STATE OF NEW YORK

9464

IN SENATE

March 13, 2026

Introduced by Sen. CLEARE -- 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 rates of payment for adult day health care services

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

Section 1. Subdivision 23 of section 2808 of the public health law, as added by section 29 of part C of chapter 109 of the laws of 2006, subparagraph (ii) of paragraph (a) as amended by chapter 591 of the laws of 2007, and subparagraph (iii) of paragraph (a) as amended by section 20 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

23. Notwithstanding any inconsistent provision of law or regulation to the contrary:

(a) (i) For adult day health care services provided by residential health care facilities, effective April first, two thousand seven [~~and thereafter~~] **until April first, two thousand twenty-six**, the operating component of the rate of payment established pursuant to this article for an adult day health care program which has achieved an occupancy percentage of ninety percent or greater for a calendar year prior to April first, two thousand seven, shall be calculated utilizing allowable costs reported in the two thousand four, two thousand five, or two thousand six calendar year residential health care facility cost report filed by the sponsoring residential health care facility, whichever is the earliest of such calendar year cost reports in which the program has achieved an occupancy percentage of ninety percent or greater, except that programs receiving rates of payment based on allowable costs for a period prior to April first, two thousand seven shall continue to receive rates of payment based on such period.

(ii) For such programs which achieved an occupancy percentage of ninety percent or greater prior to calendar year two thousand four, so long as approved capacity in that year is the same as in calendar year two thousand four, but which did not maintain occupancy of ninety percent or greater in calendar years two thousand four, two thousand five, or two

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

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thousand six, the operating component of the rate of payment established pursuant to this article shall be calculated utilizing allowable costs reported in the two thousand four calendar year cost report divided by visits imputed at ninety percent occupancy.

(iii) For such programs which have not achieved an occupancy percentage of ninety percent or greater for a calendar year prior to April first, two thousand seven, the operating component of the rate of payment established pursuant to this article shall be calculated utilizing allowable costs reported in the first calendar year after two thousand six in which such a program achieves an occupancy percentage of ninety percent or greater effective January first of such calendar year except for calendar year two thousand seven, effective no earlier than April first of such year, provided, however, that effective January first, two thousand nine, for programs that have not achieved an occupancy percentage of ninety percent or greater for a calendar year prior to January first, two thousand nine, the operating component of the rate of payment established pursuant to this article shall be calculated utilizing allowable costs reported in the two thousand nine cost report filed by the sponsoring residential health care facility divided by visits imputed at actual or ninety percent occupancy, whichever is greater. This subparagraph shall also apply to programs which achieved an occupancy percentage of ninety percent or greater prior to calendar year two thousand four but in such year had an approved capacity that was not the same as in calendar year two thousand four.

(b) [~~For a residential health care facility approved to operate an adult day health care program on or after April first, two thousand seven, rates of payment for such programs shall be computed based upon annual budgeted allowable costs, as submitted by the residential health care facility, and total estimated annual visits by adult day health care registrants of not less than ninety percent of licensed occupancy, and in accordance with the following:~~

~~(i) Each program shall be required to submit an individual budget. Multiple programs operated by the same residential health care facility shall submit a separate budget for each program. Multiple programs operated by the same residential health care facility shall have separate rates of payment.~~

~~(ii) Rates developed based upon budgets shall remain in effect for no longer than two calendar years from the earlier of:~~

~~(A) the date the program commences operations; or~~

~~(B) the date the sponsoring residential health care facility submits a full calendar year residential health care facility cost report in which the program has achieved ninety percent or greater occupancy. If a sponsoring residential health care facility submits such a cost report within two years of the date the program commences operation, rates shall then be computed utilizing such cost report.~~

~~(iii) If a program fails to achieve ninety percent or greater occupancy within two calendar years of the date of its commencing operations, rates shall be calculated utilizing allowable costs reported in such second calendar year residential health care facility's cost report for the applicable sponsoring residential health care facility divided by visits imputed at ninety percent occupancy~~] Notwithstanding any other provision of law, for adult day health care services provided by residential health care facilities, effective April first, two thousand twenty-six and thereafter, the operating component of rates of payment established pursuant to this article shall equal sixty-five percent of the sponsoring residential health care facility's inpatient rate,

provided however, that no rate of payment shall increase by more than fifty percent when compared with the rate of payment in the preceding calendar year, provided further however, that notwithstanding paragraph (a) of this subdivision, where sixty-five percent of the sponsoring residential health facility's inpatient rate is less than one hundred fifty dollars in New York City, or Nassau, Suffolk or Westchester counties, the rate shall be one hundred fifty dollars and for the rest of the state where the sponsoring residential health care facility's inpatient rate is less than one hundred thirty dollars, the rate shall be one hundred thirty dollars.

(c) Effective January first, two thousand eight, [~~allowable costs~~] the operating component of rates of payment for adult day health care services shall not include the costs of transportation.

(d) [~~All rates of payment established pursuant to this subdivision are subject to the maximum daily rate provided by law. Such maximum daily rate of payment for adult day health care programs operated by residential health care facilities that undergo a change of ownership subsequent to nineteen hundred ninety shall be determined by utilizing the inpatient rate of payment of the prior operator as in effect on January first, nineteen hundred ninety. In the event a residential health care facility establishes an off-site adult day health care program outside the regional input price adjustment region in which it is located, the computation of the maximum daily rate of payment for such program shall utilize the weighted average of the inpatient rates of payments for residential health care facilities in the region in which the program is located, as in effect on January first, nineteen hundred ninety, in place of the sponsoring residential health care facility's inpatient rate of payment.~~

~~(e)~~] Notwithstanding any inconsistent provision of the state administrative procedure act or any other law or regulation to the contrary, the commissioner shall adopt or amend on an emergency basis any regulations the commissioner shall determine necessary to implement any provision of this subdivision.

§ 2. This act shall take effect immediately.