

# STATE OF NEW YORK

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4791--A

2023-2024 Regular Sessions

## IN SENATE

February 14, 2023

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Introduced by Sens. RIVERA, ADDABBO, COMRIE, HOYLMAN-SIGAL, JACKSON, SEPULVEDA, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- 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  
17 of law or regulation, in addition to the base year adjustment provided  
18 for in this paragraph, for the rate year commencing April first, two  
19 thousand twenty-four, the commissioner shall provide for a ten percent  
20 increase in the base episodic payment, and in the individual rates for  
21 services exempt from episodic payments under paragraph (a) of this  
22 subdivision, from funds available for the Medical Assistance program.

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

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

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

15 § 3614-g. Standards for home care services payments. 1. Legislative  
16 intent. Adequate reimbursement for home care services is essential to  
17 the policies set forth in section thirty-six hundred of this article as  
18 well as state policies contingent on access, availability and quality of  
19 these services. The degree of variability across state regulated home  
20 care rates, episodic payments, fees for individual home care services,  
21 and negotiated payments, leaves the home care system without a standard  
22 basis of payment and stable revenue necessary to budget, plan and ensure  
23 sustainability. To help ensure the home care system's viability to  
24 deliver the needed services, the commissioner shall establish minimum  
25 standards and a minimum benchmark within the Medicaid program for  
26 payment of home health agency services, including the services of  
27 subcontracting licensed home care services agencies, that can also serve  
28 as the benchmark to be considered in rates paid by non-Medicaid third-  
29 party payors.

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

41 § 3. This act shall take effect immediately.