

STATE OF NEW YORK

4791

2023-2024 Regular Sessions

IN SENATE

February 14, 2023

Introduced by Sens. RIVERA, ADDABBO, COMRIE, HOYLMAN-SIGAL, JACKSON, SEPULVEDA, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to rates of payment for certified home health agencies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (b) of subdivision 13 of section 3614 of the
2 public health law, as added by section 4 of part H of chapter 59 of the
3 laws of 2011, is amended to read as follows:
4 (b) Initial base year episodic payments shall be based on Medicaid
5 paid claims, as determined and adjusted by the commissioner to achieve
6 savings comparable to the prior state fiscal year, for services provided
7 by all certified home health agencies in the base year two thousand
8 nine. Subsequent base year episodic payments may be based on Medicaid
9 paid claims for services provided by all certified home health agencies
10 in a base year subsequent to two thousand nine, as determined by the
11 commissioner, provided, however, that such base year adjustment shall be
12 made not less frequently than every three years. In determining case
13 mix, each patient shall be classified using a system based on measures
14 which may include, but not limited to, clinical and functional measures,
15 as reported on the federal Outcome and Assessment Information Set
16 (OASIS), as may be amended. Notwithstanding any inconsistent provision
17 of law or regulation, in addition to the base year adjustment provided
18 for in this paragraph, for the rate year commencing April first, two
19 thousand twenty-three, the commissioner shall provide for a ten percent
20 increase in the base episodic payment, and in the individual rates for
21 services exempt from episodic payments under paragraph (a) of this
22 subdivision, from funds available for the Medical Assistance program.
23 Provided, further, that for rate years beginning April first, two thou-
24 sand twenty-three and after, the commissioner is authorized to increase

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 the episodic payment level for costs not reflected in the statewide
2 base, subject to the approval of the state budget director, including
3 the cost of: inflationary increases in the health care market basket
4 and/or consumer price index impacting providers; new state or federally
5 mandated program regulatory requirements; home care staff recruitment
6 and retention needs, particularly in shortage areas and disciplines;
7 facilitating provider capability to further align with state health
8 reform models and policy goals; health care clinical and information
9 technology investments approved by the commissioner; and other matters
10 the commissioner determines appropriate.

11 § 2. The public health law is amended by adding a new section 3614-g
12 to read as follows:

13 § 3614-g. Standards for home care services payments. 1. Legislative
14 intent. Adequate reimbursement for home care services is essential to
15 the policies set forth in section thirty-six hundred of this article as
16 well as state policies contingent on access, availability and quality of
17 these services. The degree of variability across state regulated home
18 care rates, episodic payments, fees for individual home care services,
19 and negotiated payments, leaves the home care system without a standard
20 basis of payment and stable revenue necessary to budget, plan and ensure
21 sustainability. To help ensure the home care system's viability to
22 deliver the needed services, the commissioner shall establish minimum
23 standards and a minimum benchmark within the Medicaid program for
24 payment of home health agency services, including the services of
25 subcontracting licensed home care services agencies, that can also serve
26 as the benchmark to be considered in rates paid by non-Medicaid third-
27 party payors.

28 2. Establishment of standards. Effective for rates issued April first,
29 two thousand twenty-three and for each rate year thereafter, the commis-
30 sioner shall establish minimum standards and a minimum benchmark for
31 home care service payment by any Medicaid payor. The commissioner shall
32 also post such standards and benchmark in an administrative directive to
33 the attention of all other third-party payors of home care services in
34 the state for considered use in payment of home care services. In estab-
35 lishing the benchmark, the commissioner shall utilize the rates estab-
36 lished under the episodic payment system under subdivision thirteen of
37 section thirty-six hundred fourteen of this article, and the individual
38 services rates established under such section.

39 § 3. This act shall take effect immediately.