STATE OF NEW YORK

9562

IN SENATE

March 25, 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 minimum wage increases for home care aides and independent dispute resolution for disputing billing or contracts

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

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

5. The commissioner shall require for review and approval contracts for home care services provided to a licensed home care services agency from a managed care organization or a managed long term care plan at least three months prior to any modification to contract related to billing, rates or services, the expiration of any contract, contract amendment, modification of any contract, or related to an increase in the minimum wage requirements established in subdivision two of this section or any wage or benefit provisions of the labor law.

6. The commissioner shall establish a dispute resolution process by which a dispute for a bill or contract for home care services provided by a licensed home care services agency with a managed care organization or a managed long term care plan may be resolved. The commissioner shall have the power to grant and revoke certifications of independent dispute resolution entities to conduct the dispute resolution process. The commissioner shall promulgate regulations establishing standards for the dispute resolution process, including a process for certifying and selecting independent dispute resolution entities. Disputes shall be submitted to an independent dispute resolution entity within ninety days of the date the managed care plan or managed long term care plan proposed billing or contractual amendments to a licensed home care services agency.

7. In determining the appropriate amount to pay under a contract for home care services, an independent dispute resolution entity shall consider all relevant factors including, but not limited to:

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

LBD14412-02-6

(a) a direct care related payment which shall reflect the total direct care related costs for home care aides and other direct care related staff necessary to comply with federal and state statutory and regulatory requirements for such providers, and which shall include:

(i) base hourly wage guaranteed home care aides pursuant to subdivision two of this section or any wage or benefit provisions of the labor law;

(ii) overtime costs;

(iii) employee benefits, including both paid time off and supplemental benefits or benefits as determined by collective bargaining agreements;

(iv) federal insurance contributions act;

(v) Medicare;

(vi) federal unemployment tax act;

(vii) worker wage parity as provided by section thirty-six hundred fourteen-c of this article, as applicable;

(viii) other payroll taxes;

(ix) fair labor standards act compliance;

(x) New York state labor law compliance;

(xi) state unemployment insurance;

(xii) disability insurance;

(xiii) workers' compensation;

(xiv) travel time and travel reimbursement;

(xv) the metropolitan transportation authority tax, if applicable;

(xvi) related increases tied to base wages; and

(xvii) workers shortages;

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

(i) operational supervision and support, including but not limited to nursing staff, home health aide supervision and team support; and

(ii) other operational support, including but not limited to quality assurance and improvement programs, education and recruitment; and

(c) 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, operating margins and communications.

8. A licensed home care services agency may submit a dispute regarding a bill or contract for home care services for review to an independent dispute resolution entity. The independent dispute resolution entity shall determine if a bill or contract addresses the criteria and factors for reasonable contract set forth in subdivision seven of this section for home care services between a licensed home care services agency and managed care organization or a managed long term care plan. The independent dispute resolution entity shall make a determination within thirty business days of receipt of the dispute for review. The determination shall be binding on both the licensed home care services agency and managed care organization or a managed long term care plan. Any contract or bill subject to the dispute shall be amended and a copy filed with the commissioner of health within thirty days.

9. A reasonable payment for dispute resolution to the independent dispute resolution entity shall be paid by the managed care organization or a managed long term care plan party to any dispute submitted to an independent dispute resolution entity.

10. A managed care organization or a managed long term care plan party to any dispute submitted to an independent dispute resolution entity by

licensed home care services agency regarding a contract with such managed care organization or managed long term care plan managed agency may not retaliate or take any action which would discriminate in any business activity against such licensed home care services agency in contracts, billing or other actions as a result of the licensed home care agency seeking a dispute resolution for a contract with such managed care organization or a managed long term care plan.

11. If approved by the federal centers for Medicare and Medicaid services, directed payments shall be made to such providers of Medicaid services for any increases in the minimum wage established in subdivision two of this section or any minimum wage or other provisions of the labor law, through contracts with managed care organizations provided that the commissioner ensures that such directed payments are in accordance with the terms of this section.

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

§ 3. This act shall take effect immediately.