STATE OF NEW YORK

7568

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to state aid for home health care and hospice services to meet community need

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

Section 1. Subdivision 1 of section 3607 of the public health law, as amended by chapter 891 of the laws of 1990, is amended to read as follows:

1. The commissioner is hereby authorized, within the amount allocated pursuant to subdivisions one, two and three of section thirty-six hundred fifteen of this article, to make [~~grants~~] **funds available** to certified [~~public and voluntary non-profit~~] home health agencies for the purpose of increasing the availability of home health care services. Such [~~grants~~] **funds** shall be utilized to increase the number of persons provided services, the kind of services provided, including medical, social and environmental services, the sharing of services or to improve or expand the method or frequency of the delivery of home health care services. [~~Grant applications~~] **Agencies** shall include specific plans to provide the following:

a. an expansion of the types **and methods** of services made available **or delivered** to persons at home as provided for in subdivision two of section thirty-six hundred two of this chapter;

b. an increase in the number of persons provided home care services by the certified home health agency, directly or through contractual arrangement, or to provide for the availability of certified home health agency services on a seven-day-a-week basis;

c. **an increase in home health care services delivered to high-cost or high-need populations, populations in remote or underserved regions, diverse populations and/or populations evidencing health disparity, populations with special care needs, or for otherwise increasing health**

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

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care services for populations and/or areas of the state deemed by the commissioner as underserved or hard to serve, or other specific care populations identified as particularly in need;

d. the development of recruitment, specialized training, and retention initiatives for staff including but not limited to tuition assistance, transportation assistance, childcare support, clinical preceptorship programs, and employee assistance programs such as peer mentoring, mental health counseling, and other;

e. the development of training programs approved by the commissioner to improve the quality of services provided by the certified home health agency;

[~~d.~~] f. the development of programs to coordinate the work of the certified home health agency with other community resources, including but not limited to other certified home health agencies, hospitals, and social services agencies;

[~~e.~~] g. demonstration projects to provide care in the home by using methods, programs, or arrangements not ordinarily used by certified home health agencies, and that will help to determine the most appropriate means of reducing institutional care and of providing better quality home care services, most cost-effective home care services, and more accessible home care services;

[~~f.~~] h. the development of programs to improve home care patients' access to primary health services; [~~or~~

~~g.~~] i. the development of "home care volunteer programs for maternal and child health" pursuant to subdivision two of this section[~~.~~]; or

j. the acquisition and implementation of technology, systems, or equipment that would support the delivery of the identified expanded services.

§ 2. Section 3615 of the public health law, as amended by chapter 884 of the laws of 1990, subdivision 10 as amended by section 30 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

§ 3615. State aid to certified home health agencies. 1. State aid shall be provided to certified home health agencies to assist in developing and ensuring their capacity to meet community need. Funds for such aid shall be made available each year in [~~an amount equal to twenty-five cents per capita of the population within each health systems agency region, as established pursuant to article twenty-nine of this chapter, or two hundred thousand dollars, whichever is greater. Two million five hundred thousand dollars shall be for the state's share of payments provided pursuant to subdivision five of section thirty-six hundred fourteen of this article. The remaining amount shall be for purposes of providing grants pursuant to this section and sections thirty-six hundred seven and thirty-six hundred nine of this article~~] amounts appropriated and distributed to agencies in the form of increased medical assistance rates and/or direct grants, as best maximizes an agency's ability to receive and utilize funds for the purposes under this section, and as maximizes, where applicable, federal medical assistance participation.

2. [~~For the purpose funding grants pursuant to sections thirty-six hundred seven and thirty-six hundred nine of this article and grants pursuant to this section, the commissioner shall allocate the proportion of funds among the health systems agency regions using the last preceding federal census or other census data approved by the comptroller~~] The commissioner shall allocate funds for the purposes of supporting and/or expanding access to certified home health care agency services as provided for in section thirty-six hundred seven of this article, and/or

to support such access and services for high-cost or high-need populations, populations in remote or underserved regions, diverse populations, populations evidencing health disparity, populations with special care needs, or otherwise in regions underserved or identified as particularly in need.

3. Such annual funds allocated [~~to each health systems agency region~~] shall be made available [~~for grants~~] in a form under subdivision one of this section to applicants within [~~each such region which are determined eligible and approved by the commissioner~~] all regions of the state pursuant to the provisions of this section and [~~sections~~] section thirty-six hundred seven [~~and thirty-six hundred nine~~] of this article as approved by the commissioner.

4. In order to be considered eligible for receipt of [~~a grant~~] funds pursuant to this section, a certified home health agency shall submit an application to the department. Such application shall demonstrate, to the satisfaction of the commissioner, that the agency:

(a) received a certificate of approval pursuant to the provisions of section thirty-six hundred eight of this article at least two years prior to the date of the application and that such certificate has not been revoked or annulled subsequent to its receipt and is not limited as of the time of application;

(b) shall utilize [~~grant~~] such funds [~~to provide home care services to persons whose residence is in an area which, due to location, is more costly to serve, or persons whose conditions require a more intensive level of home care than typically provided in a visit~~] to maintain or increase home health care services for the purposes specified in subdivision two of this section;

(c) [~~shall undertake reasonable efforts to maintain financial support from public and community contributed funding sources;~~

~~(d)~~] shall [~~make every reasonable effort to collect payments for services from third party insurance payers, governmental payers and self-paying patients~~] demonstrate a service commitment to the underserved or hard to serve areas for which funds would be applied; and

[~~(e)~~] (d) shall have professional assistance available on a seven day per week, twenty-four hour per day basis[~~;~~

~~(f) shall establish a reasonable relationship between costs and charges, or establish charges at approximate cost; and~~

~~(g) has no other available financial resources to serve the populations as identified in paragraph (b) of this subdivision~~].

5. For the purpose of this section and [~~sections~~] section thirty-six hundred seven [~~and thirty-six hundred nine~~] of this article, [~~a grant~~] an applicant for funds shall submit a copy of its application to the [~~health systems agency in whose region the applicant is located~~] department.

6. For the purpose of this section and [~~sections~~] section thirty-six hundred seven [~~and thirty-six hundred nine~~] of this article, [~~each health systems agency shall convene an advisory group with representatives from, but not limited to, local departments of health, including those organized and unorganized as county and part-county health districts, social services districts, offices for the aging, certified home health agencies, and consumers of home health agency services. Such advisory group, after considering recommendations from persons involved in or knowledgeable about home care services delivered in that region, shall, consistent with state and regional health plans, identify priority regional and local needs for the purposes identified in this section and sections thirty-six hundred seven and thirty-six hundred nine of~~

~~this article. The health systems agency shall provide to the commissioner the recommendations of the advisory group regarding which grant applications meet regional and local needs, as well as the advisory group's prioritization of applications.~~

~~7. For the purposes of this section and sections thirty-six hundred seven and thirty-six hundred nine of this article,~~] the commissioner shall approve applications for [~~grants~~] **funds** which meet the requirements of this section pursuant to which the application is submitted and rules and regulations adopted pursuant thereto. [~~In approving such applications, the commissioner shall take into prime consideration the recommendations of the advisory group convened by the health systems agency in whose region the applicants are located and also take into consideration other applications submitted by the same applicant for grants submitted pursuant to such sections. The commissioner shall notify each advisory group and each applicant in writing of his approval or disapproval and, if disapproval, shall state the reasons for disapproval.~~

~~8. Grants~~] **7. Funds** approved for the purposes of this section may be made each year for up to a two-year period [~~or until the costs for such services provided by virtue of receipt of the grant are included in rates of payment, whichever is sooner~~]. Certified home health agencies which receive [~~grants~~] **funds** pursuant to this section may reapply for [~~grants~~] **funds** and may be approved if the applicant satisfies the requirements of subdivision four of this section and rules and regulations adopted pursuant to this section.

[~~9.~~] **8.** In the event that a public certified home health agency is approved for [~~a grant~~] **funds**, pursuant to this section, funds [~~provided under the grant~~] shall not reduce the amount of aid otherwise reimbursable to such agency pursuant to article six of this chapter.

[~~10.~~] **9.** The commissioner is authorized to promulgate such rules and regulations, as are necessary to carry out the provisions of this section. Such rules and regulations may include, but not be limited to, minimum and maximum [~~grant~~] **funding** levels **provided to individual agencies under this section**.

[~~11.~~] **10.** Recipients of [~~grants~~] **funds** shall submit to the commissioner reports on the use of [~~grants~~] **funds** provided under this section at such times and in such format as the commissioner may prescribe.

§ 3. The public health law is amended by adding a new section 3616-b to read as follows:

§ 3616-b. State aid to licensed home care services agencies for community need. 1. Notwithstanding any inconsistent provision of law or department rule or regulation, the commissioner is hereby authorized and directed to provide, within the amount allocated pursuant to subdivision two of this section, grants or rate increases for the purpose of supporting and increasing home care services availability and capacity by licensed home care services agencies to meet community need. Such funds shall be utilized to increase the number of persons provided services, the kind of services provided, including medical, social and environmental services, the sharing of services or to improve or expand the method or frequency of the delivery of services. Funding applications shall include, but not be limited to specific plans to provide the following:

(a) an expansion of the types and methods of services made available or delivered to persons at home;

(b) an increase in the number of persons accessing home care and services, or to support a licensed home care services agency's availability to patients on a seven-day-a-week basis;

(c) an increase in services delivered to high-cost, high-need persons, and those in remote, underserved areas of the state, and special care populations;

(d) services to diverse populations, populations with special care needs, or otherwise underserved, hard to serve, or identified as particularly in need;

(e) the development of recruitment, specialized training, and retention initiatives for staff including but not limited to tuition assistance, transportation assistance, childcare support, clinical preceptorship programs, and employee assistance programs such as peer mentoring, mental health counseling, and other such programs;

(f) the development of training programs approved by the commissioner to improve the quality of services provided;

(g) the development of programs to coordinate the work of the home care agency with other community resources, including but not limited to other licensed home care services agencies, certified home health agencies, hospices, hospitals, social services agencies, and community based organizations;

(h) demonstration projects to provide care in the home by using methods, programs, or arrangements not ordinarily used by licensed home care services agencies, and that will help to determine the most appropriate means of reducing institutional care and of providing better quality care services, most cost-effective services, and more accessible services;

(i) the development of programs to improve home care patients' access to primary health services, or

(j) the acquisition and implementation of technology, systems, or equipment that would support the delivery of the identified expanded services.

2. State aid shall be provided to licensed home care services annually to assist in developing and ensuring their capacity to meet community need. Funds for such aid shall be made available annually in amounts appropriated and distributed to agencies in the form of increased medical assistance rates and/or direct grants, as best maximizes an agency's ability to receive and utilize funds for the purposes under this section, and as maximizes, where applicable, federal medical assistance participation.

3. Such annual funds allocated shall be made available under subdivision two of this section to applicants within all regions of the state pursuant to the provisions of this section and as approved by the commissioner.

4. (a) The commissioner shall establish a mechanism and parameters for the allocation of funds to agencies which provides for transparency to the agency and also, if through Medicaid rates, transparency to a Medicaid managed care plan, managed long term care plan, program of all-inclusive care for the elderly, certified home health agency, long term home health care program, hospice or other similar program or entity with which a licensed home care agency has a contract for services and payment and provides a rate payment to the licensed agency.

(b) Such funding shall be provided either directly to the licensed agency, or where provided through contracted rate, shall supplement the rate payment to the licensed agency and shall not be subject to offset or negotiation against the agency's base rate with such contractor.

5. The commissioner shall convene a technical advisory group to provide consultation, recommendations and technical assistance on the development of the methodology for allocation of the funds, and may include such other advice and consultation regarding implementation of this section as the commissioner may seek. Such technical advisory group shall include but not be limited to representation from licensed home care services agencies geographically reflective of the state's regions, and representatives of statewide home care provider and health plan associations. The commissioner shall consider the recommendations of the technical advisory group in implementation, and shall implement funding expeditiously with the start of each state fiscal year.

§ 4. The public health law is amended by adding a new section 4012-c to read as follows:

§ 4012-c. State aid for hospice community need. 1. The commissioner is hereby authorized, within the amount allocated pursuant to subdivision two of this section, to make grants or rate increases to hospices for the purpose of supporting and increasing hospice services availability and capacity to meet community need. Such funds shall be utilized to increase the number of persons provided services, the kind of services provided, including medical, social, and environmental services, the sharing of services, or to improve or expand the methods of delivery of hospice care. Funds shall be allocated based on an application process established by the commissioner, which shall include but not be limited to the hospice's specific plans to provide for the following:

(a) improvement in timely education, referral and entry of patients into hospice;

(b) increase in the number of persons provided hospice and palliative care services commensurate with need, or to support hospices' availability to patients on a seven-day-a-week basis;

(c) services to diverse populations, populations with special care needs, and/or populations and/or areas of the state deemed by the commissioner as underserved or hard to serve;

(d) expansion of the types and methods of hospice services made available;

(e) acquisition and implementation of technology supporting the delivery, coordination, or management of services;

(e) development of recruitment, training and retention initiatives for hospice personnel, including but not limited to: (i) basic training and in-service training support; (ii) specialized training, including training to improve the quality of care; and (iii) retention initiatives that may be offered by the hospice and that may include tuition assistance, transportation assistance, childcare support, clinical preceptorship programs, peer mentoring, and employee assistance programs;

(f) development of programs to coordinate the work of the hospice with other community resources, including but not limited to other hospices, physicians, home health agencies, hospitals, social services agencies, and community based organizations; and

(g) such other purposes as the commissioner may approve and are consistent with provisions of this subdivision.

2. State aid shall be provided to hospices annually, in amounts as are appropriated, to assist in developing and ensuring their capacity to meet community need in all regions of the state. Such amounts shall be distributed to hospices in the form of direct grants, or increased medical assistance rates, as best maximizes a hospice's ability to receive and utilize funds for the purposes under this section.

3. In order to be considered eligible for receipt of funds pursuant to this section, a hospice shall submit an application to the department. Such application shall demonstrate, to the satisfaction of the commissioner, that the hospice:

(a) received a certificate of approval pursuant to the provisions of this article at least two years prior to the date of the application and that such certificate has not been revoked or annulled subsequent to its receipt and is not limited as of the time of application;

(b) shall utilize such funds to support or increase hospice services for the purposes specified in subdivision two of this section;

(c) shall undertake reasonable efforts to maintain financial support from public and community contributed funding sources; and

(d) shall demonstrate a service commitment to the populations or areas for which funds would be applied.

4. The commissioner shall approve applications for funds which meet the requirements of this section.

5. Funds approved under this section for hospices may be made each year for up to a two-year period. Hospices may reapply for funds subject to the requirements of this section.

6. The commissioner is authorized to promulgate guidance as necessary to carry out the provisions of this section. Such guidance may include, but not be limited to, minimum and maximum funding levels provided to individual hospice agencies under this section.

7. Recipients of funds shall submit to the commissioner reports on the use of funds provided under this section at such times and in such format as the commissioner may prescribe.

§ 5. This act shall take effect on the first of April next succeeding the date on which it shall have become a law; provided however, that the amendments to section 3615 of the public health law made by section two of this act shall not affect the expiration of such section and shall expire therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.