

STATE OF NEW YORK

7793

2023-2024 Regular Sessions

IN SENATE

December 8, 2023

Introduced by Sen. PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend part DD of chapter 57 of the laws of 2023 establishing a cost of living adjustment for designated human services programs, in relation to programs that are eligible for a cost of living adjustment

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

1 Section 1. Section 1 of part DD of chapter 57 of the laws of 2023
2 establishing a cost of living adjustment for designated human services
3 programs is amended to read as follows:

4 Section 1. 1. Subject to available appropriations and approval of the
5 director of the budget, the commissioners of the office of mental
6 health, office for people with developmental disabilities, office of
7 addiction services and supports, office of temporary and disability
8 assistance, office of children and family services, [~~and~~] the state
9 office for the aging, the state education department, the department of
10 health, and the director of the office of victim services, shall estab-
11 lish a state fiscal year 2023-24 cost of living adjustment (COLA),
12 effective April 1, 2023, for projecting for the effects of inflation
13 upon rates of payments, contracts, or any other form of reimbursement
14 for the programs and services listed in paragraphs (i), (ii), (iii),
15 (iv), (v), and (vi) of subdivision four of this section. The COLA
16 established herein shall be applied to the appropriate portion of reim-
17 bursable costs or contract amounts. Where appropriate, transfers to the
18 department of health (DOH) shall be made as reimbursement for the state
19 share of medical assistance.

20 2. Notwithstanding any inconsistent provision of law, subject to the
21 approval of the director of the budget and available appropriations
22 therefore, for the period of April 1, 2023 through March 31, 2024, the
23 commissioners and directors shall provide funding to support a four
24 percent (4.0%) cost of living adjustment under this section for all

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

LBD13740-02-3

1 eligible programs and services as determined pursuant to subdivision
2 four of this section.

3 3. Notwithstanding any inconsistent provision of law, and as approved
4 by the director of the budget, the 4.0 percent cost of living adjustment
5 (COLA) established herein shall be inclusive of all other cost of living
6 type increases, inflation factors, or trend factors that are newly
7 applied effective April 1, 2023. Except for the 4.0 percent cost of
8 living adjustment (COLA) established herein, for the period commencing
9 on April 1, 2023 and ending March 31, 2024 the commissioners and direc-
10 tors shall not apply any other new cost of living adjustments for the
11 purpose of establishing rates of payments, contracts or any other form
12 of reimbursement. The phrase "all other cost of living type increases,
13 inflation factors, or trend factors" as defined in this subdivision
14 shall not include payments made pursuant to the American Rescue Plan Act
15 or other federal relief programs related to the Coronavirus Disease 2019
16 (COVID-19) pandemic Public Health Emergency. This subdivision shall not
17 prevent the office of children and family services from applying addi-
18 tional trend factors or staff retention factors to eligible programs and
19 services under paragraph (v) of subdivision four of this section.

20 4. Eligible programs and services. (i) Programs and services funded,
21 licensed, or certified by the office of mental health (OMH) eligible for
22 the cost of living adjustment established herein, pending federal
23 approval where applicable, include: office of mental health licensed
24 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of
25 the office of mental health regulations including clinic, continuing day
26 treatment, day treatment, intensive outpatient programs and partial
27 hospitalization; outreach; crisis residence; crisis stabilization,
28 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric
29 emergency program services; crisis intervention; home based crisis
30 intervention; family care; supported single room occupancy; supported
31 housing; supported housing community services; treatment congregate;
32 supported congregate; community residence - children and youth;
33 treatment/apartment; supported apartment; community residence single
34 room occupancy; on-site rehabilitation; employment programs; recreation;
35 respite care; transportation; psychosocial club; assertive community
36 treatment; case management; care coordination, including health home
37 plus services; local government unit administration; monitoring and
38 evaluation; children and youth vocational services; single point of
39 access; school-based mental health program; family support children and
40 youth; advocacy/support services; drop in centers; recovery centers;
41 transition management services; bridger; home and community based waiver
42 services; behavioral health waiver services authorized pursuant to the
43 section 1115 MRT waiver; self-help programs; consumer service dollars;
44 conference of local mental hygiene directors; multicultural initiative;
45 ongoing integrated supported employment services; supported education;
46 mentally ill/chemical abuse (MICA) network; personalized recovery
47 oriented services; children and family treatment and support services;
48 residential treatment facilities operating pursuant to part 584 of title
49 14-NYCRR; geriatric demonstration programs; community-based mental
50 health family treatment and support; coordinated children's service
51 initiative; homeless services; and promises zone.

52 (ii) Programs and services funded, licensed, or certified by the
53 office for people with developmental disabilities (OPWDD) eligible for
54 the cost of living adjustment established herein, pending federal
55 approval where applicable, include: local/unified services; chapter 620
56 services; voluntary operated community residential services; article 16

1 clinics; day treatment services; family support services; 100% day
2 training; epilepsy services; traumatic brain injury services; hepatitis
3 B services; independent practitioner services for individuals with
4 intellectual and/or developmental disabilities; crisis services for
5 individuals with intellectual and/or developmental disabilities; family
6 care residential habilitation; supervised residential habilitation;
7 supportive residential habilitation; respite; day habilitation; prevoca-
8 tional services; supported employment; community habilitation; interme-
9 diate care facility day and residential services; specialty hospital;
10 pathways to employment; intensive behavioral services; basic home and
11 community based services (HCBS) plan support; health home services
12 provided by care coordination organizations; community transition
13 services; family education and training; fiscal intermediary; support
14 broker; and personal resource accounts.

15 (iii) Programs and services funded, licensed, or certified by the
16 office of addiction services and supports (OASAS) eligible for the cost
17 of living adjustment established herein, pending federal approval where
18 applicable, include: medically supervised withdrawal services - residen-
19 tial; medically supervised withdrawal services - outpatient; medically
20 managed detoxification; medically monitored withdrawal; inpatient reha-
21 bilitation services; outpatient opioid treatment; residential opioid
22 treatment; KEEP units outpatient; residential opioid treatment to absti-
23 nence; problem gambling treatment; medically supervised outpatient;
24 outpatient rehabilitation; specialized services substance abuse
25 programs; home and community based waiver services pursuant to subdivi-
26 sion 9 of section 366 of the social services law; children and family
27 treatment and support services; continuum of care rental assistance case
28 management; NY/NY III post-treatment housing; NY/NY III housing for
29 persons at risk for homelessness; permanent supported housing; youth
30 clubhouse; recovery community centers; recovery community organizing
31 initiative; residential rehabilitation services for youth (RRSY); inten-
32 sive residential; community residential; supportive living; residential
33 services; job placement initiative; case management; family support
34 navigator; local government unit administration; peer engagement; voca-
35 tional rehabilitation; support services; HIV early intervention
36 services; dual diagnosis coordinator; problem gambling resource centers;
37 problem gambling prevention; prevention resource centers; primary
38 prevention services; other prevention services; ~~[and]~~ community
39 services; and addiction treatment centers.

40 (iv) Programs and services funded, licensed, or certified by the
41 office of temporary and disability assistance (OTDA) eligible for the
42 cost of living adjustment established herein, pending federal approval
43 where applicable, include: nutrition outreach and education program
44 (NOEP); community action agencies; New York state supportive housing
45 program; solutions to end homelessness program; and state supplemental
46 nutrition assistance program outreach program.

47 (v) Programs and services funded, licensed, or certified by the office
48 of children and family services (OCFS) eligible for the cost of living
49 adjustment established herein, pending federal approval where applica-
50 ble, include: programs for which the office of children and family
51 services establishes maximum state aid rates pursuant to section 398-a
52 of the social services law and section 4003 of the education law; emer-
53 gency foster homes; foster family boarding homes and therapeutic foster
54 homes; supervised settings as defined by subdivision twenty-two of
55 section 371 of the social services law; adoptive parents receiving
56 adoption subsidy pursuant to section 453 of the social services law;

1 ~~[and]~~ congregate and scattered supportive housing programs and support-
2 ive services provided under the NY/NY III supportive housing agreement
3 to young adults leaving or having recently left foster care; advantage
4 after-school program; child care resource and referral agencies; empire
5 state after-school program; healthy families New York; maternal, infant,
6 and early childhood home visiting initiative; New York state commission
7 for the blind; and preventive services as defined by section 409 of the
8 social services law.

9 (vi) Programs and services funded, licensed, or certified by the state
10 office for the aging (SOFA) eligible for the cost of living adjustment
11 established herein, pending federal approval where applicable, include:
12 community services for the elderly; expanded in-home services for the
13 elderly; ~~[and]~~ supplemental nutrition assistance program; New York
14 connects program; long term ombudsman program; Medicaid transportation
15 program; naturally occurring retirement communities (NORCs); neighbor-
16 hood naturally occurring retirement communities (NNORCs); and social
17 adult day services program.

18 (vii) Programs and services funded, licensed, or certified by the
19 state education department eligible for the cost of living adjustment
20 established herein, pending federal approval where applicable, include:
21 community schools; and adult literacy education programs.

22 (viii) Programs and services funded, licensed, or certified by the
23 office of victim services eligible for the cost of living adjustment
24 established herein, pending federal approval where applicable, include:
25 crime victim service programs as defined by section 631-a of the execu-
26 tive law.

27 (ix) Programs and services funded, licensed, or certified by the
28 department of health eligible for the cost of living adjustment estab-
29 lished herein, pending federal approval where applicable, include:
30 health home care management agencies authorized under section 365-l of
31 the social services law; independent living centers; and rape crisis
32 programs.

33 5. Each local government unit or direct contract provider receiving
34 funding for the cost of living adjustment established herein shall
35 submit a written certification, in such form and at such time as each
36 commissioner or director shall prescribe, attesting how such funding
37 will be or was used to first promote the recruitment and retention of
38 non-executive direct care staff, non-executive direct support profes-
39 sionals, non-executive clinical staff, or respond to other critical
40 non-personal service costs prior to supporting any salary increases or
41 other compensation for executive level job titles.

42 6. Notwithstanding any inconsistent provision of law to the contrary,
43 agency commissioners and directors shall be authorized to recoup funding
44 from a local governmental unit or direct contract provider for the cost
45 of living adjustment established herein determined to have been used in
46 a manner inconsistent with the appropriation, or any other provision of
47 this section. Such agency commissioners or directors shall be authorized
48 to employ any legal mechanism to recoup such funds, including an offset
49 of other funds that are owed to such local governmental unit or direct
50 contract provider.

51 § 2. This act shall take effect immediately and shall be deemed to
52 have been in full force and effect on and after April 1, 2023.