S T A T E O F N E W Y O R K

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I N S E N A T E

May 14, 2010

Introduced by Sen. DUANE -- 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 an AIDS assisted living program

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

Section 1. Subdivision 6 of section 3614 of the public health law, as amended by chapter 645 of the laws of 2003 and paragraph (a) as amended by section 17 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

6. (a) The commissioner shall, subject to the approval of the state director of the budget, establish capitated rates of payment for services provided by assisted living programs as defined by paragraph (a) of subdivision one of section four hundred sixty-one-l of the social services law. Such rates of payment shall be related to costs incurred by residential health care facilities. The rates shall reflect the wage equalization factor established by the commissioner for residential health care facilities in the region in which the assisted living program is provided and real property capital construction costs associated with the construction of a free-standing assisted living program [such rate shall include], INCLUDING a payment equal to the cost of interest owed and depreciation costs of such construction. The rates shall also reflect the efficient provision of a quality and quantity of services to patients in such residential health care facilities, with needs comparable to the needs of residents served in such assisted living programs. Such rates of payment shall be equal to fifty percent of the amounts which otherwise would have been expended, based upon the mean prices for the first of July, nineteen hundred ninety-two (utilizing nineteen hundred eighty-three costs) for freestanding, low intensity residential health care facilities with less than three hundred beds, and for years subsequent to nineteen hundred ninety-two, adjusted for inflation in accordance with the provisions of subdivision ten of section twenty-eight hundred seven-c of this chapter, to provide the appropriate level of care for such residents in residential health care

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

LBD17256-01-0

facilities in the applicable wage equalization factor regions plus an amount equal to capital construction costs associated with the construction of an assisted living program facility as provided for in this subdivision.

(b) For purposes of this subdivision, real property capital construction costs shall only be included in rates of payment for assisted living programs if: (i) the facility is operated by a not-for-profit corporation; (ii) the facility commenced operation after nineteen hundred ninety-eight and at least ninety-five percent of the certified approved beds are provided to residents who are subject to the assisted living program; and (iii) the assisted living program is in a county with a population of no less than two hundred eighty thousand persons. The methodology used to calculate the rate for such capital construction costs shall be the same methodology used to calculate the capital construction costs at residential health care facilities for such costs.

(C) (1) AS USED IN THIS SUBDIVISION, "AIDS ASSISTED LIVING" MEANS AN ENTITY DESIGNATED BY THE COMMISSIONER THAT IS (A) AN ASSISTED LIVING PROGRAM AS DEFINED BY PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED SIXTY-ONE-L OF THE SOCIAL SERVICES LAW ALL OF WHOSE RESIDENTS ARE PERSONS WITH HIV/AIDS, (B) OPERATED BY A NOT-FOR-PROFIT CORPORATION, AND (C) AFFILIATED BY COMMON OWNERSHIP WITH AN AIDS RESIDENTIAL HEALTH CARE FACILITY OPERATING AS SUCH UNDER REGULATIONS OF THE COMMISSIONER.

(2) RATES OF PAYMENT UNDER PARAGRAPH (A) OF THIS SUBDIVISION FOR AN AIDS ASSISTED LIVING PROGRAM SHALL, IN ADDITION TO ITEMS UNDER PARAGRAPH (A) OF THIS SUBDIVISION, INCLUDE A PAYMENT FOR REAL PROPERTY CAPITAL CONSTRUCTION COSTS UNDER PARAGRAPH (B) OF THIS SUBDIVISION, AND A PAYMENT EQUAL TO ANY PROPERTY LEASE COSTS FOR THE REAL PROPERTY REQUIRED TO OPERATE THE AIDS ASSISTED LIVING PROGRAM. THE CAPITAL CONSTRUCTION AND PROPERTY LEASE COSTS SHALL BE REIMBURSED WHETHER THE FACILITY IS FREE-STANDING OR NOT.

S 2. This act shall take effect immediately.