Pursuant to authority vested in the Commissioner of Health by Sections 201 and 206 of the Public Health Law and Sections 363-a and 365-a(2) of the Social Services Law, Part 505 of Title 18 (Social Services) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended as follows, to be effective upon publication of a Notice of Adoption in New York State Register:

Paragraph (2) of subdivision (c) of section 505.5 of Title 18 is amended to read as follows:

(2) Written orders for durable medical equipment, medical/surgical supplies, prosthetic or orthotic devices, or orthopedic footwear must be maintained [by the provider submitting the claim for audit by the department or other authorized agency for six years from the date of payment] in compliance with recordkeeping and audit requirements in section 504.3 of this Title.

Paragraph (4) of subdivision (h) of section 505.16 of Title 18 is amended to read as follows:

(4) No payment to the provider of case management services can be made for authorized services unless such claim is supported by documentation of the time spent in providing services to each recipient. Such documentation must be maintained [by the provider pursuant to regulations of the department] in compliance with recordkeeping and audit requirements in section 504.3 of this Title.

Paragraph (1) of subdivision (c) of section 505.23 of Title 18 is amended to read as follows:

(1) The department will pay providers of home health services for home health services provided under this section at rates established by the Commissioner of Health and approved by the Director of the Budget; however, no payment will be made unless the claim for payment is supported[by documentation of the time spent providing services to each recipient] in compliance with recordkeeping and audit requirements in section 504.3 of this Title.

Paragraph (1) of subdivision (n) of section 505.29 of Title 18 is amended to read as follows:

(1) collect, maintain, and submit such information, records, or reports as required by the department and the social services district [and make such records available for review at the department's or the district's request] in compliance with recordkeeping and audit requirements in section 504.3 of this Title; and

Paragraph (3) of subdivision (g) of section 505.31 of Title 18 is amended to read as follows:

(3) Written statements referring persons for audiology services and recommendations or prescriptions for hearing aid services and products must be maintained [by the provider submitting the claim for audit by the department or other authorized agency for six years from the date of payment] in compliance with recordkeeping and audit requirements in section 504.3 of this Title.

REGULATORY IMPACT STATEMENT

Statutory Authority:

Social Services Law (SSL) section 363-a and Public Health Law section 201(1)(v) provide that the Department of Health (Department) is the single State agency responsible for supervising the administration of the State's medical assistance ("Medicaid") program and for adopting such regulations, not inconsistent with law, as may be necessary to implement the State's Medicaid program. In addition, SSL section 365-a authorizes the Commissioner of the Department to establish standards related to the amount, nature and manner of providing medical assistance for needy persons, including payment of medically necessary medical, dental and remedial care, services and supplies, as authorized in the regulations of the Department.

Legislative Objectives:

To establish standards for the provision of medical assistance for needy persons in a clear and efficient manner.

Needs and Benefits:

Governor Hochul launched EXPRESS NY (Expediting Processes and Regulations to Enable Streamlined Services), a new statewide effort to make government work better by tackling outdated and burdensome regulations, policies, and practices that stand in the way of delivering for New Yorkers. In accordance with this effort, the Department proposes to amend various sections of 18 NYCRR Part 505, to remove specific documentation and recordkeeping requirements and replace them with cross-references to 18 NYCRR § 504.3, which specifies

compliance duties of Medicaid providers, particularly audit and recordkeeping. This amendment will eliminate unnecessary requirements and simplify and clarify recordkeeping requirements for health care providers.

Costs for the Implementation of, and Continuing Compliance with the Regulation to the Regulated Entity:

The Department does not anticipate costs for Medicaid providers to comply with these amended regulations because they already are required, upon enrollment as Medicaid providers, to comply with 18 NYCRR §504.3.

Costs to State and Local Governments:

The Department does not anticipate costs for State and local governments to comply with these amended regulations.

Costs to the Department of Health:

There are no expected additional costs to the Department to comply with these amended regulations.

Local Government Mandates:

This amendment does not impose any new programs, services, duties, or responsibilities on local governments.

Paperwork:

There is no expected additional paperwork to comply with these amended regulations.

Duplication:

These amendments align with the coinciding Federal requirement and do not conflict with any State or Federal rules.

Alternatives:

An alternative would be to leave current regulations in place. Leaving the current standards in place is not consistent with the Governor's effort to update outdated practices. Therefore, the Department decided that revising the current regulation was the most appropriate approach.

Federal Standards:

This regulation aligns with Federal regulations and does not overlap or conflict with any legal requirements.

Compliance Schedule:

This regulation will go into effect upon publication of a Notice of Adoption in the New York State Register.

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STATEMENT IN LIEU OF
REGULATORY FLEXIBILITY ANALYSIS FOR
SMALL BUSINESSES AND LOCAL GOVERNMENTS

A Regulatory Flexibility Analysis for these amendments is not being submitted because the amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on small businesses and local governments. There are no professional services, capital, or other compliance costs imposed on small businesses and local governments as a result of the proposed amendments.

STATEMENT IN LIEU OF

RURAL AREA FLEXIBILITY ANALYSIS

A Rural Area Flexibility Analysis for these amendments is not being submitted because the amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

STATEMENT IN LIEU OF

JOB IMPACT STATEMENT

A Job Impact Statement for these amendments is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities.