STATE OF NEW YORK

2117--A

2021-2022 Regular Sessions

IN SENATE

January 19, 2021

Introduced by Sens. RIVERA, COMRIE, HOYLMAN, JACKSON, SAVINO, SEPULVEDA, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- 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:

Section 1. Paragraph (b) of subdivision 13 of section 3614 of the public health law, as added by section 4 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(b) Initial base year episodic payments shall be based on Medicaid paid claims, as determined and adjusted by the commissioner to achieve savings comparable to the prior state fiscal year, for services provided by all certified home health agencies in the base year two thousand nine. Subsequent base year episodic payments may be based on Medicaid paid claims for services provided by all certified home health agencies in a base year subsequent to two thousand nine, as determined by the commissioner, provided, however, that such base year adjustment shall be made not less frequently than every three years. In determining case mix, each patient shall be classified using a system based on measures which may include, but not limited to, clinical and functional measures, as reported on the federal Outcome and Assessment Information Set (OASIS), as may be amended. **Notwithstanding any inconsistent provision of law or regulation, in addition to the base year adjustment provided for in this paragraph, for the rate year commencing April first, two thousand twenty-two, the commissioner shall provide for a ten percent increase in the base episodic payment, and in the individual rates for services exempt from episodic payments under paragraph (a) of this**

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

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subdivision, from funds available for the Medical Assistance program. Provided, further, that for rate years beginning April first, two thousand twenty-two and after, the commissioner is authorized to increase the episodic payment level for costs not reflected in the statewide base, subject to the approval of the state budget director, including the cost of: inflationary increases in the health care market basket and/or consumer price index impacting providers; new state or federally mandated program regulatory requirements; home care staff recruitment and retention needs, particularly in shortage areas and disciplines; facilitating provider capability to further align with state health reform models and policy goals; health care clinical and information technology investments approved by the commissioner; and other matters the commissioner determines appropriate.

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

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

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

§ 3. This act shall take effect immediately.