2023

Supersedes TN #13-0019

Effective Date April 01, 2022

New York
2(c.2)(a)

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

1. Brief Assessment and Treatment Planning

Definition: A brief assessment can be conducted simultaneously with other HRS and will determine eligibility and identify an initial, short-term plan for harm reduction services and referrals to other services, as needed, that would support an individual’s goal(s) in mitigating the possible harms related to drug use. Reassessments and treatment planning should be conducted simultaneously with other HRS to identify new needs and/or barriers related to drug use or to confirm that current services remain appropriate.

Treatment planning identifies short-term goal(s) and/or next steps alongside the brief assessment/reassessment and other harm reduction services provided. It is not a comprehensive plan for the long-term course of services. The assessment and initial plan will be the basis of all future harm reduction services and will be included in progress notes as part of the on-going treatment planning process.

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

A Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years’ experience working with people who use drugs and/or providing harm reduction or community-based social services. The Harm Reduction Specialist will be supervised by the Harm Reduction Specialist Supervisor or a behavioral health professional with equal or greater qualifications;
Or

TN #22-0032

Approval Date April 28, 2023

Supersedes TN #NEW

Effective Date April 01, 2022

**New York
2(c.3)**

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

- a Harm Reduction Services Supervisor who is qualified by credentials, training, and/or experience to provide direct services to people who use drugs. A Harm Reduction Services Supervisor will be a professional health/behavioral health practitioner possessing a license or permit from the New York State Education Department or have a bachelor's degree and 2-5 years' experience working with people who use drugs and/or providing harm reduction or community-based social services or have a high school diploma or equivalent and at least 6 years of relevant experience or have at least 10 years of relevant experience. The Harm Reduction Services Supervisor will supervise other harm reduction professionals, including the Harm Reduction Specialist and Peer Support Specialist; or
- a Peer Support Specialist who has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor or a behavioral health professional with equal or greater qualifications. Such certification will include the requirements of possessing lived experience, as well as successfully completing all required trainings necessary to receive and maintain certification through a New York State Department of Health-approved certification program.

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New York
2(c.3)(a)

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

2. Individual/Group Harm Reduction Counseling

Definition: The purpose of Harm reduction counseling is to assist individuals in reducing behaviors that interfere with their ability to lead healthier lives. Supportive counseling will be provided to an individual or in a group setting and can cover such topics as HIV/AIDS, HCV, and/or sexually transmitted infections (STIs) status and risk reduction; soft tissue infection care and risk reduction; addressing stigma for PWUD; safer drug use; overdose safety planning; wellness planning; recovery readiness/relapse prevention; and identifying and addressing the effects of mental health symptoms.

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- A Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services. The Harm Reduction Specialist will be supervised by the Harm Reduction Specialist Supervisor or a behavioral health professional with equal or greater qualifications;

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New York
2(c.4)(a)

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

3. Linkage and Navigation

Definition: Linkage and navigation is transitional in nature and incorporates brief, time-limited strategies to engage, guide, and support an individual through systems of care. This service assists with the prevention, detection/diagnosis, and treatment of health conditions affecting people who use drugs—such as HIV, HCV, STIs, Substance Use Disorder, mental illness, and other medical problems—by identifying and eliminating barriers to timely care. Barriers to care will be communication/information-related, physical, financial, and emotional in nature.

Key components of this service include health promotion and education; matching individual needs with necessary services/resources; supporting engagement in quality, stigma-free services, including referrals to comprehensive case management as appropriate;

There are no limitations on the amount, duration, and scope of these services.

Providers: Services must be provided by:

- a Harm Reduction Specialist who has a high school diploma or has passed the general educational development (GED) test or the Test Assessing Secondary Completion (TASC™) and has earned a high school equivalency credential or has at least three (3) years' experience working with people who use drugs and/or providing harm reduction or community-based social services. The Harm Reduction Specialist will be supervised by the Harm Reduction Specialist Supervisor or a behavioral health professional with equal or greater qualifications; or
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- a Peer Support Specialist who has been certified through a New York State Department of Health-approved certification program or one conducted by another entity recognized by the Department and who is supervised by a Harm Reduction Services Supervisor will include the requirements of possessing lived experience, as well as successfully completing all required trainings necessary to receive and maintain certification through a New York State Department of Health-approved certification program.

4. Medication Management and Treatment Adherence Counseling

Definition: This service provides education and identifies tools and strategies that individuals will use to recognize the need for medication to address substance use, mental health conditions, HIV/AIDS, HCV, STIs, and other health conditions; as well as best manage and adhere to a medication schedule that addresses all diagnosed conditions.

Components of medication management will include improving the use and adherence of medications for all diagnosed conditions by ensuring that the individual understands the purpose of the medications and identifying resources to support management efforts. Components of treatment adherence will include discussing the importance and need for treatment adherence, providing education and counseling on medications and adherence strategies, and troubleshooting barriers to treatment adherence.

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5. Psychoeducation - Support Groups

Definition: Psychoeducation support groups are designed to provide individuals with a non-judgmental space to offer and receive information on various issues that have a direct impact on their life. Psychoeducational groups should be topic-oriented and empower group members to share information and support each other around factors that contribute to risk behaviors for HIV/AIDS, HCV, and/or STIs. Psychoeducational groups should work to actively engage participants in the group discussion and prompt them to relate what they are learning to their own experiences.

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

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

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Qualifications of Provider Organizations

Community-based organizations that have been approved by the Commissioner of Health with a waiver to conduct a comprehensive harm reduction program.

Freedom of Choice – Access to Services

The State assures that the provision of harm reduction services will not restrict an individual's free choice of providers in violation of section 1902(a)(23) of the Act.

1. Eligible recipients will have free choice of the providers of other medical care under the Plan.
2. Eligible recipients who refuse harm reduction services will not be denied access to other services offered under the Plan.
3. Harm reduction program services will not be used to restrict an individual's access to other services under the Plan.

TN #22-0032

Approval Date April 28, 2023

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Effective Date April 01, 2022

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

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

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2(c.3)**

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

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Qualifications of Provider Organizations

Community-based organizations that have been approved by the Commissioner of Health with a waiver to conduct a comprehensive harm reduction program.

Freedom of Choice – Access to Services

The State assures that the provision of harm reduction services will not restrict an individual's free choice of providers in violation of section 1902(a)(23) of the Act.

1. Eligible recipients will have free choice of the providers of other medical care under the Plan.
2. Eligible recipients who refuse harm reduction services will not be denied access to other services offered under the Plan.
3. Harm reduction program services will not be used to restrict an individual's access to other services under the Plan.

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**New York
11(h)**

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

Harm Reduction Services:

Method of Reimbursement: The proposed methodology includes the following characteristics:

- A regionally based payment structure of rates billable in quarter-hour and half-hour units of service;
 - To be eligible for payment, a service that is billed in quarter-hour units must be at least 8 minutes in duration; each unit of service provided beyond the initial 15 minutes must be at least 8 minutes in duration. Similarly, services eligible for billing in half-hour units must be at least 15 minutes in duration; each unit of service provided beyond the initial 30 minutes must be at least 15 minutes in duration;
- Direct service cost components are established with a fixed percentage allowance for indirect costs;
- An annual trend factor based on the Medicare Economic Index and approved by the State Division of Budget is applied 12 months following the effective date of the rates and on an annual basis thereafter; and
- The proportion of staff time that is devoted to billable activities is 55%. The procedure used to calculate billable activities recognizes non-billable responsibilities and other activities that encourage improved service quality, such as chart documentation, staff training, phone calls to medical and other providers on behalf of clients.

No funds shall be used to carry out the purchase or distribution of sterile needles or syringes for the hypodermic injection of any illegal drug.

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**New York
11(h.1)**

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

Effective on or after April 1, 2022, rates will be revised to include reimbursement for Linkage and Navigation, offsite services, and increased Rest of State (ROS) and group service rates. The revised rates are mirrored after comparable services that are approved in New York's Medicaid State Plan.

Regional Rates: Regional rates will be established for downstate and the rest of the state and are based on the expected direct service costs in each region. Downstate rates apply to providers in the five boroughs of NYC, Westchester, Nassau, and Suffolk counties. Such rates include:

	ROS Onsite Rate Per 15 minutes	ROS Offsite Rate Per 15 minutes	Downstate Onsite Rate Per 15 minutes	Downstate Offsite Rate Per 15 minutes
Plan of care development, initial assessment	\$19.89	\$25.19	\$22.47	\$28.25
Plan of care development, reassessment	\$19.89	\$25.19	\$22.47	\$28.25
Individual supportive counseling	\$19.89	\$25.19	\$22.47	\$28.25
Medication management and treatment adherence counseling	\$19.89	\$25.19	\$22.47	\$28.25
Linkage and Navigation	\$19.89	\$25.19	\$22.47	\$28.25
Group supportive counseling	\$10.96	-	\$12.29	-
Psychoeducation – support groups	\$10.96	-	\$12.29	-

Direct Service Cost Components: The rate structure is based on the identification of direct service components and incorporates an allowance for other non-personal services direct costs.

The following are the direct service components of the rate:

Personal Services: Salaries for direct service staff such as harm reduction counselors; peers; case managers and service coordinators; and program directors/supervisors, as appropriate for a specific region.

Fringe Benefits: Rates were established at the average fringe rates for the New York City region and the rest of the state.

Other Non-Personal Services Direct Costs: Space, utilities, phone, equipment, maintenance, supplies, and travel cost for direct service staff, as appropriate.

Indirect Cost Component: Indirect costs are included in the rate at 10% of total direct service component costs.

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