

# 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:

- 1 Section 1. Subdivision 1 of section 3607 of the public health law, as  
2 amended by chapter 891 of the laws of 1990, is amended to read as  
3 follows:
- 4 1. The commissioner is hereby authorized, within the amount allocated  
5 pursuant to subdivisions one, two and three of section thirty-six  
6 hundred fifteen of this article, to make [~~grants~~] funds available to  
7 certified [~~public and voluntary non-profit~~] home health agencies for the  
8 purpose of increasing the availability of home health care services.  
9 Such [~~grants~~] funds shall be utilized to increase the number of persons  
10 provided services, the kind of services provided, including medical,  
11 social and environmental services, the sharing of services or to improve  
12 or expand the method or frequency of the delivery of home health care  
13 services. [~~Grant applications~~] Agencies shall include specific plans to  
14 provide the following:
- 15 a. an expansion of the types and methods of services made available or  
16 delivered to persons at home as provided for in subdivision two of  
17 section thirty-six hundred two of this chapter;
- 18 b. an increase in the number of persons provided home care services by  
19 the certified home health agency, directly or through contractual  
20 arrangement, or to provide for the availability of certified home health  
21 agency services on a seven-day-a-week basis;
- 22 c. an increase in home health care services delivered to high-cost or  
23 high-need populations, populations in remote or underserved regions,  
24 diverse populations and/or populations evidencing health disparity,  
25 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; ~~[ex~~

~~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

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

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

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

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

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

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

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

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

36 (f) ~~shall establish a reasonable relationship between costs and charg-~~  
37 ~~es, or establish charges at approximate cost, and~~

38 (g) ~~has no other available financial resources to serve the popu-~~  
39 ~~lations as identified in paragraph (b) of this subdivision].~~

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

45 6. For the purpose of this section and [~~sections~~] section thirty-six  
46 hundred seven [~~and thirty six hundred nine~~] of this article, [~~each~~  
47 ~~health systems agency shall convene an advisory group with represen-~~  
48 ~~tatives from, but not limited to, local departments of health, including~~  
49 ~~those organized and unorganized as county and part-county health~~  
50 ~~districts, social services districts, offices for the aging, certified~~  
51 ~~home health agencies, and consumers of home health agency services. Such~~  
52 ~~advisory group, after considering recommendations from persons involved~~  
53 ~~in or knowledgeable about home care services delivered in that region,~~  
54 ~~shall, consistent with state and regional health plans, identify priori-~~  
55 ~~ty regional and local needs for the purposes identified in this section~~  
56 ~~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;

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

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

7 (d) services to diverse populations, populations with special care  
8 needs, or otherwise underserved, hard to serve, or identified as partic-  
9 ularly in need;

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

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

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

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

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

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

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

41 3. Such annual funds allocated shall be made available under subdivi-  
42 sion two of this section to applicants within all regions of the state  
43 pursuant to the provisions of this section and as approved by the  
44 commissioner.

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

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

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

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

14 § 4012-c. State aid for hospice community need. 1. The commissioner is  
15 hereby authorized, within the amount allocated pursuant to subdivision  
16 two of this section, to make grants or rate increases to hospices for  
17 the purpose of supporting and increasing hospice services availability  
18 and capacity to meet community need. Such funds shall be utilized to  
19 increase the number of persons provided services, the kind of services  
20 provided, including medical, social, and environmental services, the  
21 sharing of services, or to improve or expand the methods of delivery of  
22 hospice care. Funds shall be allocated based on an application process  
23 established by the commissioner, which shall include but not be limited  
24 to the hospice's specific plans to provide for the following:

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

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

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

33 (d) expansion of the types and methods of hospice services made avail-  
34 able;

35 (e) acquisition and implementation of technology supporting the deliv-  
36 ery, coordination, or management of services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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