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

8213--B

2011-2012 Regular Sessions

I N A S S E M B L Y

June 7, 2011

Introduced by M. of A. GOTTFRIED, CAHILL, SWEENEY, JAFFEE, BENEDETTO, WEPRIN, GUNTHER, ROSENTHAL, WEISENBERG, LAVINE, SCHIMEL -- read once and referred to the Committee on Health -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to rate increases payable for certified home health agency services for purposes of improving recruitment and retention of non-supervisory workers and providing standards for settlement of claims for payment for certain long term care services

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

Section 1. Subparagraph (iii) of paragraph (b) of subdivision 8 of section 3614 of the public health law, as added by section 54 of part J of chapter 82 of the laws of 2002, is amended to read as follows:

(iii) In the case of services provided by such providers through contracts with licensed home care services agencies, rate increases received by such providers pursuant to this subdivision shall be reflected, consistent with the purposes of subparagraph (i) of this paragraph, in either the fees paid or benefits or other supports provided to non-supervisory home care services workers or any worker with direct patient care responsibility of such contracted licensed home care services agencies and such fees, benefits or other supports shall be proportionate to the contracted volume of services attributable to each contracted agency AND SUCH RATE INCREASES SHALL BE MADE UPON RECEIPT OF SUCH RECRUITMENT AND RETENTION FUNDS. Such agencies shall submit to providers with which they contract written certifications attesting that such funds will be used solely for the purposes of recruitment and retention of non-supervisory home care services workers

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

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or any worker with direct patient care responsibility and shall maintain in their files expenditure plans specifying how such funds will be used for such purposes. PROVIDERS SHALL REPORT TO THE COMMISSIONER ANNUALLY ON THE AMOUNT OF SUCH FUNDS PROVIDED THROUGH CONTRACTS. SUCH REPORTS SHALL LIST THE AMOUNT OF FUNDS BY LICENSED HOME CARE SERVICES AGENCIES. The commissioner is authorized to audit such agencies to ensure compliance with such certifications and expenditure plans and shall recoup any funds determined to have been used for purposes other than those set forth in this subdivision. Such recoupment will be in addition to any other penalties provided by law.

S 2. Paragraph (c) of subdivision 10 of section 3614 of the public health law, as amended by section 5 of part C of chapter 109 of the laws of 2006, is amended to read as follows:

(c) In the case of services provided by such agencies or programs through contracts with licensed home care services agencies, rate increases received by such agencies or programs pursuant to this subdivision shall be reflected, consistent with the purposes of this subdivision, in either the fees paid or benefits or other supports, including training, provided to non-supervisory home health aides or any other personnel with direct patient care responsibility of such contracted licensed home care services agencies and such fees, benefits or other supports shall be proportionate to the contracted volume of services attributable to each contracted agency AND SUCH RATE INCREASES SHALL BE MADE UPON RECEIPT OF SUCH RECRUITMENT AND RETENTION FUNDS. Such agencies or programs shall submit to providers with which they contract written certifications attesting that such funds will be used solely for the purposes of recruitment, training and retention of non-supervisory home health aides or other personnel with direct patient care responsibility and shall maintain in their files expenditure plans specifying how such funds will be used for such purposes. PROVIDERS SHALL REPORT TO THE COMMISSIONER ANNUALLY ON THE AMOUNT OF SUCH FUNDS PROVIDED THROUGH CONTRACTS. SUCH REPORTS SHALL LIST THE AMOUNT OF FUNDS BY LICENSED HOME CARE SERVICES AGENCY. The commissioner is authorized to audit such agencies or programs to ensure compliance with such certifications and expenditure plans and shall recoup any funds determined to have been used for purposes other than those set forth in this subdivision. Such recoupment shall be in addition to any other penalties provided by law.

S 3. The public health law is amended by adding a new section 3614-d to read as follows:

S 3614-D. STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENT OF CLAIMS FOR PAYMENTS FOR PERSONAL CARE, HOME HEALTH CARE SERVICES OR OTHER LONG TERM CARE SERVICES. IN THE PROCESSING OF CLAIMS SUBMITTED UNDER CONTRACTS OR AGREEMENTS ISSUED OR ENTERED INTO OR BETWEEN CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, LICENSED HOME CARE SERVICES PROGRAMS, INSURERS, MANAGED LONG TERM CARE PLANS, MANAGED CARE PLANS OR ORGANIZATIONS LICENSED OR OPERATED PURSUANT TO THE PROVISIONS OF THE PUBLIC HEALTH, SOCIAL SERVICES, OR INSURANCE LAW AND FOR ALL BILLS FOR PERSONAL CARE, HOME HEALTH CARE SERVICES OR OTHER LONG TERM CARE SERVICES RENDERED BY LICENSED HOME CARE SERVICES PROGRAMS, CERTIFIED HOME HEALTH AGENCIES OR LONG TERM HOME HEALTH CARE PROGRAMS PURSUANT TO SUCH CONTRACTS OR AGREEMENTS, ANY CERTIFIED HOME HEALTH CARE AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, INSURER, MANAGED LONG TERM CARE PLANS, MANAGED CARE PLAN, OR ORGANIZATIONS LICENSED OR OPERATED PURSUANT TO THE PROVISIONS OF THE PUBLIC HEALTH, SOCIAL SERVICES, EXECUTIVE OR INSURANCE LAW, SHALL ADHERE TO THE FOLLOWING STANDARDS:

(1) SHALL PAY THE BILL OR CLAIM TO A LICENSED HOME CARE SERVICES PROGRAM, CERTIFIED HOME HEALTH AGENCY OR LONG TERM HOME HEALTH CARE PROGRAM WITHIN THIRTY DAYS OF RECEIPT OF A CLAIM OR BILL FOR SERVICES RENDERED THAT IS TRANSMITTED VIA THE INTERNET OR ELECTRONIC MAIL, OR FORTY-FIVE DAYS OF RECEIPT OF A CLAIM OR BILL FOR SERVICES RENDERED THAT IS SUBMITTED BY OTHER MEANS, SUCH AS PAPER OR FACSIMILE.

(2) EACH BILL, CLAIM OR PAYMENT FOR SERVICES PROCESSED IN VIOLATION OF THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION. IN ADDITION TO THE PENALTIES PROVIDED IN THIS CHAPTER, ANY ORGANIZATION OR CORPORATION THAT FAILS TO ADHERE TO THE STANDARDS CONTAINED IN THIS SECTION SHALL BE OBLIGATED TO PAY TO THE LICENSED HOME HEALTH CARE PROGRAM IN FULL SETTLEMENT OF THE BILL, CLAIM OR PAYMENT PLUS INTEREST ON THE AMOUNT OF SUCH BILL, CLAIM OR PAYMENT OF THE GREATER OF THE RATE EQUAL TO THE RATE SET BY THE COMMISSIONER OF TAXATION AND FINANCE FOR CORPORATE TAXES PURSUANT TO PARAGRAPH ONE OF SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX OF THE TAX LAW OR TWELVE PERCENT PER ANNUM, TO BE COMPUTED FROM THE DATE THE BILL, CLAIM OR PAYMENT WAS REQUIRED TO BE MADE.

S 4. This act shall take effect immediately.