STATE OF NEW YORK

5841

2017-2018 Regular Sessions

IN SENATE

May 2, 2017

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:

Section 1. Subdivision 18 of section 364-j of the social services law, as amended by chapter 649 of the laws of 1996, paragraph (b) as amended by chapter 433 of the laws of 1997, paragraph (c) as added by section 40-c of part B of chapter 57 of the laws of 2015, paragraphs (c) and (d) as added by section 55 of part B of chapter 57 of the laws of 2015, is amended to read as follows:

18. (a) The department of health may, where not inconsistent with the rate setting authority of other state agencies and subject to approval of the director of the division of the budget, develop reimbursement methodologies and fee schedules for determining the amount of payment to be made to managed care providers under the managed care program. Such reimbursement methodologies and fee schedules may include provisions for payment of managed care fees and capitation arrangements.

(b) The department of health in consultation with organizations representing managed care providers shall select an independent actuary to review any such reimbursement rates. Such independent actuary shall review and make recommendations concerning appropriate actuarial assumptions relevant to the establishment of rates including but not limited to the adequacy of the rates in relation to the population to be served adjusted for case mix, the scope of services the plans must provide, the utilization of services and the network of providers necessary to meet state standards. The independent actuary shall issue a report no later 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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thereafter. Such report shall be provided to the governor, the temporary president and the minority leader of the senate and the speaker and the minority leader of the assembly. The department of health shall assess managed care providers under the managed care program on a per enrollee basis to cover the cost of such report.

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

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

[~~(d)~~] **(e)(i) The department of health shall select and contract with an independent actuary to study and review adequate reimbursement methodologies under contracts or agreements with insurers under the medical assistance program for home and community-based long term care services provided under this article, by fiscal intermediaries operating pursuant to section three hundred sixty-five-f of this title or rates of payment for such services under the medical assistance program to ensure such contracts or rates shall support compensation for persons providing such home care aide services and consumer directed personal assistance services to ensure the retention of a qualified workforce capable of providing high quality care to recipients of such services in both wage parity and non-wage parity regions. Such compensation shall at a minimum include wage parity compensation as required under section thirty-six hundred fourteen-c of the public health law or such wage as required under article nineteen or nineteen-A of the labor law as required together with the following costs: recruitment, training and retention of direct care personnel including wage; salary; mandatory contributions pursuant to Title 26, Subtitle C, Chapter 21 of the United States Code (FICA); costs attributed to workers compensation; county living wage laws as appropriate; provisions of the federal Fair Labor Standards Act for employees' overtime and other mandatory benefits; and an administrative and general cost factor indexed annually.**

(ii) The department of health shall report on the results of the independent actuary findings under this paragraph to the governor, the temporary president of the senate, the speaker of the assembly, the chairs of the senate health committee and assembly health committee on or before January fifteenth, two thousand eighteen.

(f) The department of health shall annually provide to the temporary president of the senate and the speaker of the assembly the annual Medicaid managed care operating reports submitted to the department from managed care plans that contract with the state to manage services provided under the Medicaid program.

§ 2. This act shall take effect immediately; provided that the amendments made to section 364-j of the social services law by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.