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State/Territory Name: NY

State Plan Amendment (SPA): NY-23-0038

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
Center for Medicaid & CHIP Services
230 South Dearborn
Chicago, Illinois 60604



Financial Management Group

July 30, 2024

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

RE: TN 23-0038

Dear Director Bassiri:

The Centers for Medicare & Medicaid Services (CMS) has reviewed the proposed New York state plan amendment (SPA) to Attachment 4.19-B of NY-23-0038, which was submitted to CMS on June 29, 2023. This plan amendment provides supplemental payments to eligible providers under physician services.

We reviewed your SPA submission for compliance with statutory requirements including in sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903 as it relates to the identification of an adequate source for the non-federal share of expenditures under the plan, as required by 1902(a)(2), of the Social Security Act and the applicable implementing Federal regulations.

Based upon the information provided by the state, we have approved the amendment with an effective date of April 1, 2023. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Jerica Bennett at 410-786-1167 or via email at jerica.bennett@cms.hhs.gov.

Sincerely,

A solid black rectangular box redacting the signature of Todd McMillion.

Todd McMillion
Director
Division of Reimbursement Review

Enclosures

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

1. TRANSMITTAL NUMBER

2 3 — 0 0 3 8

2. STATE

N Y3. 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

April 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION

§ 1905(a) (5)(A) Physicians' Services

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY 04/01/23-09/30/23 \$ 9,750,000- 9,340,015b. FFY 10/01/23-09/30/24 \$ 9,750,000 9,340,015

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 4.19-B Pages 1.1, 1.3(a), 1.6, 1.7(a), ~~1.9, 1.10~~
1.9(a), 1.9(b)8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable)Attachment 4.19-B Pages 1.1, 1.3(a), 1.6, 1.7(a), ~~1.9, 1.10~~
1.9(a), 1.9(b)

9. SUBJECT OF AMENDMENT

PHYSICIAN SUPPLEMENTAL PAYMENTS-UPL

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

Amir Bassiri

13. TITLE

Medicaid Director

14. DATE SUBMITTED

June 29, 2023

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

06/29/2023

17. DATE APPROVED

July 30, 2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

04/01/2023

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

Todd McMillon

21. TITLE OF APPROVING OFFICIAL

Director, Division of Reimbursement Review

22. REMARKS

The State authorizes the following pen and ink changes:

Box 6 Federal Budget Impact

a. FFY 04/01/23 – 09/30/23 \$9,340,015

b. FFY 10/01/23 – 09/30/24 \$9,340,015

Box 7 Page Number of the Plan Section or Attachment

Attachment 4.19-B Pages 1.1, 1.3(a), 1.6, 1.7(a), 1.9(a), 1.9(b)

Box 8 Page Number of the Superseded Plan Section or Attachment

Attachment 4.19-B Pages 1.1, 1.3(a), 1.6, 1.7(a), 1.9(a), 1.9(b)

New York
1.1

1905(a)(5)(A) Physicians' Services**Supplemental Medicaid Payments for Eligible Professional Services****1. State University of New York (SUNY)**

- (a) Effective April 1, 2011, supplemental payments will be made to State University Eligible Medical Professional Providers for services eligible under this provision ("Eligible Services"). Supplemental payments for Eligible Services will be equal to the difference between the Average Commercial Rate, as defined below, and Medicaid payments otherwise made under this state plan. The supplemental payment will only be applicable to the professional component of the services provided.
- (b) State University Eligible Medical Professional Providers are:
 - (1) Physicians, nurse practitioners and physician assistants;
 - (2) Licensed in the State of New York; and
 - (3) Participating in a plan for the management of clinical practice at the State University of New York.

Excluded providers are federally qualified health centers (FQHCs) and rural health centers (RHCs).

- (c) Eligible Services include only those services provided by a State University Eligible Medical Professional Provider while acting in their capacity as a participant in a plan for the management of clinical practice at the State University of New York. The following clinical practices will participate:
 - (1) SUNY Syracuse
 - (2) SUNY Buffalo, and
 - (3) SUNY Stony Brook
- (d) Services excluded are those utilizing procedure codes not reimbursed by Medicaid, clinical laboratory services, dual eligibles except where Medicaid becomes the primary payer, and Managed Care. Managed Care data will be included only when a separate fee for service payment has been made to an eligible provider. Noncommercial payers such as Medicare are excluded. Additionally, supplemental payment will not be allowed on all inclusive payments where the base payment includes the physician cost.
- (e) Supplemental payments will be made as an annual aggregate lump sum payment, based on the Medicaid data applicable to dates of service in the calendar year. Supplemental payments will be based on claims processed within 6 months after the calendar year for those dates of service. Supplemental payments will not be made prior to the delivery of services.

**New York
1.3(a)**

RESERVED

TN #23-0038

Approval Date July 30, 2024

Supersedes TN #22-0027-A

Effective Date April 1, 2023

New York
1.6

1905(a)(5)(A) Physicians' Services

- (e) Supplemental payments will be made as an annual aggregate lump sum payment, based on the Medicaid data applicable to dates of service in the calendar year. Initial payments will be based on claims processed within 6 months after the calendar year for those dates of service. A completion factor will be added to the payment to approximate all incurred claims applicable to the base period. Supplemental payments will not be made prior to the delivery of services.

(f) Calculating the Average Commercial Rate (ACR) For Matched Procedures.

- (1) The ACR will be calculated for Roswell based on applicable rates for the appropriate region, utilizing the top 5 commercial payers based on volume.
- (2) The ACR will be calculated annually before each state fiscal year using commercial payer data from the most recently completed twelve-month period by Date of Service between July and June. The initial calculation, effective beginning April 1, 2011, will be based on commercial payer data from the period of July 1, 2010, through June 30, 2011, Date of Service.
- (3) For Eligible Service procedures (additionally distinguished by modifier and point of service) that are billed to Medicaid using codes that correspond to those recognized by commercial payers ("Matched Procedures"), a Procedure-Specific ACR will be calculated for each Matched Procedure by dividing the sum of total commercial payments for the Matched Procedure by the total number of the Matched Procedures paid by commercial payers. For services where physician extenders will be used the applicable percentage of the ACR will be applied.

(g) Calculating ACR for Non-Matched Procedures

- (1) For Eligible Service procedures that are billed to Medicaid using codes that do not correspond to those recognized by commercial payers ("Non-Matched Procedures"), a Procedure-Specific ACR will be calculated for each Non-Matched Procedure by calculating the overall average percentage of the matched procedures commercial payments to Medicaid payments.
- (2) This percentage is applied to the average Medicaid payments per unit for the non-matched services to establish an ACR proxy payment per unit. The units for each non-matched Medicaid service are multiplied by the ACR proxy, and then totaled to determine the payment ceiling.
- (3) The difference between the total Medicaid payments for the unmatched services and the ACR proxy total is the supplemental payment for unmatched services.

**New York
1.7(a)**

RESERVED

TN #23-0038

Approval Date July 30, 2024

Supersedes TN #22-0027-B

Effective Date April 1, 2023

**New York
1.9(a)**

1905(a)(5)(A) Physicians Services

Supplemental Medicaid Payments for Professional Services – Nassau, Westchester, Erie

3. Medicare Fee Equivalent Calculation

- a. Effective April 1, 2011, supplemental payments will be made to physicians, nurse practitioners and physician assistants who are employed by a Public Benefit Corporation (PBC), or a non-state operated public general hospital operated by a PBC or who are providing professional services at a PBC facility as either a member of a practice plan or an employee of a professional corporation or limited liability corporation under contract to provide services to patients of such a public benefit corporation for those patients eligible for Medicaid. The supplemental payments will be applicable only to the professional component of the eligible services provided.
- b. Eligible providers are affiliated with:
 - i. Nassau University Medical Center,
 - ii. Westchester Medical Center, and
 - iii. Erie County Medical Center, effective July 1, 2015.

Excluded facilities are Federal Qualified Health Centers and Rural Health Centers.

- c. Supplemental payments for eligible services will equal the difference between the Medicare Part B fee schedule rate and the average Medicaid payment per unit otherwise made under this Attachment.
- d. Supplemental payments will be made as an annual aggregate lump sum, and be based on the Medicaid data applicable to the calendar year. Initial payments will be based on claims processed within 6 months after the calendar year. A final payment will be made one year following the initial payment to capture those claims for the payment year dates of service processed subsequent to the initial payment. Supplemental payments will not be made prior to the delivery of services.
- e. Services excluded are those utilizing procedure codes not reimbursed by Medicaid, clinical laboratory services, dual eligibles except where Medicaid becomes the primary payer, and Managed Care. Managed Care data will be included only when a separate fee-for-service payment has been made to an eligible provider. Non-commercial payers such as Medicare are excluded. Additionally, supplemental payment will not be allowed on all inclusive payments where the base payment includes the physician cost.

**New York
1.9(b)**

1905(a)(5)(A) Physician Services

Supplemental Medicaid Payments for Professional Services - NYC Health + Hospitals

Medicare Fee Equivalent Calculation

- a. Effective April 1, 2011, supplemental payments will be made to physicians, nurse practitioners and physician assistants who are employed by a Public Benefit Corporation (PBC), or a non-state operated public general hospital operated by a PBC or who are providing professional services at a PBC facility as either a member of a practice plan or an employee of a professional corporation or limited liability corporation under contract to provide services to patients of such a public benefit corporation for those patients eligible for Medicaid. The supplemental payments will be applicable only to the professional component of the eligible services provided.
 - b. Eligible providers are affiliated with:
 - i. New York City Health + Hospitals (H+H), excluding facilities participating in the Medicare Teaching Election Amendment.
- Excluded facilities are Federal Qualified Health Centers and Rural Health Centers.
- c. Supplemental payments for eligible services will equal the difference between the Medicare Part B fee schedule rate and the average Medicaid payment per unit otherwise made under this Attachment.
 - d. Supplemental payments will be made as an annual aggregate lump sum, and be based on the Medicaid data applicable to the calendar year. Initial payments will be based on claims processed within 6 months after the calendar year. A final payment will be made one year following the initial payment to capture those claims for the payment year dates of service processed subsequent to the initial payment. Supplemental payments will not be made prior to the delivery of services.
 - e. Services excluded are those utilizing procedure codes not reimbursed by Medicaid, clinical laboratory services, dual eligibles except where Medicaid becomes the primary payer, and Managed Care. Managed Care data will be included only when
 - a separate fee-for-service payment has been made to an eligible provider. Non-commercial payers such as Medicare are excluded. Additionally, supplemental payment will not be allowed on all inclusive payments where the base payment includes the physician cost.

TN **#23-0038**

Supersedes TN **#22-0027-D**

Approval Date **July 30, 2024**

Effective Date **April 1, 2023**