

5459

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

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 social services law, in relation to the review of reimbursement methodologies under contracts or agreements with insurers 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 ASSEMBLY, 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.

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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.