

STATE OF NEW YORK

3599

2025-2026 Regular Sessions

IN SENATE

January 28, 2025

Introduced by Sens. RIVERA, MAY, CLEARE, COMRIE, GONZALEZ, MAYER, PARKER, SALAZAR, SKOUFIS, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to regional minimum hourly base reimbursement rates for home care aides

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

1 Section 1. Section 3614-f of the public health law is amended by
2 adding eight new subdivisions 5, 6, 7, 8, 9, 10, 11 and 12 to read as
3 follows:

4 5. (a) By the first of October next succeeding the effective date of
5 this subdivision, the commissioner shall establish a regional minimum
6 hourly base reimbursement rate for all providers employing workers
7 subject to the minimum wage provisions established in subdivision two of
8 this section. The regional minimum hourly base reimbursement rate
9 shall be based on regions established by the commissioner, provided that
10 for areas subject to section thirty-six hundred fourteen-c of this arti-
11 cle, each area with a different prevailing rate of total compensation,
12 as defined in that section, shall be its own region.

13 (b) For the purposes of this section, "regional minimum hourly base
14 reimbursement rate" means a reimbursement rate that reflects:

15 (1) a direct care related payment which shall reflect the total direct
16 care related costs for home care aides and other direct care related
17 staff necessary to comply with federal and state statutory and regulato-
18 ry requirements for such providers, and which shall include:

19 A. base hourly wage guaranteed home care aides pursuant to subdivi-
20 sion two of this section;

21 B. overtime costs;

22 C. employee benefits, including both paid time off and supplemental
23 benefits or benefits as determined by collective bargaining agreements;

24 D. federal insurance contributions act;

25 E. Medicare;

26 F. federal unemployment tax act;

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

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G. worker wage parity as provided by section thirty-six hundred fourteen-c of this article, as applicable;

H. other payroll taxes;

I. fair labor standards act compliance;

J. New York state labor law compliance;

K. COVID-19 sick pay;

L. state unemployment insurance;

M. disability insurance;

N. workers' compensation;

O. travel time and travel reimbursement;

P. the metropolitan transportation authority tax; and

Q. related increases tied to base wages;

(2) a component to reflect operational expenses necessary to comply with federal and state statutory and regulatory requirements for such providers, and which shall include:

A. operational supervision and support, including but not limited to nursing staff, home health aide supervision and team support; and

B. other operational support, including but not limited to quality assurance and improvement programs, education and recruitment; and

(3) a component to reflect administrative and general operating expenses which shall include rent and facilities management and business support, including but not limited to information technology, human resources, legal, compliance, finance, management, margin and communications.

(c) The regional minimum hourly base rate cannot be less than the most current average fee for service county rates for level two personal care service for each region as posted by the department for personal care agencies or other providers delivering like services through other Medicaid programs.

(d) Once a regional minimum hourly base reimbursement rate has been established under this section, the commissioner shall thereafter annually adjust the regional hourly base reimbursement rate for each region by a trend factor to reflect and accommodate any additional labor law increases, changes or mandates.

6. For mainstream managed care and fully capitated Medicaid managed care products for those dually eligible for both Medicaid and Medicare, the commissioner shall submit any and all necessary applications for approvals and/or waivers to the federal centers for Medicare and Medicaid services to secure approval to establish regional minimum hourly base reimbursement rates and make state-directed payments through to providers for the purposes of supporting wage increases.

(a) If approved by the federal centers for Medicare and Medicaid services, directed payments shall be made to such providers of Medicaid services through contracts with managed care organizations where applicable, provided that the commissioner ensures that such directed payments are in accordance with the terms of this section.

(b) If the state directed payment is not approved, the provisions of subdivision seven of this section shall apply.

7. For partially capitated managed long term care plans, or where state directed payments pursuant to subdivision six of this section have not been approved, the department shall require plans to justify contracts offering deviations from the regional minimum hourly base reimbursement rates in a report to the department. This report shall be sent to the department, with a copy to the provider prior to the finalizing of any contract, unless otherwise permitted by this section, within five working days of the contract being offered to a provider with

1 rate deviations. Any report shall include a rationale for paying below
2 the regional minimum hourly base reimbursement rate, and the impacted
3 provider shall have the opportunity to respond to the report within
4 thirty days of filing with the department. The department shall compile
5 such reports and publish and post a summary of them semi-annually.

6 8. The commissioner shall establish actuarially sound regional
7 reimbursement rate ranges for Medicaid managed care organizations in
8 order to comply with this section. These ranges will reflect managed
9 care adjustments including but not limited to: (a) managed care plan
10 variations in utilizations from the regional utilization average; (b)
11 the impact of risk adjustment; and (c) premium withholds. Rate ranges
12 shall also account for quality incentives, volume, costs associated with
13 value-based arrangements, and reimbursement for individuals with hard to
14 serve needs.

15 9. Nothing in this section shall preclude providers employing home
16 health aides covered under this section or payers from paying or
17 contracting for services at rates higher than the regional mini-
18 um hourly base reimbursement rate if the parties mutually agree to such
19 terms. Notwithstanding subdivision seven of this section, plans and
20 providers can also mutually agree to enter into value-based contracts at
21 a rate less than the regional minimum hourly base reimbursement rate.

22 10. The commissioner shall amend the model managed care contracts to
23 reflect the requirements of this section. In addition, the commissioner
24 shall post the managed care, certified and licensed home care services
25 agencies and fiscal intermediaries cost report data in a simple under-
26 standable manner on the department's website by the fifteenth of Febru-
27 ary second succeeding the effective date of this subdivision and annual-
28 ly thereafter.

29 11. The commissioner shall publish and post regional minimum hourly
30 base reimbursement rates annually, and shall take all necessary steps
31 to advise commercial and government programs payers of home care
32 services of the regional minimum hourly base reimbursement rates.

33 12. To ensure compliance with minimum wage increases, the comptroller
34 shall have the authority to review the contracts entered into between a
35 managed care organization and a licensed home care services agency,
36 fiscal intermediary, or any agency subject to the provisions of this
37 section to ensure that rates being offered are adequate and meet the
38 department's actuarial standards. The comptroller, in consultation with
39 the Medicaid inspector general, shall develop and promulgate a process
40 to ensure such audits comply with state and federal law to protect
41 proprietary information and contracts. In the event that the comptroller
42 finds evidence that managed care organizations are not paying sufficient
43 adequate rates, they will refer such instances to the department and the
44 Medicaid fraud control unit for enforcement. If the department or the
45 Medicaid fraud control unit chooses not to pursue action related to this
46 referral, it shall inform, in writing, the comptroller's office as to
47 the reasoning. Such reports, and the department's responses, shall be
48 public information and made available on the comptroller's website.

49 § 2. Severability. If any provision of this act, or any application of
50 any provision of this act, is held to be invalid, or to violate or be
51 inconsistent with any federal law or regulation, that shall not affect
52 the validity or effectiveness of any other provision of this act, or any
53 other application of any provision of this act which can be given effect
54 without that provision or application; and to that end, the provisions
55 and applications of this act are severable.

56 § 3. This act shall take effect immediately.