

2553

2009-2010 Regular Sessions

I N S E N A T E

February 23, 2009

Introduced by Sen. KLEIN -- 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 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 ASSEMBLY, 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 NINE, SUCH STATEWIDE AVERAGE CALCULATION SHALL
19 EXCLUDE ANY COSTS REPORTED AND ALLOCABLE AS ADMINISTRATIVE AND GENERAL
20 BUT ATTRIBUTABLE TO THE PROVISION AND MANAGEMENT OF PATIENT CARE INCLUD-
21 ING, BUT NOT LIMITED TO, COSTS ATTRIBUTABLE TO: PATIENT OUTREACH;
22 ASSESSMENT; COORDINATION AND MANAGEMENT OF SERVICES; TELEPHONE AND OTHER
23 TELEHEALTH MONITORING AND COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANS-
24 PORTATION AND ESCORT SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT

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

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1 SERVICES; PATIENT RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT
2 CARE. The amount of such reduction in certified home health agency
3 rates of payments made during the period April first, nineteen hundred
4 ninety-five through March thirty-first, nineteen hundred ninety-six
5 shall be adjusted in the nineteen hundred ninety-six rate period on a
6 pro-rata basis, if it is determined upon post-audit review by June
7 fifteenth, nineteen hundred ninety-six and reconciliation that the
8 savings for the state share, excluding the federal and local government
9 shares, of medical assistance payments pursuant to title eleven of arti-
10 cle five of the social services law based on the limitation of such
11 payment pursuant to this subdivision is in excess of one million five
12 hundred thousand dollars or is less than one million five hundred thou-
13 sand dollars for payments made on or before March thirty-first, nineteen
14 hundred ninety-six to reflect the amount by which such savings are in
15 excess of or lower than one million five hundred thousand dollars. For
16 rate periods on and after January first, two thousand five through
17 December thirty-first, two thousand six, there shall be no such recon-
18 ciliation of the amount of savings in excess of or lower than one
19 million five hundred thousand dollars.

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

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

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

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

39 (A) Notwithstanding any inconsistent provision of law or regulation to
40 the contrary, for purposes of establishing rates of payment by govern-
41 mental agencies for certified home health agencies and long term home
42 health care programs for rate period beginning on or after January
43 first, nineteen hundred ninety-five, the department of health may not by
44 rule or regulation limit the reimbursable base year administrative and
45 general costs of a provider of services to a percentage which is other
46 than thirty percent of total reimbursable base year operational costs of
47 such provider of services; PROVIDED, HOWEVER, THAT FOR PURPOSES OF
48 ESTABLISHING SUCH RATES OF PAYMENT FOR PERIODS ON AND AFTER APRIL FIRST,
49 TWO THOUSAND NINE, SUCH STATEWIDE AVERAGE CALCULATION SHALL EXCLUDE ANY
50 COSTS REPORTED AND ALLOCABLE AS ADMINISTRATIVE AND GENERAL BUT ATTRIBUT-
51 ABLE TO THE PROVISION AND MANAGEMENT OF PATIENT CARE INCLUDING, BUT NOT
52 LIMITED TO, COSTS ATTRIBUTABLE TO: PATIENT OUTREACH; ASSESSMENT; COORDI-
53 NATION AND MANAGEMENT OF SERVICES; TELEPHONE AND OTHER TELEHEALTH MONI-
54 TORING AND COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANSPORTATION AND
55 ESCORT SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT SERVICES;
56 PATIENT RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT CARE.

1 S 3. Subdivision 7-a of section 3614 of the public health law, as
2 amended by section 89 of part C of chapter 58 of the laws of 2007, is
3 amended to read as follows:

4 7-a. (A) Notwithstanding any inconsistent provision of law or regu-
5 lation, for the purposes of establishing rates of payment by govern-
6 mental agencies for long term home health care programs for the period
7 April first, two thousand five, through December thirty-first, two thou-
8 sand five, and for the period January first, two thousand six through
9 March thirty-first, two thousand seven, and on and after April first,
10 two thousand seven through March thirty-first, two thousand nine, the
11 reimbursable base year administrative and general costs of a provider of
12 services shall not exceed the statewide average of total reimbursable
13 base year administrative and general costs of such providers of
14 services; PROVIDED, HOWEVER, THAT FOR THE PURPOSES OF ESTABLISHING SUCH
15 RATES OF PAYMENT FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND
16 NINE, SUCH STATEWIDE AVERAGE CALCULATION SHALL EXCLUDE ANY COSTS
17 REPORTED AND ALLOCABLE AS ADMINISTRATIVE AND GENERAL BUT ATTRIBUTABLE TO
18 THE PROVISION AND MANAGEMENT OF PATIENT CARE INCLUDING, BUT NOT LIMITED
19 TO, COSTS ATTRIBUTABLE TO: PATIENT OUTREACH; ASSESSMENT; COORDINATION
20 AND MANAGEMENT OF SERVICES; TELEPHONE AND OTHER TELEHEALTH MONITORING
21 AND COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANSPORTATION AND ESCORT
22 SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT SERVICES; PATIENT
23 RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT CARE.

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.