

# STATE OF NEW YORK

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4046

2023-2024 Regular Sessions

## IN ASSEMBLY

February 9, 2023

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Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Social Services

AN ACT relating to establishing an annual cost of living adjustment for designated human services programs

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

1 Section 1. 1. Subject to available appropriations and approval of the  
2 director of the budget, the commissioners of the office of mental  
3 health, office for people with developmental disabilities, office of  
4 addiction services and supports, office of temporary and disability  
5 assistance, office of children and family services, and the state office  
6 for the aging shall establish an annual cost of living adjustment  
7 (COLA), effective beginning April 1, 2023, for projecting for the  
8 effects of inflation upon rates of payments, contracts, or any other  
9 form of reimbursement for the programs and services listed in paragraphs  
10 (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this  
11 section. The COLA established herein shall be applied to the appropri-  
12 ate portion of reimbursable costs or contract amounts. Where appropri-  
13 ate, transfers to the department of health (DOH) shall be made as  
14 reimbursement for the state share of medical assistance.

15 2. Notwithstanding any inconsistent provision of law, subject to the  
16 approval of the director of the budget and available appropriations  
17 therefore, for state fiscal years beginning April 1, 2023 and thereaft-  
18 er, the commissioners shall provide funding to support an annual cost of  
19 living adjustment under this section in an amount equal to the consumer  
20 price index - urban (CPI-U) from the previous July, published by the  
21 bureau of labor statistics of the U.S. Department of Labor, for all  
22 eligible programs and services as determined pursuant to subdivision  
23 four of this section.

24 3. Notwithstanding any inconsistent provision of law, and as approved  
25 by the director of the budget, the annual cost of living adjustment

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

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(COLA) established in subdivision two of this section shall be inclusive of all other cost of living type increases, inflation factors, or trend factors that are newly applied effective April first of each such state fiscal year. Except for the annual cost of living adjustment (COLA) established in subdivision two of this section, the commissioners shall not apply any other new cost of living adjustments for the purpose of establishing rates of payments, contracts or any other form of reimbursement.

4. Eligible programs and services. (i) Programs and services funded, licensed, or certified by the office of mental health (OMH) eligible for the cost of living adjustment established in subdivision two of this section, pending federal approval where applicable, include: office of mental health licensed outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of the office of mental health regulations including clinic, continuing day treatment, day treatment, intensive outpatient programs and partial hospitalization; outreach; crisis residence; crisis stabilization, crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric emergency program services; crisis intervention; home based crisis intervention; family care; supported single room occupancy; supported housing; supported housing community services; treatment congregate; supported congregate; community residence - children and youth; treatment/apartment; supported apartment; community residence single room occupancy; on-site rehabilitation; employment programs; recreation; respite care; transportation; psychosocial club; assertive community treatment; case management; care coordination, including health home plus services; local government unit administration; monitoring and evaluation; children and youth vocational services; single point of access; school-based mental health program; family support children and youth; advocacy/support services; drop in centers; recovery centers; transition management services; bridger; home and community-based waiver services; behavioral health waiver services authorized pursuant to the section 1115 MRT waiver; self-help programs; consumer service dollars; conference of local mental hygiene directors; multicultural initiative; ongoing integrated supported employment services; supported education; mentally ill/chemical abuse (MICA) network; personalized recovery oriented services; children and family treatment and support services; residential treatment facilities operating pursuant to part 584 of title 14-NYCRR; geriatric demonstration programs; community-based mental health family treatment and support; coordinated children's service initiative; homeless services; and promises zone.

(ii) Programs and services funded, licensed, or certified by the office for people with developmental disabilities (OPWDD) eligible for the cost of living adjustment established herein, pending federal approval where applicable, include: local/unified services; chapter 620 services; voluntary operated community residential services; article 16 clinics; day treatment services; family support services; 100% day training; epilepsy services; traumatic brain injury services; hepatitis B services; independent practitioner services for individuals with intellectual and/or developmental disabilities; crisis services for individuals with intellectual and/or developmental disabilities; family care residential habilitation; supervised residential habilitation; supportive residential habilitation; respite; day habilitation; prevocational services; supported employment; community habilitation; intermediate care facility day and residential services; specialty hospital; pathways to employment; intensive behavioral services; basic home and

1 community-based services (HCBS) plan support; health home services  
2 provided by care coordination organizations; community transition  
3 services; family education and training; fiscal intermediary; support  
4 broker; and personal resource accounts.

5 (iii) Programs and services funded, licensed, or certified by the  
6 office of addiction services and supports (OASAS) eligible for the cost  
7 of living adjustment established herein, pending federal approval where  
8 applicable, include: medically supervised withdrawal services - residen-  
9 tial; medically supervised withdrawal services - outpatient; medically  
10 managed detoxification; medically monitored withdrawal; inpatient reha-  
11 bilitation services; outpatient opioid treatment; residential opioid  
12 treatment; KEEP units outpatient; residential opioid treatment to absti-  
13 nence; problem gambling treatment; medically supervised outpatient;  
14 outpatient rehabilitation; specialized services substance abuse  
15 programs; home and community-based waiver services pursuant to subdivi-  
16 sion 9 of section 366 of the social services law; children and family  
17 treatment and support services; continuum of care rental assistance case  
18 management; NY/NY III post-treatment housing; NY/NY III housing for  
19 persons at risk for homelessness; permanent supported housing; youth  
20 clubhouse; recovery community centers; recovery community organizing  
21 initiative; residential rehabilitation services for youth (RRSY); inten-  
22 sive residential; community residential; supportive living; residential  
23 services; job placement initiative; case management; family support  
24 navigator; local government unit administration; peer engagement; voca-  
25 tional rehabilitation; support services; HIV early intervention  
26 services; dual diagnosis coordinator; problem gambling resource centers;  
27 problem gambling prevention; prevention resource centers; primary  
28 prevention services; other prevention services; and community services.

29 (iv) Programs and services funded, licensed, or certified by the  
30 office of temporary and disability assistance (OTDA) eligible for the  
31 cost of living adjustment established herein, pending federal approval  
32 where applicable, include: nutrition outreach and education program  
33 (NOEP).

34 (v) Programs and services funded, licensed, or certified by the office  
35 of children and family services (OCFS) eligible for the cost of living  
36 adjustment established herein, pending federal approval where applica-  
37 ble, include: programs for which the office of children and family  
38 services establishes maximum state aid rates pursuant to section 398-a  
39 of the social services law and section 4003 of the education law; emer-  
40 gency foster homes; foster family boarding homes and therapeutic foster  
41 homes as defined by the regulations of the office of children and family  
42 services; supervised settings as defined by subdivision 22 of section  
43 371 of the social services law, as added by section 1-a of part L of  
44 chapter 56 of the laws of 2021; adoptive parents receiving adoption  
45 subsidy pursuant to section 453 of the social services law; and congre-  
46 gate and scattered supportive housing programs and supportive services  
47 provided under the NY/NY III supportive housing agreement to young  
48 adults leaving or having recently left foster care.

49 (vi) Programs and services funded, licensed, or certified by the state  
50 office for the aging (SOFA) eligible for the cost of living adjustment  
51 established herein, pending federal approval where applicable, include:  
52 community services for the elderly; expanded in-home services for the  
53 elderly; and supplemental nutrition assistance program.

54 5. Each local government unit or direct contract provider receiving  
55 funding for the cost of living adjustment established herein shall  
56 submit a written certification, in such form and at such time as each

1 commissioner shall prescribe, attesting how such funding will be or was  
2 used to first promote the recruitment and retention of non-executive  
3 direct care staff, non-executive direct support professionals, non-exe-  
4 cutive clinical staff, or respond to other critical non-personal service  
5 costs prior to supporting any salary increases or other compensation for  
6 executive level job titles.

7 6. Notwithstanding any inconsistent provision of law to the contrary,  
8 agency commissioners shall be authorized to recoup funding from a local  
9 governmental unit or direct contract provider for the cost of living  
10 adjustment established herein determined to have been used in a manner  
11 inconsistent with the appropriation, or any other provision of this  
12 section. Such agency commissioners shall be authorized to employ any  
13 legal mechanism to recoup such funds, including an offset of other funds  
14 that are owed to such local governmental unit or direct contract provid-  
15 er.

16 § 2. This act shall take effect immediately and shall be deemed to  
17 have been in full force and effect on and after April 1, 2023.