

7687

2015-2016 Regular Sessions

I N   A S S E M B L Y

May 22, 2015

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Introduced by M. of A. GOTTFRIED -- read once and referred to the  
Committee on Health

AN ACT to amend the social services law, in relation to the review of  
reimbursement methodologies under contracts or agreements with insur-  
ers under the medical assistance program for home and community-based  
long term care services

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

1     Section 1. Subdivision 18 of section 364-j of the social services law,  
2     as amended by chapter 649 of the laws of 1996, paragraph (b) as amended  
3     by chapter 433 of the laws of 1997, paragraph (c) as added by section  
4     40-c of part B of chapter 57 of the laws of 2015, paragraphs (c) and (d)  
5     as added by section 55 of part B of chapter 57 of the laws of 2015, is  
6     amended to read as follows:  
7     18. (a) The department of health may, where not inconsistent with the  
8     rate setting authority of other state agencies and subject to approval  
9     of the director of the division of the budget, develop reimbursement  
10    methodologies and fee schedules for determining the amount of payment to  
11    be made to managed care providers under the managed care program. Such  
12    reimbursement methodologies and fee schedules may include provisions for  
13    payment of managed care fees and capitation arrangements.  
14    (b) The department of health in consultation with organizations  
15    representing managed care providers shall select an independent actuary  
16    to review any such reimbursement rates. Such independent actuary shall  
17    review and make recommendations concerning appropriate actuarial assump-  
18    tions relevant to the establishment of rates including but not limited  
19    to the adequacy of the rates in relation to the population to be served  
20    adjusted for case mix, the scope of services the plans must provide, the  
21    utilization of services and the network of providers necessary to meet  
22    state standards. The independent actuary shall issue a report no later  
23    than December thirty-first, nineteen hundred ninety-eight and annually

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

LBD11080-01-5

1 thereafter. Such report shall be provided to the governor, the temporary  
2 president and the minority leader of the senate and the speaker and the  
3 minority leader of the assembly. The department of health shall assess  
4 managed care providers under the managed care program on a per enrollee  
5 basis to cover the cost of such report.

6 (c) In setting such reimbursement methodologies, the department shall  
7 consider costs borne by the managed care program to ensure actuarially  
8 sound and adequate rates of payment to ensure quality of care.

9 [(c)] (D) The department of health shall require the independent actu-  
10 ary selected pursuant to paragraph (b) of this subdivision to provide a  
11 complete actuarial memorandum, along with all actuarial assumptions made  
12 and all other data, materials and methodologies used in the development  
13 of rates, to managed care providers thirty days prior to submission of  
14 such rates to the centers for medicare and medicaid services for  
15 approval. Managed care providers may request additional review of the  
16 actuarial soundness of the rate setting process and/or methodology.

17 [(d)] (E)(I) THE DEPARTMENT OF HEALTH SHALL SELECT AND CONTRACT WITH  
18 AN INDEPENDENT ACTUARY TO STUDY AND REVIEW ADEQUATE REIMBURSEMENT METH-  
19 ODOLOGIES UNDER CONTRACTS OR AGREEMENTS WITH INSURERS UNDER THE MEDICAL  
20 ASSISTANCE PROGRAM FOR HOME AND COMMUNITY-BASED LONG TERM CARE SERVICES  
21 PROVIDED UNDER THIS ARTICLE, BY FISCAL INTERMEDIARIES OPERATING PURSUANT  
22 TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THIS TITLE OR RATES OF PAYMENT  
23 FOR SUCH SERVICES UNDER THE MEDICAL ASSISTANCE PROGRAM TO ENSURE SUCH  
24 CONTRACTS OR RATES SHALL SUPPORT COMPENSATION FOR PERSONS PROVIDING SUCH  
25 HOME CARE AIDE SERVICES AND CONSUMER DIRECTED PERSONAL ASSISTANCE  
26 SERVICES TO ENSURE THE RETENTION OF A QUALIFIED WORKFORCE CAPABLE OF  
27 PROVIDING HIGH QUALITY CARE TO RECIPIENTS OF SUCH SERVICES IN BOTH WAGE  
28 PARITY AND NON-WAGE PARITY REGIONS. SUCH COMPENSATION SHALL AT A MINIMUM  
29 INCLUDE WAGE PARITY COMPENSATION AS REQUIRED UNDER SECTION THIRTY-SIX  
30 HUNDRED FOURTEEN-C OF THE PUBLIC HEALTH LAW OR SUCH WAGE AS REQUIRED  
31 UNDER ARTICLE NINETEEN OR NINETEEN-A OF THE LABOR LAW AS REQUIRED  
32 TOGETHER WITH THE FOLLOWING COSTS: RECRUITMENT, TRAINING AND RETENTION  
33 OF DIRECT CARE PERSONNEL INCLUDING WAGE; SALARY; MANDATORY CONTRIBUTIONS  
34 PURSUANT TO TITLE 26, SUBTITLE C, CHAPTER 21 OF THE UNITED STATES CODE  
35 (FICA); COSTS ATTRIBUTED TO WORKERS COMPENSATION; COUNTY LIVING WAGE  
36 LAWS AS APPROPRIATE; AND A SUPPLEMENTAL BENEFIT RATE.

37 (II) THE DEPARTMENT OF HEALTH SHALL REPORT ON THE RESULTS OF THE INDE-  
38 PENDENT ACTUARY FINDINGS UNDER THIS PARAGRAPH TO THE GOVERNOR, THE  
39 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE  
40 CHAIRS OF THE SENATE HEALTH COMMITTEE AND ASSEMBLY HEALTH COMMITTEE ON  
41 OR BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN.

42 (F) The department of health shall annually provide to the temporary  
43 president of the senate and the speaker of the assembly the annual Medi-  
44 caid managed care operating reports submitted to the department from  
45 managed care plans that contract with the state to manage services  
46 provided under the Medicaid program.

47 S 2. This act shall take effect immediately; provided that the amend-  
48 ments made to section 364-j of the social services law by section one of  
49 this act shall not affect the repeal of such section and shall be deemed  
50 repealed therewith.