

8248

2011-2012 Regular Sessions

I N A S S E M B L Y

June 8, 2011

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 capitated rates of
payment for services provided by assisted living programs

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

1 Section 1. Paragraphs (a) and (b) of subdivision 6 of section 3614 of
2 the public health law, paragraph (a) as amended by section 17 of part D
3 of chapter 58 of the laws of 2009 and paragraph (b) as added by chapter
4 645 of the laws of 2003, is amended to read as follows:
5 (a) The commissioner shall, subject to the approval of the state
6 director of the budget, establish capitated rates of payment for
7 services provided by assisted living programs as defined by paragraph
8 (a) of subdivision one of section four hundred sixty-one-1 of the social
9 services law. Such rates of payment shall be related to costs incurred
10 by residential health care facilities. The rates shall reflect (I) the
11 wage equalization factor established by the commissioner for residential
12 health care facilities in the region in which the assisted living
13 program is provided, and (II) real property capital construction costs
14 associated with the construction of (A) a free-standing assisted living
15 program, OR (B) OTHER ASSISTED LIVING PROGRAMS FOR WHICH THE COMMISSION-
16 ER DETERMINES THAT SUCH REAL PROPERTY CAPITAL CONSTRUCTION COST ADJUST-
17 MENT WOULD PROVIDE NET FISCAL SAVINGS TO THE STATE; such rate shall
18 include a payment equal to the cost of interest owed and depreciation
19 costs of such construction. The rates shall also reflect the efficient
20 provision of a quality and quantity of services to patients in such
21 residential health care facilities, with needs comparable to the needs
22 of residents served in such assisted living programs. Such rates of
23 payment shall be equal to fifty percent of the amounts which otherwise
24 would have been expended, based upon the mean prices for the first of
25 July, nineteen hundred ninety-two (utilizing nineteen hundred eighty-

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

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1 three costs) for freestanding, low intensity residential health care
2 facilities with less than three hundred beds, and for years subsequent
3 to nineteen hundred ninety-two, adjusted for inflation in accordance
4 with the provisions of subdivision ten of section twenty-eight hundred
5 seven-c of this chapter, to provide the appropriate level of care for
6 such residents in residential health care facilities in the applicable
7 wage equalization factor regions plus an amount equal to capital
8 construction costs associated with the construction of an assisted
9 living program facility as provided for in this subdivision.

10 (b) For purposes of this subdivision, real property capital
11 construction costs shall only be included in rates of payment for
12 assisted living programs if: (i) the facility is operated by a not-for-
13 profit corporation; (ii) the facility commenced operation after nineteen
14 hundred ninety-eight and at least ninety-five percent of the certified
15 approved ADULT CARE FACILITY beds, AS APPLICABLE, are provided to resi-
16 dents who are subject to the assisted living program; and (iii) WITH
17 RESPECT TO AN ASSISTED LIVING PROGRAM UNDER CLAUSE (A) OF SUBPARAGRAPH
18 (II) OF PARAGRAPH (A) OF THIS SUBDIVISION, the assisted living program
19 is in a county with a population of no less than two hundred eighty
20 thousand persons. The methodology used to calculate the rate for such
21 capital construction costs shall be the same methodology used to calcu-
22 late the capital construction costs at residential health care facili-
23 ties for such costs.

24 S 2. This act shall take effect immediately.