STATE OF NEW YORK

8184

IN SENATE

April 16, 2018

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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 employed by not-for-profits funded by the office for people with developmental disabilities, the office of mental health and the office of alcoholism and substance abuse services

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

Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, as amended by section 1 of part Q of chapter 57 of the laws of 2017, are amended to read as follows:

3-b. Notwithstanding any inconsistent provision of law, beginning April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and ending March 31, [~~2018~~] 2019, the commissioners shall not include a COLA for the purpose of establishing rates of payments, contracts or any other form of reimbursement, provided that the commissioners of the office for people with developmental disabilities, the office of mental health, and the office of alcoholism and substance abuse services shall not include a COLA beginning April 1, 2017 and ending March 31, [~~2019~~] 2023.

3-c. Notwithstanding any inconsistent provision of law, beginning April 1, [~~2018~~] 2019 and ending March 31, [~~2021~~] 2022, the commissioners shall develop the COLA under this section using the actual U.S. consumer price index for all urban consumers (CPI-U) published by the United States department of labor, bureau of labor statistics for the twelve month period ending in July of the budget year prior to such state

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

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fiscal year, for the purpose of establishing rates of payments, contracts or any other form of reimbursement.

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

3-e. (i) Notwithstanding the provisions of subdivision 3-b of this section or any other inconsistent provision of law, and subject to the availability of the appropriation therefor, for the programs listed in paragraphs (i), (ii), and (iii) of subdivision 4 of this section, the commissioners shall provide funding to support (1) an overall average three and one-quarter percent (3.25%) increase to total salaries for direct care staff, direct support professionals for each eligible state-funded program beginning January 1, 2018; and (2) an overall average three and one-quarter percent (3.25%) increase to total salaries for direct care staff and direct support professionals, and clinical staff**, including position code 351 relating to Medicaid Service Coordination,** for each eligible state-funded program beginning April 1, 2018**; (3) an overall average three and one-quarter percent (3.25%) increase to total salaries for direct care staff and direct support professionals, and clinical staff, including position code 351 relating to Medicaid Service Coordination, for each eligible state-funded program beginning April 1, 2019; (4) an overall average three and one-quarter percent (3.25%) increase to total salaries for direct care staff and direct support professionals, and clinical staff, including position code 351 relating to Medicaid Service Coordination, for each eligible state-funded program beginning April 1, 2020; (5) an overall average three and one-quarter percent (3.25%) increase to total salaries for direct care staff and direct support professionals, and clinical staff, including position code 351 relating to Medicaid Service Coordination, for each eligible state-funded program beginning April 1, 2021; and (6) an overall average three and one-quarter percent (3.25%) increase to total salaries for direct care staff and direct support professionals, and clinical staff, including position code 351 relating to Medicaid Service Coordination, for each eligible state-funded program beginning April 1, 2022**. For the purpose of this funding increase, direct support professionals are individuals employed in consolidated fiscal reporting position title codes ranging from 100 to 199; direct care staff are individuals employed in consolidated fiscal reporting position title codes ranging from 200 to 299; and clinical staff are individuals employed in consolidated fiscal reporting position title codes ranging from 300 to 399**, specifically including position code 351 relating to Medicaid Service Coordination**.

(ii) The funding made available pursuant to paragraph (i) of this subdivision shall be used: (1) to help alleviate the recruitment and retention challenges of direct care staff, direct support professionals and clinical staff employed in eligible programs**, including Medicaid Service Coordination**; and (2) to continue and to expand efforts to support the professionalism of the direct care workforce. Each local government unit or direct contract provider receiving such funding shall have flexibility in allocating such funding to support salary increases to particular job titles to best address the needs of its direct care staff, direct support professionals and clinical staff**, including Medicaid Service Coordination**. Each local government unit or direct contract provider receiving such funding shall also submit a written certification, in such form and at such time as each commissioner shall prescribe, attesting to how such funding will be or was used for

purposes eligible under this section. Further, providers shall submit a resolution from their governing body to the appropriate commissioner, attesting that the funding received will be used solely to support salary and salary-related fringe benefit increases for direct care staff, direct support professionals and clinical staff, **including Medicaid Service Coordination,** pursuant to paragraph (i) of this subdivision. Salary increases that take effect on and after April 1, 2017 may be used to demonstrate compliance with the January 1, 2018 funding increase authorized by this section, except for salary increases necessary to comply with state minimum wage requirements. Such commissioners shall be authorized to recoup any funds as appropriated herein determined to have been used in a manner inconsistent with such standards or inconsistent with the provisions of this subdivision, and such commissioners shall be authorized to employ any legal mechanism to recoup such funds, including an offset of other funds that are owed to such local governmental unit or provider.

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

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