

# STATE OF NEW YORK

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293--A

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, CYMBROWITZ, ZEBROWSKI, SEAWRIGHT, BUTTENSCHON, McDONOUGH, MONTESANO, FRONTUS, HEVESI, JACOBSON, THIELE, DINOWITZ, BRONSON, GRIFFIN, TAGUE, SAYEGH, WEPRIN, TAYLOR, LEMONDES -- read once and referred to the Committee on Health -- reported and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means 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

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

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

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

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

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

47 § 3. This act shall take effect immediately.