

7049

I N S E N A T E

March 9, 2010

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 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  
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9 TATION SHEET TO EACH CERTIFIED HOME HEALTH AGENCY WITH DISTINCT LINES  
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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.