

# STATE OF NEW YORK

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293

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

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Introduced by M. of A. GOTTFRIED, REYES, PERRY, CRUZ, DICKENS, NIOU, BENEDETTO, SIMON, ABINANTI, LUPARDO, STIRPE, L. ROSENTHAL, COLTON, BARRON, CYMBROWITZ, ZEBROWSKI, SEAWRIGHT, BUTTENSCHON, McDONOUGH, MONTESANO, FRONTUS, HEVESI, JACOBSON, THIELE, DINOWITZ, BRONSON, RODRIGUEZ, GRIFFIN, TAGUE, SAYEGH, WEPRIN -- read once and referred to the Committee on Health

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  
19 thousand twenty-one, the commissioner shall provide for a ten percent  
20 increase in the base episodic payment, and in the individual rates for

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

LBD00388-01-1

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

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

17 § 3614-f. Standards for home care services payments. 1. Legislative  
18 intent. Adequate reimbursement for home care services is essential to  
19 the policies set forth in section thirty-six hundred of this article as  
20 well as state policies contingent on access, availability and quality of  
21 these services. The degree of variability across state regulated home  
22 care rates, episodic payments, fees for individual home care services,  
23 and negotiated payments, leaves the home care system without a standard  
24 basis of payment and stable revenue necessary to budget, plan and ensure  
25 sustainability. To help ensure the home care system's viability to  
26 deliver the needed services, the commissioner shall establish minimum  
27 standards and a minimum benchmark within the Medicaid program for  
28 payment of home health agency services, including the services of  
29 subcontracting licensed home care services agencies, that can also serve  
30 as the benchmark to be considered in rates paid by non-Medicaid third-  
31 party payors.

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

43 § 3. This act shall take effect immediately.