

10724

I N A S S E M B L Y

April 16, 2010

Introduced by M. of A. GOTTFRIED -- read once and referred to the
Committee on Health

AN ACT to amend the public health law, in relation to rate of payment
for home health care programs using statewide average calculation
excluding certain costs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 7 of section 3614 of the public health law, as
2 added by chapter 41 of the laws of 1992, the opening paragraph as
3 amended by section 18 of part C of chapter 109 of the laws of 2006, the
4 second undesignated paragraph as added by chapter 170 of the laws of
5 1994 and the third undesignated paragraph as added and the closing para-
6 graph as amended by chapter 59 of the laws of 1993, is amended to read
7 as follows:

8 7. (A) Notwithstanding any inconsistent provision of law or regu-
9 lation, for purposes of establishing rates of payment by governmental
10 agencies for certified home health agencies for the period April first,
11 nineteen hundred ninety-five through December thirty-first, nineteen
12 hundred ninety-five and for rate periods beginning on or after January
13 first, nineteen hundred ninety-six, the reimbursable base year adminis-
14 trative and general costs of a provider of services shall not exceed the
15 statewide average of total reimbursable base year administrative and
16 general costs of such providers of services; PROVIDED, HOWEVER, THAT FOR
17 PURPOSES OF ESTABLISHING SUCH RATES OF PAYMENT FOR PERIODS ON AND AFTER
18 APRIL FIRST, TWO THOUSAND TEN, SUCH STATEWIDE AVERAGE CALCULATION SHALL
19 EXCLUDE ANY OTHERWISE REIMBURSABLE COSTS, INCLUDING STEP DOWN COSTS,
20 REPORTED AND ALLOCABLE AS ADMINISTRATIVE AND GENERAL BUT ATTRIBUTABLE TO
21 THE PROVISION AND MANAGEMENT OF PATIENT CARE INCLUDING, BUT NOT LIMITED
22 TO, COSTS ATTRIBUTABLE TO: PATIENT OUTREACH; ASSESSMENT; COORDINATION
23 AND MANAGEMENT OF SERVICES; TELEPHONE AND OTHER TELEHEALTH MONITORING
24 AND COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANSPORTATION AND ESCORT
25 SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT SERVICES; PATIENT
26 RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT CARE. SUCH
27 EXCLUDED COSTS SHALL BE CONVEYED BY THE PROVIDER AS A SEPARATE DOCUMENT

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

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1 OF SUPPLEMENTAL INFORMATION ATTACHED TO THE PROVIDER'S COST REPORT, AS
2 SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE A RATE COMPU-
3 TATION SHEET TO EACH CERTIFIED HOME HEALTH AGENCY WITH DISTINCT LINES
4 FOR EACH SERVICE AND RATE WHICH SHALL INCLUDE:

5 (I) THE RATE PRIOR TO THE APPLICATION OF THE ADMINISTRATIVE AND GENER-
6 AL COST LIMITATION PROVIDED FOR IN THIS SUBDIVISION;

7 (II) THE PROVIDER'S TOTAL ADMINISTRATIVE AND GENERAL AMOUNT ALLOCABLE
8 TO THE RATE FOR THE SERVICE;

9 (III) SUCH TOTAL ADMINISTRATIVE AND GENERAL AMOUNT EXCLUSIVE OF THE
10 PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

11 (IV) THE ALLOWABLE ADMINISTRATIVE AND GENERAL COST AMOUNT BASED ON THE
12 LIMITATION PROVIDED FOR IN THIS SECTION CALCULATED TO REFLECT THE EXCLU-
13 SION OF PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

14 (V) ANY ADMINISTRATIVE AND GENERAL COST DISALLOWED TO THE RATE BASED
15 ON SUCH LIMITATION; AND

16 (VI) THE ADJUSTED RATE BASED ON THE APPLICATION OF THE ADMINISTRATIVE
17 AND GENERAL COST LIMITATION.

18 The amount of such reduction in certified home health agency rates of
19 payments made during the period April first, nineteen hundred ninety-
20 five through March thirty-first, nineteen hundred ninety-six shall be
21 adjusted in the nineteen hundred ninety-six rate period on a pro-rata
22 basis, if it is determined upon post-audit review by June fifteenth,
23 nineteen hundred ninety-six and reconciliation that the savings for the
24 state share, excluding the federal and local government shares, of
25 medical assistance payments pursuant to title eleven of article five of
26 the social services law based on the limitation of such payment pursuant
27 to this subdivision is in excess of one million five hundred thousand
28 dollars or is less than one million five hundred thousand dollars for
29 payments made on or before March thirty-first, nineteen hundred ninety-
30 six to reflect the amount by which such savings are in excess of or
31 lower than one million five hundred thousand dollars. For rate periods
32 on and after January first, two thousand five through December thirty-
33 first, two thousand six, there shall be no such reconciliation of the
34 amount of savings in excess of or lower than one million five hundred
35 thousand dollars.

36 (B) No such limit shall be applied to a provider of services reim-
37 bursed on an initial budget basis, or a new provider, excluding changes
38 in ownership or changes in name, who begins operations in the year prior
39 to the year which is used as a base year in determining rates of
40 payment.

41 (C) For the purposes of this subdivision, reimbursable base year oper-
42 ational costs shall mean those base year operational costs remaining
43 after application of all other efficiency standards, including, but not
44 limited to, peer group cost ceilings or guidelines.

45 (D) The limitation on reimbursement for provider administrative and
46 general expenses provided by this subdivision shall be expressed as a
47 percentage reduction for the rate promulgated by the commissioner to
48 each certified home health agency and long term home health care program
49 provider; PROVIDED, HOWEVER, THAT SUCH REDUCTION PERCENTAGE SHALL NOT BE
50 INCREASED FOR ANY PROVIDER AS A CONSEQUENCE OF THE EXCLUSIONS PROVIDED
51 FOR IN PARAGRAPH (A) OF THIS SUBDIVISION.

52 S 2. The opening paragraph of subdivision 7 of section 3614 of the
53 public health law, as amended by chapter 170 of the laws of 1994, is
54 amended to read as follows:

55 (A) Notwithstanding any inconsistent provision of law or regulation to
56 the contrary, for purposes of establishing rates of payment by govern-

1 mental agencies for certified home health agencies and long term home
2 health care programs for rate period beginning on or after January
3 first, nineteen hundred ninety-five, the department of health may not by
4 rule or regulation limit the reimbursable base year administrative and
5 general costs of a provider of services to a percentage which is other
6 than thirty percent of total reimbursable base year operational costs of
7 such provider of services; PROVIDED, HOWEVER, THAT FOR PURPOSES OF
8 ESTABLISHING SUCH RATES OF PAYMENT FOR PERIODS ON AND AFTER APRIL FIRST,
9 TWO THOUSAND TEN, SUCH STATEWIDE AVERAGE CALCULATION SHALL EXCLUDE ANY
10 OTHERWISE REIMBURSABLE COSTS, INCLUDING STEP DOWN COSTS, REPORTED AND
11 ALLOCABLE AS ADMINISTRATIVE AND GENERAL BUT ATTRIBUTABLE TO THE
12 PROVISION AND MANAGEMENT OF PATIENT CARE INCLUDING, BUT NOT LIMITED TO,
13 COSTS ATTRIBUTABLE TO: PATIENT OUTREACH; ASSESSMENT; COORDINATION AND
14 MANAGEMENT OF SERVICES; TELEPHONE AND OTHER TELEHEALTH MONITORING AND
15 COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANSPORTATION AND ESCORT
16 SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT SERVICES; PATIENT
17 RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT CARE. SUCH
18 EXCLUDED COSTS SHALL BE CONVEYED BY THE PROVIDER AS A SEPARATE DOCUMENT
19 OF SUPPLEMENTAL INFORMATION ATTACHED TO THE PROVIDER'S COST REPORT, AS
20 SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE A RATE COMPU-
21 TATION SHEET TO EACH CERTIFIED HOME HEALTH AGENCY WITH DISTINCT LINES
22 FOR EACH SERVICE AND RATE WHICH SHALL INCLUDE:

23 (I) THE RATE PRIOR TO THE APPLICATION OF THE ADMINISTRATIVE AND GENER-
24 AL COST LIMITATION PROVIDED FOR IN THIS SUBDIVISION;

25 (II) THE PROVIDER'S TOTAL ADMINISTRATIVE AND GENERAL AMOUNT ALLOCABLE
26 TO THE RATE FOR THE SERVICE;

27 (III) SUCH TOTAL ADMINISTRATIVE AND GENERAL AMOUNT EXCLUSIVE OF THE
28 PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

29 (IV) THE ALLOWABLE ADMINISTRATIVE AND GENERAL COST AMOUNT BASED ON THE
30 LIMITATION PROVIDED FOR IN THIS SECTION CALCULATED TO REFLECT THE EXCLU-
31 SION OF PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

32 (V) ANY ADMINISTRATIVE AND GENERAL COST DISALLOWED TO THE RATE BASED
33 ON SUCH LIMITATION; AND

34 (VI) THE ADJUSTED RATE BASED ON THE APPLICATION OF THE ADMINISTRATIVE
35 AND GENERAL COST LIMITATION.

36 S 3. Subdivision 7-a of section 3614 of the public health law, as
37 amended by section 89 of part C of chapter 58 of the laws of 2007 and
38 the opening paragraph as amended by section 46 of part B of chapter 58
39 of the laws of 2009, is amended to read as follows:

40 7-a. (A) Notwithstanding any inconsistent provision of law or regu-
41 lation, for the purposes of establishing rates of payment by govern-
42 mental agencies for long term home health care programs for the period
43 April first, two thousand five, through December thirty-first, two thou-
44 sand five, and for the period January first, two thousand six through
45 March thirty-first, two thousand seven, and on and after April first,
46 two thousand seven through March thirty-first, two thousand nine, and on
47 and after April first, two thousand nine through March thirty-first, two
48 thousand eleven the reimbursable base year administrative and general
49 costs of a provider of services shall not exceed the statewide average
50 of total reimbursable base year administrative and general costs of such
51 providers of services; PROVIDED, HOWEVER, THAT FOR THE PURPOSES OF
52 ESTABLISHING SUCH RATES OF PAYMENT FOR PERIODS ON AND AFTER APRIL FIRST,
53 TWO THOUSAND TEN, SUCH STATEWIDE AVERAGE CALCULATION SHALL EXCLUDE ANY
54 OTHERWISE REIMBURSABLE COSTS, INCLUDING STEP DOWN COSTS, REPORTED AND
55 ALLOCABLE AS ADMINISTRATIVE AND GENERAL BUT ATTRIBUTABLE TO THE
56 PROVISION AND MANAGEMENT OF PATIENT CARE INCLUDING, BUT NOT LIMITED TO,

1 COSTS ATTRIBUTABLE TO: PATIENT OUTREACH; ASSESSMENT; COORDINATION AND
2 MANAGEMENT OF SERVICES; TELEPHONE AND OTHER TELEHEALTH MONITORING AND
3 COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANSPORTATION AND ESCORT
4 SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT SERVICES; PATIENT
5 RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT CARE. SUCH
6 EXCLUDED COSTS SHALL BE CONVEYED BY THE PROVIDER AS A SEPARATE DOCUMENT
7 OF SUPPLEMENTAL INFORMATION ATTACHED TO THE PROVIDER'S COST REPORT, AS
8 SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE A RATE COMPU-
9 TATION SHEET TO EACH CERTIFIED HOME HEALTH AGENCY WITH DISTINCT LINES
10 FOR EACH SERVICE AND RATE WHICH SHALL INCLUDE:

11 (I) THE RATE PRIOR TO THE APPLICATION OF THE ADMINISTRATIVE AND GENER-
12 AL COST LIMITATION PROVIDED FOR IN THIS SUBDIVISION;

13 (II) THE PROVIDER'S TOTAL ADMINISTRATIVE AND GENERAL AMOUNT ALLOCABLE
14 TO THE RATE FOR THE SERVICE;

15 (III) SUCH TOTAL ADMINISTRATIVE AND GENERAL AMOUNT EXCLUSIVE OF THE
16 PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

17 (IV) THE ALLOWABLE ADMINISTRATIVE AND GENERAL COST AMOUNT BASED ON THE
18 LIMITATION PROVIDED FOR IN THIS SECTION CALCULATED TO REFLECT THE EXCLU-
19 SION OF PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

20 (V) ANY ADMINISTRATIVE AND GENERAL COST DISALLOWED TO THE RATE BASED
21 ON SUCH LIMITATION; AND

22 (VI) THE ADJUSTED RATE BASED ON THE APPLICATION OF THE ADMINISTRATIVE
23 AND GENERAL COST LIMITATION.

24 (B) No such limit shall be applied to a provider of services reim-
25 bursed on an initial budget basis, or a new provider, excluding changes
26 in ownership or changes in name, who begins operations in the year prior
27 to the year which is used as a base year in determining rates of
28 payment.

29 (C) For the purposes of this subdivision, reimbursable base year oper-
30 ational costs shall mean those base year operational costs remaining
31 after application of all other efficiency standards, including, but not
32 limited to, cost guidelines.

33 (D) The limitation on reimbursement for provider administrative and
34 general expenses provided by this subdivision shall be expressed as a
35 percentage reduction for the rate promulgated by the commissioner to
36 each long term home health care program provider; PROVIDED, HOWEVER,
37 THAT SUCH REDUCTION PERCENTAGE SHALL NOT BE INCREASED FOR ANY PROVIDER
38 AS A CONSEQUENCE OF THE EXCLUSIONS PROVIDED FOR IN PARAGRAPH (A) OF THIS
39 SUBDIVISION.

40 S 4. This act shall take effect on the first of April next succeeding
41 the date on which it shall have become law; provided, however, that the
42 amendments to the opening paragraph of subdivision 7 of section 3614 of
43 the public health law made by section one of this act shall be subject
44 to the expiration and reversion of such opening paragraph pursuant to
45 section 64-b and subdivision 5-a of section 246 of chapter 81 of the
46 laws of 1995, as amended, when upon such date the provisions of section
47 two of this act shall take effect.