

5044

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. HANNON -- 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 TWELVE, SUCH STATEWIDE AVERAGE CALCULATION
19 SHALL EXCLUDE ANY OTHERWISE REIMBURSABLE COSTS, INCLUDING STEP DOWN
20 COSTS, REPORTED AND ALLOCABLE AS ADMINISTRATIVE AND GENERAL BUT ATTRIB-
21 UTABLE TO THE PROVISION AND MANAGEMENT OF PATIENT CARE INCLUDING, BUT
22 NOT LIMITED TO, COSTS ATTRIBUTABLE TO: PATIENT OUTREACH; ASSESSMENT;
23 COORDINATION AND MANAGEMENT OF SERVICES; TELEPHONE AND OTHER TELEHEALTH
24 MONITORING AND COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANSPORTATION AND

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

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1 ESCORT SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT SERVICES;
2 PATIENT RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT CARE.
3 SUCH EXCLUDED COSTS SHALL BE CONVEYED BY THE PROVIDER AS A SEPARATE
4 DOCUMENT OF SUPPLEMENTAL INFORMATION ATTACHED TO THE PROVIDER'S COST
5 REPORT, AS SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE A
6 RATE COMPUTATION SHEET TO EACH CERTIFIED HOME HEALTH AGENCY WITH
7 DISTINCT LINES FOR EACH SERVICE AND RATE WHICH SHALL INCLUDE:

8 (I) THE RATE PRIOR TO THE APPLICATION OF THE ADMINISTRATIVE AND GENER-
9 AL COST LIMITATION PROVIDED FOR IN THIS SUBDIVISION;

10 (II) THE PROVIDER'S TOTAL ADMINISTRATIVE AND GENERAL AMOUNT ALLOCABLE
11 TO THE RATE FOR THE SERVICE;

12 (III) SUCH TOTAL ADMINISTRATIVE AND GENERAL AMOUNT EXCLUSIVE OF THE
13 PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

14 (IV) THE ALLOWABLE ADMINISTRATIVE AND GENERAL COST AMOUNT BASED ON THE
15 LIMITATION PROVIDED FOR IN THIS SECTION CALCULATED TO REFLECT THE EXCLU-
16 SION OF PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

17 (V) ANY ADMINISTRATIVE AND GENERAL COST DISALLOWED TO THE RATE BASED
18 ON SUCH LIMITATION; AND

19 (VI) THE ADJUSTED RATE BASED ON THE APPLICATION OF THE ADMINISTRATIVE
20 AND GENERAL COST LIMITATION.

21 The amount of such reduction in certified home health agency rates of
22 payments made during the period April first, nineteen hundred ninety-
23 five through March thirty-first, nineteen hundred ninety-six shall be
24 adjusted in the nineteen hundred ninety-six rate period on a pro-rata
25 basis, if it is determined upon post-audit review by June fifteenth,
26 nineteen hundred ninety-six and reconciliation that the savings for the
27 state share, excluding the federal and local government shares, of
28 medical assistance payments pursuant to title eleven of article five of
29 the social services law based on the limitation of such payment pursuant
30 to this subdivision is in excess of one million five hundred thousand
31 dollars or is less than one million five hundred thousand dollars for
32 payments made on or before March thirty-first, nineteen hundred ninety-
33 six to reflect the amount by which such savings are in excess of or
34 lower than one million five hundred thousand dollars. For rate periods
35 on and after January first, two thousand five through December thirty-
36 first, two thousand six, there shall be no such reconciliation of the
37 amount of savings in excess of or lower than one million five hundred
38 thousand dollars.

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

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

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

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

4 (A) Notwithstanding any inconsistent provision of law or regulation to
5 the contrary, for purposes of establishing rates of payment by govern-
6 mental agencies for certified home health agencies and long term home
7 health care programs for rate [period] PERIODS beginning on or after
8 January first, nineteen hundred ninety-five, the department of health
9 may not by rule or regulation limit the reimbursable base year adminis-
10 trative and general costs of a provider of services to a percentage
11 which is other than thirty percent of total reimbursable base year oper-
12 ational costs of such provider of services; PROVIDED, HOWEVER, THAT FOR
13 PURPOSES OF ESTABLISHING SUCH RATES OF PAYMENT FOR PERIODS ON AND AFTER
14 APRIL FIRST, TWO THOUSAND TWELVE, SUCH STATEWIDE AVERAGE CALCULATION
15 SHALL EXCLUDE ANY OTHERWISE REIMBURSABLE COSTS, INCLUDING STEP DOWN
16 COSTS, REPORTED AND ALLOCABLE AS ADMINISTRATIVE AND GENERAL BUT ATTRIB-
17 UTABLE TO THE PROVISION AND MANAGEMENT OF PATIENT CARE INCLUDING, BUT
18 NOT LIMITED TO, COSTS ATTRIBUTABLE TO: PATIENT OUTREACH; ASSESSMENT;
19 COORDINATION AND MANAGEMENT OF SERVICES; TELEPHONE AND OTHER TELEHEALTH
20 MONITORING AND COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANSPORTATION AND
21 ESCORT SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT SERVICES;
22 PATIENT RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT CARE.
23 SUCH EXCLUDED COSTS SHALL BE CONVEYED BY THE PROVIDER AS A SEPARATE
24 DOCUMENT OF SUPPLEMENTAL INFORMATION ATTACHED TO THE PROVIDER'S COST
25 REPORT, AS SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE A
26 RATE COMPUTATION SHEET TO EACH CERTIFIED HOME HEALTH AGENCY WITH
27 DISTINCT LINES FOR EACH SERVICE AND RATE WHICH SHALL INCLUDE:

28 (I) THE RATE PRIOR TO THE APPLICATION OF THE ADMINISTRATIVE AND GENER-
29 AL COST LIMITATION PROVIDED FOR IN THIS SUBDIVISION;

30 (II) THE PROVIDER'S TOTAL ADMINISTRATIVE AND GENERAL AMOUNT ALLOCABLE
31 TO THE RATE FOR THE SERVICE;

32 (III) SUCH TOTAL ADMINISTRATIVE AND GENERAL AMOUNT EXCLUSIVE OF THE
33 PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

34 (IV) THE ALLOWABLE ADMINISTRATIVE AND GENERAL COST AMOUNT BASED ON THE
35 LIMITATION PROVIDED FOR IN THIS SECTION CALCULATED TO REFLECT THE EXCLU-
36 SION OF PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

37 (V) ANY ADMINISTRATIVE AND GENERAL COST DISALLOWED TO THE RATE BASED
38 ON SUCH LIMITATION; AND

39 (VI) THE ADJUSTED RATE BASED ON THE APPLICATION OF THE ADMINISTRATIVE
40 AND GENERAL COST LIMITATION.

41 S 3. Subdivision 7-a of section 3614 of the public health law, as
42 amended by section 89 of part C of chapter 58 of the laws of 2007 and
43 the opening paragraph as amended by section 18 of part D of chapter 59
44 of the laws of 2011, is amended to read as follows:

45 7-a. (A) Notwithstanding any inconsistent provision of law or regu-
46 lation, for the purposes of establishing rates of payment by govern-
47 mental agencies for long term home health care programs for the period
48 April first, two thousand five, through December thirty-first, two thou-
49 sand five, and for the period January first, two thousand six through
50 March thirty-first, two thousand seven, and on and after April first,
51 two thousand seven through March thirty-first, two thousand nine, and on
52 and after April first, two thousand nine through March thirty-first, two
53 thousand eleven, and on and after April first, 2011 through March thir-
54 ty-first, 2013, the reimbursable base year administrative and general
55 costs of a provider of services shall not exceed the statewide average
56 of total reimbursable base year administrative and general costs of such

1 providers of services; PROVIDED, HOWEVER, THAT FOR THE PURPOSES OF
2 ESTABLISHING SUCH RATES OF PAYMENT FOR PERIODS ON AND AFTER APRIL FIRST,
3 TWO THOUSAND TWELVE, SUCH STATEWIDE AVERAGE CALCULATION SHALL EXCLUDE
4 ANY OTHERWISE REIMBURSABLE COSTS, INCLUDING STEP DOWN COSTS, REPORTED
5 AND ALLOCABLE AS ADMINISTRATIVE AND GENERAL BUT ATTRIBUTABLE TO THE
6 PROVISION AND MANAGEMENT OF PATIENT CARE INCLUDING, BUT NOT LIMITED TO,
7 COSTS ATTRIBUTABLE TO: PATIENT OUTREACH; ASSESSMENT; COORDINATION AND
8 MANAGEMENT OF SERVICES; TELEPHONE AND OTHER TELEHEALTH MONITORING AND
9 COMMUNICATION; MEDICAL SUPPLIES; STAFF TRANSPORTATION AND ESCORT
10 SERVICES; FAMILY AND/OR INFORMAL CAREGIVER SUPPORT SERVICES; PATIENT
11 RECORDKEEPING; AND TECHNOLOGY INVESTMENTS FOR PATIENT CARE. SUCH
12 EXCLUDED COSTS SHALL BE CONVEYED BY THE PROVIDER AS A SEPARATE DOCUMENT
13 OF SUPPLEMENTAL INFORMATION ATTACHED TO THE PROVIDER'S COST REPORT, AS
14 SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE A RATE COMPU-
15 TATION SHEET TO EACH CERTIFIED HOME HEALTH AGENCY WITH DISTINCT LINES
16 FOR EACH SERVICE AND RATE WHICH SHALL INCLUDE:

17 (I) THE RATE PRIOR TO THE APPLICATION OF THE ADMINISTRATIVE AND GENER-
18 AL COST LIMITATION PROVIDED FOR IN THIS SUBDIVISION;

19 (II) THE PROVIDER'S TOTAL ADMINISTRATIVE AND GENERAL AMOUNT ALLOCABLE
20 TO THE RATE FOR THE SERVICE;

21 (III) SUCH TOTAL ADMINISTRATIVE AND GENERAL AMOUNT EXCLUSIVE OF THE
22 PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

23 (IV) THE ALLOWABLE ADMINISTRATIVE AND GENERAL COST AMOUNT BASED ON THE
24 LIMITATION PROVIDED FOR IN THIS SECTION CALCULATED TO REFLECT THE EXCLU-
25 SION OF PATIENT CARE RELATED COSTS DESCRIBED IN THIS PARAGRAPH;

26 (V) ANY ADMINISTRATIVE AND GENERAL COST DISALLOWED TO THE RATE BASED
27 ON SUCH LIMITATION; AND

28 (VI) THE ADJUSTED RATE BASED ON THE APPLICATION OF THE ADMINISTRATIVE
29 AND GENERAL COST LIMITATION.

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

35 (C) For the purposes of this subdivision, reimbursable base year oper-
36 ational costs shall mean those base year operational costs remaining
37 after application of all other efficiency standards, including, but not
38 limited to, cost guidelines.

39 (D) The limitation on reimbursement for provider administrative and
40 general expenses provided by this subdivision shall be expressed as a
41 percentage reduction for the rate promulgated by the commissioner to
42 each long term home health care program provider; PROVIDED, HOWEVER,
43 THAT SUCH REDUCTION PERCENTAGE SHALL NOT BE INCREASED FOR ANY PROVIDER
44 AS A CONSEQUENCE OF THE EXCLUSIONS PROVIDED FOR IN PARAGRAPH (A) OF THIS
45 SUBDIVISION.

46 S 4. This act shall take effect on the first of April next succeeding
47 the date on which it shall have become law; provided, however, that the
48 amendments to the opening paragraph of subdivision 7 of section 3614 of
49 the public health law made by section one of this act shall be subject
50 to the expiration and reversion of such opening paragraph pursuant to
51 section 64-b and subdivision 5-a of section 246 of chapter 81 of the
52 laws of 1995, as amended, when upon such date the provisions of section
53 two of this act shall take effect.