State of California—Health and Human Services Agency
Department of Health Care Services

WILL LIGHTBIURNE
DIRECTOR

GAVIN NEWSOM
GOVERNOR

June 18, 2021

Mr. James G. Scott, Director
Centers for Medicare & Medicaid Services
Medicaid and CHIP Operations Group
Division of Program Operations
601 East 12th Street, Suite 0300
Kansas City, MO 64106-2898

STATE PLAN AMENDMENT 21-0039: SUPPLEMENTAL PAYMENTS FOR HOSPITAL OUTPATIENT SERVICES

Dear Mr. Scott:

The Department of Health Care Services hereby submits State Plan Amendment (SPA) 21-0039 for your review and approval. This SPA will make changes to California's Medicaid State Plan under Title XIX of the Social Security Act as it proposes to update Supplement 35 to Attachment 4.19-B with an effective date of July 1, 2021.

The following SPA documents are enclosed for your review and approval:

- CMS 179 Form
- Supplement 35 to Attachment 4.19-B - Redline
- Supplement 35 to Attachment 4.19-B - Clean
- Approval for No Tribal Notice Request
- Public Notice
- Responses to Outpatient Standard Funding Questions
- Outpatient Hospital UPL Guidance

If approved, SPA 21-0039 will allow supplemental reimbursement to hospitals up to the aggregate upper payment limit without supplanting specified existing levels of payments for the provision of outpatient services to Medicaid beneficiaries. In accordance with federal regulations, a public notice for SPA 21-0039 was published on June 2, 2021. No tribal consultation was required.

If you have any questions or need additional information, please contact Shiela Mendiola, Chief, Provider Payment and Policy Branch, Safety Net Financing Division, at 916-345-7933 or by email at Shiela.Mendiola@dhcs.ca.gov.

Sincerely,

[redacted]

Jacey Cooper
State Medicaid Director
Chief Deputy Director
Health Care Programs

Enclosures

cc: Ms. Lindy Harrington
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Mr. Jacob Lam
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Ms. Katie Brooks, Chief
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Ms. Shiela Mendiola
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Ms. Saralyn Ang-Olson
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DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 21-0039

2. STATE: California

3. PROGRAM IDENTIFICATION: 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: July 1, 2021

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: 42 C.F.R. Subpart C

7. FEDERAL BUDGET IMPACT
a. FFY 2021 $ XX.XX
b. FFY 2022 $ XX.XX

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Supplement 35 to Attachment 4.19-B page 4

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: Supplement 35 to Attachment 4.19-B page 4

10. SUBJECT OF AMENDMENT: Supplemental Payments for Hospital Outpatient Services

11. 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. SIGNATURE OF STATE AGENCY OFFICIAL
[redacted]

13. TYPED NAME: Jacey Cooper

14. TITLE: State Medicaid Director

15. DATE SUBMITTED: June 18, 2021

16. RETURN TO
Department of Health Care Services
Attn: Director's Office
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

22. TITLE

23. REMARKS

For Box 11 "Other, As Specified," Please note: The Governor's Office does not wish to review the State Plan Amendment.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: CALIFORNIA

SUPPLEMENTAL PAYMENTS FOR HOSPITAL OUTPATIENT SERVICES

This supplemental payment program provides supplemental payments to private hospitals that meet specified requirements and provide outpatient services to Medi-Cal beneficiaries.

Supplemental payments to hospitals will be up to the aggregate upper payment limit.

Supplemental payments will be made periodically on a lump-sum basis throughout the duration of the program, and will not be paid as individual increases to current reimbursement rates for specific services. The supplemental amounts shall be in addition to any other amounts payable to hospitals with respect to those services and shall not affect any other payments to hospitals.

This supplemental payment program will be in effect from July 1, 2019 through December 31, 2021.

A. Amendment Scope and Authority

This amendment, Supplement 35 to Attachment 4.19-B, describes the payment methodology for providing supplemental payments to eligible hospitals between July 1, 2019 through December 31, 2021. If necessary due to a later State Plan Amendment approval date, payment distributions for subject fiscal quarters that predate federal approval will be made on a condensed timeline.

B. Eligible Hospitals

1. Hospitals eligible for supplemental payments under this supplement are "private hospitals," which means a hospital that meets all of the following conditions:

    a. Is licensed pursuant to Health and Safety Code section 1250, subdivision (a).

    b. Is in the Charitable Research Hospital peer group, as set forth in the 1991 Hospital Peer Grouping Report published by the department, or is not designated as a specialty hospital in the hospital's most recently filed Office of Statewide Health Planning and Development Annual Financial Disclosure Report as of July 1, 2019.

c. Does not satisfy the Medicare criteria to be classified as a long-term care hospital.

d. Is a nonpublic hospital, nonpublic converted hospital, or converted hospital as those terms are defined as of July 1, 2019 in paragraphs (26) to (28) of Welfare and Institutions Code section 14105.98, subdivision (a).

e. Is not a non-designated public hospital or a designated public hospital, as those terms are defined as July 1, 2019 in Welfare and Institutions Code section 14169.51, subdivisions (j) and (aj).

2. A hospital that is eligible pursuant to Paragraph 1 for supplemental payments under this supplement will become ineligible if any of the following occur:

a. The hospital becomes a Private to Public Converted Hospital pursuant to Paragraph 3 of Section C.

b. The hospital is a new hospital as defined in Paragraph 4 of Section C.

c. The hospital does not meet all the requirements set forth in Paragraph 1.

d. Any period during which the hospital is deemed closed pursuant to Welfare and Institutions Code section 14169.61, subdivision (c) as in effect on July 1, 2019.

e. The hospital does not have any Medi-Cal fee-for-service outpatient hospital utilization for the subject fiscal quarter.

C. Definitions

For purposes of this supplement, the following definitions will apply:

1. "Hospital outpatient services" means all services covered under Medi-Cal furnished by hospitals to patients who are registered as hospital outpatients and reimbursed by the department on a fee-for-service basis directly or through its fiscal intermediary. Hospital outpatient services do not include professional services or services for which a managed health care plan is financially responsible, or services rendered by a hospital-based federally qualified health center for which reimbursement is received pursuant to Welfare and Institutions Code section 14132.100.

2. "Outpatient base amount" means the total amount of payments for hospital outpatient services rendered in the 2016 calendar year, as reflected in the state paid claims files prepared by the department as of April 5, 2019.

3. “Private to Public Converted hospital” means a private hospital that becomes a designated public hospital or a non-designated public hospital on or after July 1, 2019.

4. “New hospital” means a hospital operation, business, or facility functioning under current or prior ownership as a private hospital that does not have a days data source or a hospital that has a days data source in whole, or in part, from a previous operator where there is an outstanding monetary obligation owed to the state in connection with the Medi-Cal program and the hospital is not, or does not agree to become, financially responsible to the department for the outstanding monetary obligation.

5. "Program period" means the period from July 1, 2019 through December 31, 2021, inclusive.

6. “Days data source” means either: (1) if a hospital’s Annual Financial Disclosure Report for its fiscal year ending in the 2016 calendar year includes data for a full fiscal year of operation, the hospital’s Annual Financial Disclosure Report retrieved from the Office of Statewide Health Planning and Development as retrieved by the department on May 6, 2019 pursuant to Welfare and Institutions Code section 14169.59, for its fiscal year ending in the 2016 calendar year; or (2) if a hospital’s Annual Financial Disclosure Report for its fiscal year ending in the 2016 calendar year includes data for more than one day, but less than a full year of operation, the department’s best and reasonable estimates of the hospital’s Annual Financial Disclosure Report if the hospital had operated for a full year.

7. “Subject fiscal year” means a state fiscal year beginning on or after the first day of a program period and ending on or before the last day of a program period. Subject fiscal year 2019-20 begins on July 1, 2019 and ends on June 30, 2020, subject fiscal year 2020-21 begins on July 1, 2020 and ends on June 30, 2021, and subject fiscal year 2021-22 begins on July 1, 2021 and ends on December 31, 2021.

8. “Subject fiscal quarter” means the quarter to which the supplemental payment is applied. Note that there are only two subject fiscal quarters for subject fiscal year 2021-22.

D. Supplemental Payment Methodology for Private Hospitals

1. Private hospitals will be paid supplemental amounts for the provision of hospital outpatient services. The supplemental amounts will be in addition to any other amounts payable to hospitals with respect to those services and will not affect any other payments to hospitals. The supplemental amounts will result in payments equal to the amount remaining under the federal upper payment limit for private hospitals for each subject fiscal year.

2. The outpatient base amount shall be those payments for outpatient hospital services rendered in the 2016 calendar year, as reflected in the state paid claims files prepared by the department on April 5, 2019.

3. The outpatient supplemental rate shall be 266 percent of the outpatient base amount for the subject fiscal quarters in the subject fiscal year 2019-20, 261 percent of the outpatient base amount for the subject fiscal quarters in the subject fiscal year 2020-21 and XXX percent of the outpatient base amount for the first two subject fiscal quarters in the subject fiscal year 2021-22. Each amount for subject fiscal years 2019-20 and 2020-21 will be divided by four to arrive at the quarterly amount for the four quarters in both subject fiscal year 2019-20 and subject fiscal year 2020-21 respectively, and the amount for subject fiscal year 2021-22 will be divided by two to arrive at the quarterly amount for the two quarters in the subject fiscal year 2021-22. The above percentages will result in payments to hospitals thatequal the applicable federal upper payment limit.

4. In the event that the sum of payments to all hospitals in any subject fiscal quarter causes the aggregate of all supplemental payments to all hospitals pursuant to this Section for all subject fiscal quarters to exceed XX dollars and XX cents ($XX.XX), the payments to all hospitals in that subject fiscal quarter shall be reduced pro rata so that the aggregate of all supplemental payments to all hospitals does not exceed XX dollars and XX cents ($XX.XX).

5. In the event federal financial participation for a subject fiscal year is not available for all of the supplemental amounts payable to private hospitals under Paragraph 3 due to the application of a federal upper payment limit, which is subject to annual submission and review, or for any other reason, the following will apply:

    a. The total amount payable to private hospitals under Paragraph 3 for each subject fiscal quarter within the subject fiscal year will be reduced to the amount for which federal financial participation is available pursuant to subparagraph b.

    b. The amount payable under Paragraph 3 to each private hospital for each subject fiscal quarter within the subject fiscal year will be equal to the amount computed under Paragraph 3 multiplied by the ratio of the total amount for which federal financial participation is available to the total amount computed under Paragraph 3.

    c. In the event that a hospital's payments in any subject fiscal quarter as calculated under Paragraph 3 are reduced by the application of this Paragraph 5, the amount of the reduction will be added to the supplemental

payments for the next subject fiscal quarter within the program period, which the hospital would otherwise be entitled to receive under Paragraph 3, provided further that no such carryover payments will be carried over beyond the period ending December 31, 2021, and such carryover payments will not result in total payments exceeding the applicable federal upper payment limit for the fiscal year.

6. The supplemental payment amounts as set forth in this Supplement are inclusive of federal financial participation.

7. Payments shall be made to a Private to Public Converted hospital that converts during a subject fiscal quarter by multiplying the hospital's outpatient supplemental payment by the number of days that the hospital was a private hospital in the subject fiscal quarter, divided by the number of days in the subject fiscal quarter. Payments shall not be made to a Private to Public Converted hospital in any subsequent subject fiscal quarter.

8. Payments shall be made to a hospital that becomes ineligible pursuant to Paragraph 2 of Section B during a subject fiscal quarter by multiplying the hospital's outpatient supplemental payment by the number of days that the hospital was eligible in the subject fiscal quarter, divided by the number of days in the subject fiscal quarter. Payments shall not be made to an ineligible hospital in any subsequent subject fiscal quarter.

9. The Quality Assurance Fee funded supplemental payments will not be treated as offsets in computing the aggregate uncompensated cost list for the specific purpose of making the trauma supplemental payments.