

# STATE OF NEW YORK

10712

## IN ASSEMBLY

May 15, 2018

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

AN ACT to amend part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to the inclusion and development of certain cost of living adjustments and to providing funding to increase salaries and related fringe benefits to direct care workers, direct support professionals and clinical workers including Medicaid Service Coordination

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3-e of section 1 of part C of chapter 57 of  
2 the laws of 2006, relating to establishing a cost of living adjustment  
3 for designated human services programs, as added by section 2 of part Q  
4 of chapter 57 of the laws of 2017, is amended to read as follows:

5 3-e. (i) Notwithstanding the provisions of subdivision 3-b of this  
6 section or any other inconsistent provision of law, and subject to the  
7 availability of the appropriation therefor, for the programs listed in  
8 paragraphs (i), (ii), and (iii) of subdivision 4 of this section, the  
9 commissioners shall provide funding to support (1) an overall average  
10 three and one-quarter percent (3.25%) increase to total salaries for  
11 direct care staff, direct support professionals for each eligible state-  
12 funded program beginning January 1, 2018; and (2) an overall average  
13 three and one-quarter percent (3.25%) increase to total salaries for  
14 direct care staff and direct support professionals, and clinical staff,  
15 including position code 351 relating to Medicaid Service Coordination,  
16 for each eligible state-funded program beginning April 1, 2018; (3) an  
17 overall average three and one-quarter percent (3.25%) increase to total  
18 salaries for direct care staff and direct support professionals, and  
19 clinical staff, including position code 351 relating to Medicaid Service  
20 Coordination, for each eligible state-funded program beginning April 1,  
21 2019; (4) an overall average three and one-quarter percent (3.25%)  
22 increase to total salaries for direct care staff and direct support  
23 professionals, and clinical staff, including position code 351 relating

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

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1 to Medicaid Service Coordination, for each eligible state-funded program  
2 beginning April 1, 2020; (5) an overall average three and one-quarter  
3 percent (3.25%) increase to total salaries for direct care staff and  
4 direct support professionals, and clinical staff, including position  
5 code 351 relating to Medicaid Service Coordination, for each eligible  
6 state-funded program beginning April 1, 2021; and (6) an overall average  
7 three and one-quarter percent (3.25%) increase to total salaries for  
8 direct care staff and direct support professionals, and clinical staff,  
9 including position code 351 relating to Medicaid Service Coordination,  
10 for each eligible state-funded program beginning April 1, 2022. For the  
11 purpose of this funding increase, direct support professionals are indi-  
12 viduals employed in consolidated fiscal reporting position title codes  
13 ranging from 100 to 199; direct care staff are individuals employed in  
14 consolidated fiscal reporting position title codes ranging from 200 to  
15 299; and clinical staff are individuals employed in consolidated fiscal  
16 reporting position title codes ranging from 300 to 399, specifically  
17 including position code 351 relating to Medicaid Service Coordination.

18 (ii) The funding made available pursuant to paragraph (i) of this  
19 subdivision shall be used: (1) to help alleviate the recruitment and  
20 retention challenges of direct care staff, direct support professionals  
21 and clinical staff employed in eligible programs, including Medicaid  
22 Service Coordination; and (2) to continue and to expand efforts to  
23 support the professionalism of the direct care workforce. Each local  
24 government unit or direct contract provider receiving such funding shall  
25 have flexibility in allocating such funding to support salary increases  
26 to particular job titles to best address the needs of its direct care  
27 staff, direct support professionals and clinical staff, including Medi-  
28 caid Service Coordination. Each local government unit or direct contract  
29 provider receiving such funding shall also submit a written certif-  
30 ication, in such form and at such time as each commissioner shall  
31 prescribe, attesting to how such funding will be or was used for  
32 purposes eligible under this section. Further, providers shall submit a  
33 resolution from their governing body to the appropriate commissioner,  
34 attesting that the funding received will be used solely to support sala-  
35 ry and salary-related fringe benefit increases for direct care staff,  
36 direct support professionals and clinical staff, including Medicaid  
37 Service Coordination, pursuant to paragraph (i) of this subdivision.  
38 Salary increases that take effect on and after April 1, 2017 may be used  
39 to demonstrate compliance with the January 1, 2018 funding increase  
40 authorized by this section, except for salary increases necessary to  
41 comply with state minimum wage requirements. Such commissioners shall be  
42 authorized to recoup any funds as appropriated herein determined to have  
43 been used in a manner inconsistent with such standards or inconsistent  
44 with the provisions of this subdivision, and such commissioners shall be  
45 authorized to employ any legal mechanism to recoup such funds, including  
46 an offset of other funds that are owed to such local governmental unit  
47 or provider.

48 (iii) Where appropriate, transfers to the department of health shall  
49 be made as reimbursement for the state share of medical assistance.

50 § 2. This act shall take effect immediately and shall be deemed to  
51 have been in full force and effect on and after April 1, 2018; provided,  
52 however, that the amendments to section 1 of part C of chapter 57 of the  
53 laws of 2006 made by section one of this act shall not affect the repeal  
54 of such section and shall be deemed repealed therewith.