

# STATE OF NEW YORK

7798--A

2019-2020 Regular Sessions

## IN ASSEMBLY

May 23, 2019

Introduced by M. of A. GOTTFRIED, McDONALD, REYES, PERRY, CRUZ, DICKENS, NIOU, BENEDETTO, SIMON, ABINANTI, LUPARDO, STIRPE, L. ROSENTHAL, COLTON, BARRON, CYMBROWITZ, ZEBROWSKI, SEAWRIGHT, BUTTENSCHON, SIMOTAS, McDONOUGH, MONTESANO, FRONTUS, CRESPO, HEVESI, JACOBSON, THIELE, BURKE, DINOWITZ, MOSLEY, ORTIZ, BRONSON, RODRIGUEZ, GRIFFIN, TAGUE, LENTOL -- read once and referred to the Committee on Health -- recommended to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to rates of payment for certified home health agencies

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

1 Section 1. Paragraph (b) of subdivision 13 of section 3614 of the  
2 public health law, as added by section 4 of part H of chapter 59 of the  
3 laws of 2011, is amended to read as follows:  
4 (b) Initial base year episodic payments shall be based on Medicaid  
5 paid claims, as determined and adjusted by the commissioner to achieve  
6 savings comparable to the prior state fiscal year, for services provided  
7 by all certified home health agencies in the base year two thousand  
8 nine. Subsequent base year episodic payments may be based on Medicaid  
9 paid claims for services provided by all certified home health agencies  
10 in a base year subsequent to two thousand nine, as determined by the  
11 commissioner, provided, however, that such base year adjustment shall be  
12 made not less frequently than every three years. In determining case  
13 mix, each patient shall be classified using a system based on measures  
14 which may include, but not limited to, clinical and functional measures,  
15 as reported on the federal Outcome and Assessment Information Set  
16 (OASIS), as may be amended. Notwithstanding any inconsistent provision  
17 of law or regulation, in addition to the base year adjustment provided  
18 for in this paragraph, for the rate year commencing April first, two

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

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1 thousand twenty, the commissioner shall provide for a ten percent  
2 increase in the base episodic payment, and in the individual rates for  
3 services exempt from episodic payments under paragraph (a) of this  
4 subdivision, from funds available for the Medical Assistance program.  
5 Provided, further, that for rate years beginning April first, two thou-  
6 sand twenty and after, the commissioner is authorized to increase the  
7 episodic payment level for costs not reflected in the statewide base,  
8 subject to the approval of the state budget director, including the cost  
9 of: inflationary increases in the health care market basket and/or  
10 consumer price index impacting providers; new state or federally  
11 mandated program regulatory requirements; home care staff recruitment  
12 and retention needs, particularly in shortage areas and disciplines;  
13 facilitating provider capability to further align with state health  
14 reform models and policy goals; health care clinical and information  
15 technology investments approved by the commissioner; and other matters  
16 the commissioner determines appropriate.

17 § 2. The public health law is amended by adding a new section 3614-f  
18 to read as follows:

19 § 3614-f. Standards for home care services payments. 1. Legislative  
20 intent. Adequate reimbursement for home care services is essential to  
21 the policies set forth in section thirty-six hundred of this article as  
22 well as state policies contingent on access, availability and quality of  
23 these services. The degree of variability across state regulated home  
24 care rates, episodic payments, fees for individual home care services,  
25 and negotiated payments, leaves the home care system without a standard  
26 basis of payment and stable revenue necessary to budget, plan and ensure  
27 sustainability. To help ensure the home care system's viability to  
28 deliver the needed services, the commissioner shall establish minimum  
29 standards and a minimum benchmark within the Medicaid program for  
30 payment of home health agency services, including the services of  
31 subcontracting licensed home care services agencies, that can also serve  
32 as the benchmark to be considered in rates paid by non-Medicaid third-  
33 party payors.

34 2. Establishment of standards. Effective for rates issued April first,  
35 two thousand twenty and for each rate year thereafter, the commissioner  
36 shall establish minimum standards and a minimum benchmark for home care  
37 service payment by any Medicaid payor. The commissioner shall also post  
38 such standards and benchmark in an administrative directive to the  
39 attention of all other third-party payors of home care services in the  
40 state for considered use in payment of home care services. In establish-  
41 ing the benchmark, the commissioner shall utilize the rates established  
42 under the episodic payment system under subdivision thirteen of section  
43 thirty-six hundred fourteen of this article, and the individual services  
44 rates established under such section.

45 § 3. This act shall take effect immediately.