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

4776

2011-2012 Regular Sessions

I N S E N A T E

April 20, 2011

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law and chapter 1 of the laws of 2002, amending the public health law, the social services law and the tax law relating to the Health Care Reform Act of 2000, in relation to the living wage adjustment for personal care services workers

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

Section 1. The social services law is amended by adding a new section 367-x to read as follows:

S 367-X. PERSONAL CARE SERVICES WORKERS; LIVING WAGE ADJUSTMENT. 1. THE COMMISSIONER OF HEALTH SHALL, SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, ADJUST PERSONAL CARE SERVICES MEDICAL ASSISTANCE RATES OF PAYMENT ESTABLISHED PURSUANT TO THIS TITLE FOR PERSONAL CARE SERVICES PROVIDERS LOCATED IN LOCAL SOCIAL SERVICES DISTRICTS WHERE SUCH SOCIAL SERVICES DISTRICTS ARE LOCATED WITHIN A COUNTY WHICH HAS ENACTED A LOCAL LIVING WAGE LAW THAT APPLIES TO SUCH SERVICES OR ARE LOCATED WITHIN A CITY WITH A POPULATION OF MORE THAN ONE MILLION PERSONS WHICH HAS ENACTED A LOCAL LIVING WAGE LAW THAT APPLIES TO SUCH SERVICES. ADJUSTMENTS SHALL BE MADE IN ACCORDANCE WITH SUBDIVISIONS TWO AND THREE OF THIS SECTION.

2. ADJUSTMENTS TO RATES OF PAYMENT UNDER THIS SECTION SHALL BE ALLOCATED BASED ON THE DIFFERENCE BETWEEN THE RATE OF HOURLY PAYMENT FOR PERSONAL CARE SERVICES WORKERS PRIOR TO AN ADJUSTMENT AND THE RATE OF HOURLY PAYMENT THAT WOULD BE REQUIRED TO COMPLY WITH THE LOCAL LIVING WAGE LAW.

3. ADJUSTMENTS UNDER THIS SECTION, UPON APPLICATION BY A LOCAL SOCIAL SERVICES DISTRICT, SHALL BE SUBJECT TO SUBSEQUENT ADJUSTMENT OR RECONCILIATION FOR PURPOSES OF MAINTAINING COMPLIANCE WITH A LOCAL LIVING WAGE LAW.

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

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4. PERSONAL CARE SERVICES PROVIDERS THAT HAVE THEIR RATES ADJUSTED UNDER THIS SECTION SHALL USE THE INCREASED FUNDS FOR THE PURPOSE OF PAYING A STATUTORILY-MANDATED LIVING WAGE TO NON-SUPERVISORY PERSONAL CARE SERVICES WORKERS ONLY AND SHALL NOT USE THE FUNDS FOR ANY OTHER PURPOSE. EACH SUCH PERSONAL CARE SERVICES PROVIDER SHALL SUBMIT, AT A TIME AND IN A MANNER TO BE DETERMINED BY THE COMMISSIONER OF HEALTH, A WRITTEN CERTIFICATION ATTESTING THAT SUCH FUNDS WILL BE USED SOLELY FOR THE PURPOSE OF PAYING A STATUTORILY-MANDATED LIVING WAGE IN ACCORDANCE WITH A LOCAL LAW TO NON-SUPERVISORY PERSONAL CARE SERVICES WORKERS. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO AUDIT EACH SUCH PROVIDER TO ENSURE COMPLIANCE WITH THIS SUBDIVISION AND SHALL RECOUP ANY FUNDS DETERMINED TO HAVE BEEN USED FOR PURPOSES OTHER THAN PAYING A STATUTORILY-MANDATED LIVING WAGE TO NON-SUPERVISORY PERSONAL CARE SERVICES WORKERS. SUCH RECOUPMENT SHALL BE IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW.

5. FOR SOCIAL SERVICES DISTRICTS WHICH INCLUDE A CITY WITH A POPULATION OF MORE THAN ONE MILLION PERSONS ADJUSTMENTS UNDER THIS SECTION SHALL BE MADE PURSUANT TO MEMORANDUM OF UNDERSTANDING ENTERED INTO BETWEEN THE STATE OF NEW YORK AND THE LOCAL SOCIAL SERVICES DISTRICT.

6. ADJUSTMENTS UNDER THIS SECTION SHALL BE EFFECTIVE FOR PERIODS ON AND AFTER THE EFFECTIVE DATE OF A LOCAL LIVING WAGE LAW.

7. FOR THE PURPOSES OF THIS SECTION, "LOCAL LIVING WAGE LAW" MEANS ANY LOCAL LAW OR, WHEN AUTHORIZED, LOCAL RESOLUTION THAT REQUIRES A COUNTY OR UNIT OF LOCAL GOVERNMENT TO INCLUDE IN ANY CONTRACT FOR SERVICES A SPECIFIED MINIMUM HOURLY RATE OF PAYMENT COMMONLY KNOWN AS A LIVING WAGE.

S 2. Section 4 of part A of chapter 1 of the laws of 2002, amending the public health law, the social services law and the tax law relating to the Health Care Reform Act of 2000, as amended by section 27 of part J of chapter 82 of the laws of 2002, is amended to read as follows:

S 4. Notwithstanding any law, rule or regulation to the contrary, the provisions of section 36 of chapter 433 of the laws of 1997, as amended, shall have no force or effect with regard to Medicaid funds received by providers of personal care services pursuant to section 367-q OR 367-X of the social services law or pursuant to paragraph (bb) of subdivision 1 of section 2807-v of the public health law, or by providers of home care services pursuant to subdivision 8 of section 3614 of the public health law.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.