



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

Feb. 1, 2016

RE: CHHA Episodic Pricing FLSA Adjustment

Dear Administrator:

A copy of the revised 2015 CHHA episodic Medicaid payment rates effective October 1, 2015 is now available on the Health Commerce System (HCS) website and NYS DOH public site.

In accordance with Public Health Law Section 3614 - section 13, the Department is authorized to establish Medicaid episodic rate payments for non-pediatric CHHA patients utilizing the 2013 base year as adjusted for regional wage differences.

In accordance with this statute, the Department is authorized to make rate adjustments to address increased compensation expenses, subsequent to the 2013 base year, stemming from federal labor requirements under the US Department of Labor's (DOL) recently published Final Rule on minimum wage and overtime protections.

The US Department of Labor's (DOL) Final Rule concerning companionship exemption under the Federal FLSA brings minimum wage and overtime protection to the personal care and home health aide workers. Based on the US Court of Appeals August 21, 2015 unanimous opinion affirming the validity of this Final Rule, the US DOL has confirmed it to be effective October 13, 2015.

This Final Rule contains several significant changes from the prior Federal regulations, including:

- 1) Overtime – A significant effect of the Final Rule is that more NYS home care service workers will be protected by the FLSA's minimum wage, overtime, and recordkeeping provisions. Specifically for NYS, the rule requires payment of overtime at time and one half of wage versus the former requirement of overtime paid at time and one half of minimum wage.
- 2) Travel Time – The Final Rule states that travel within a day's work for an employee between clients or on behalf of a client such as to the grocery store or post office are compensable hours.
- 3) Live-in Rules – For live-in workers who previously were only allowed to bill up to 13 hours of care per day, the Final Rule allows for additional billable hours in the event that the worker's meal periods, sleep time, or other periods of free time are interrupted by a clients' needs.

Rate adjustments

The Department of Health's Office of Health Insurance Programs (OHIP) has done an expeditious assessment and determination of the initial additional Medicaid funding that is necessary to assist providers in ensuring that the new FLSA requirements for overtime are properly implemented for home care workers.

The Department has determined to expedite this funding through rate relief to fee-for-service home care programs retroactive to October 13, 2015. In accordance with Public Health Law Section 3614, and based on consultation with Mercer (the Department's actuary), the Department has determined to uniformly apply the home care industry standard that 10% of total hours worked are associated with overtime. The adjustment will also include additional funding for new FLSA employee travel and live-in requirements noted above. The total per hour adjustment is estimated to be an increase of \$0.34/hour across all home health aide hours.

It was necessary to convert this determined dollar per hour adjustment to a percentage adjustment for application to the 60-day episodic payment structure. This has been done by first determining a total dollar value of the \$0.34 times the latest statewide underlying HHA hourly units in CHHA statewide EPS claims (last 6 months of CY 2014 annualized). The resulting annual adjustment amount of \$1,713,196 has been divided by the estimated annual total statewide episodic payments for the period effective 10/1/15 – 9/30/16 (approximately \$185.6 million). This yields a total percentage adjustment of .9336%. Since the resulting adjustment cannot be retroactively applied to the LUPA or outlier payment components, it has been further modified to insure that the full total annual adjustment amount is accurately reimbursed through the EPS base price component only. The resulting final uniform statewide percentage adjustment of 0.95% has been applied to the enclosed rates.

For your enclosed CHHA episodic rates, the determined uniform per hour amount of \$0.34 has been incorporated through the uniform percentage adjustment determined above retroactive to episodes commencing October 1, 2015, to coincide with the recent 2013 rebasing period.

NYC Wage Parity

It is important to note that the enclosed episodic rates for New York City providers effective October 1, 2015 continue to include the previously determined wage parity adjustment for New York City in addition to the enclosed FLSA adjustment noted above.

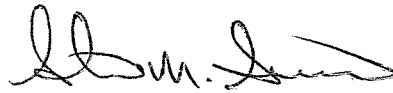
FLSA Survey

As previously communicated, the Department is developing a survey in conjunction with Mercer actuaries and with input from the NYS home care associations to gather data on this important issue that will provide a more accurate impact of the FLSA final rule adjustment for 2016. The survey is intended to be distributed to home care agencies shortly via a separate letter.

Results from the survey will be reviewed by the Department and Mercer in the coming months to more accurately evaluate the scope of hours impacted by FLSA and to assess the potential need for any revised adjustment in final 2016 and subsequent rates.

The rates on the attached schedule have been forwarded to the Department's eMedNY system for payment. If you have any questions related to the methodology utilized in the calculation of your 2015 Medicaid rates or the accuracy of your rate, please contact Tim Casey or Charles Tobey at (518) 473-4421.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven M. Simmons", with a stylized flourish at the end.

Steven M. Simmons

Director

Bureau of Managed Long Term Care

Office of Health Insurance Programs

Enclosures

Certified Home Health Agencies
New York State Medicaid - Episodic Payment System
FLSA Rate Adjustment
Effective October 1, 2015

Rate Code	Rate Code Description	Previous Rate Non-NYC	New Rate Non-NYC	Previous Rate NYC Wage Parity	New Rate NYC Wage Parity
4810	EPS START OF CARE, CLIN A, FUNC E, AGE GRP 1	\$1,643.24	\$1,658.85	\$1,821.70	\$1,839.01
4811	EPS START OF CARE, CLIN A, FUNC E, AGE GRP 2	\$1,829.04	\$1,846.42	\$2,027.67	\$2,046.93
4812	EPS START OF CARE, CLIN A, FUNC E, AGE GRP 3	\$1,829.04	\$1,846.42	\$2,027.67	\$2,046.93
4813	EPS START OF CARE, CLIN A, FUNC E, AGE GRP 4	\$2,126.31	\$2,146.51	\$2,357.23	\$2,379.62
4814	EPS START OF CARE, CLIN A, FUNC E, AGE GRP 5	\$2,126.31	\$2,146.51	\$2,357.23	\$2,379.62
4815	EPS START OF CARE, CLIN A, FUNC E, AGE GRP 6	\$2,241.22	\$2,262.51	\$2,484.62	\$2,508.22
4816	EPS START OF CARE, CLIN A, FUNC F, AGE GRP 1	\$2,551.01	\$2,575.24	\$2,828.05	\$2,854.92
4817	EPS START OF CARE, CLIN A, FUNC F, AGE GRP 2	\$2,975.46	\$3,003.73	\$3,298.59	\$3,329.93
4818	EPS START OF CARE, CLIN A, FUNC F, AGE GRP 3	\$2,975.46	\$3,003.73	\$3,298.59	\$3,329.93
4819	EPS START OF CARE, CLIN A, FUNC F, AGE GRP 4	\$3,291.89	\$3,323.16	\$3,649.39	\$3,684.06
4820	EPS START OF CARE, CLIN A, FUNC F, AGE GRP 5	\$3,291.89	\$3,323.16	\$3,649.39	\$3,684.06
4821	EPS START OF CARE, CLIN A, FUNC F, AGE GRP 6	\$3,657.65	\$3,692.40	\$4,054.87	\$4,093.39
4822	EPS START OF CARE, CLIN A, FUNC G, AGE GRP 1	\$3,082.57	\$3,111.85	\$3,417.34	\$3,449.80
4823	EPS START OF CARE, CLIN A, FUNC G, AGE GRP 2	\$3,311.22	\$3,342.68	\$3,670.82	\$3,705.69
4824	EPS START OF CARE, CLIN A, FUNC G, AGE GRP 3	\$3,311.22	\$3,342.68	\$3,670.82	\$3,705.69
4825	EPS START OF CARE, CLIN A, FUNC G, AGE GRP 4	\$4,002.30	\$4,040.32	\$4,436.95	\$4,479.10
4826	EPS START OF CARE, CLIN A, FUNC G, AGE GRP 5	\$4,002.30	\$4,040.32	\$4,436.95	\$4,479.10
4827	EPS START OF CARE, CLIN A, FUNC G, AGE GRP 6	\$5,131.81	\$5,180.56	\$5,689.12	\$5,743.17
4828	EPS START OF CARE, CLIN B, FUNC E, AGE GRP 1	\$1,848.50	\$1,866.06	\$2,049.25	\$2,068.72
4829	EPS START OF CARE, CLIN B, FUNC E, AGE GRP 2	\$2,006.97	\$2,026.04	\$2,224.93	\$2,246.07
4830	EPS START OF CARE, CLIN B, FUNC E, AGE GRP 3	\$2,006.97	\$2,026.04	\$2,224.93	\$2,246.07
4831	EPS START OF CARE, CLIN B, FUNC E, AGE GRP 4	\$2,076.06	\$2,095.78	\$2,301.52	\$2,323.38
4832	EPS START OF CARE, CLIN B, FUNC E, AGE GRP 5	\$2,076.06	\$2,095.78	\$2,301.52	\$2,323.38
4833	EPS START OF CARE, CLIN B, FUNC E, AGE GRP 6	\$2,259.73	\$2,281.20	\$2,505.14	\$2,528.94
4834	EPS START OF CARE, CLIN B, FUNC F, AGE GRP 1	\$2,833.83	\$2,860.75	\$3,141.58	\$3,171.43
4835	EPS START OF CARE, CLIN B, FUNC F, AGE GRP 2	\$3,048.44	\$3,077.40	\$3,379.50	\$3,411.61
4836	EPS START OF CARE, CLIN B, FUNC F, AGE GRP 3	\$3,048.44	\$3,077.40	\$3,379.50	\$3,411.61
4837	EPS START OF CARE, CLIN B, FUNC F, AGE GRP 4	\$3,401.74	\$3,434.06	\$3,771.17	\$3,807.00
4838	EPS START OF CARE, CLIN B, FUNC F, AGE GRP 5	\$3,401.74	\$3,434.06	\$3,771.17	\$3,807.00
4839	EPS START OF CARE, CLIN B, FUNC F, AGE GRP 6	\$3,733.32	\$3,768.79	\$4,138.76	\$4,178.08
4840	EPS START OF CARE, CLIN B, FUNC G, AGE GRP 1	\$3,965.99	\$4,003.67	\$4,396.70	\$4,438.47
4841	EPS START OF CARE, CLIN B, FUNC G, AGE GRP 2	\$4,472.38	\$4,514.87	\$4,958.08	\$5,005.18
4842	EPS START OF CARE, CLIN B, FUNC G, AGE GRP 3	\$4,472.38	\$4,514.87	\$4,958.08	\$5,005.18
4843	EPS START OF CARE, CLIN B, FUNC G, AGE GRP 4	\$5,310.92	\$5,361.37	\$5,887.69	\$5,943.62
4844	EPS START OF CARE, CLIN B, FUNC G, AGE GRP 5	\$5,310.92	\$5,361.37	\$5,887.69	\$5,943.62
4845	EPS START OF CARE, CLIN B, FUNC G, AGE GRP 6	\$5,799.49	\$5,854.59	\$6,429.31	\$6,490.39
4846	EPS START OF CARE, CLIN C, FUNC E, AGE GRP 1	\$2,026.11	\$2,045.36	\$2,246.15	\$2,267.49
4847	EPS START OF CARE, CLIN C, FUNC E, AGE GRP 2	\$2,298.87	\$2,320.71	\$2,548.53	\$2,572.74
4848	EPS START OF CARE, CLIN C, FUNC E, AGE GRP 3	\$2,298.87	\$2,320.71	\$2,548.53	\$2,572.74
4849	EPS START OF CARE, CLIN C, FUNC E, AGE GRP 4	\$2,490.12	\$2,513.78	\$2,760.55	\$2,786.78
4850	EPS START OF CARE, CLIN C, FUNC E, AGE GRP 5	\$2,490.12	\$2,513.78	\$2,760.55	\$2,786.78
4851	EPS START OF CARE, CLIN C, FUNC E, AGE GRP 6	\$3,051.70	\$3,080.69	\$3,383.11	\$3,415.25
4852	EPS START OF CARE, CLIN C, FUNC F, AGE GRP 1	\$3,639.87	\$3,674.45	\$4,035.16	\$4,073.49
4853	EPS START OF CARE, CLIN C, FUNC F, AGE GRP 2	\$4,204.17	\$4,244.11	\$4,660.74	\$4,705.02
4854	EPS START OF CARE, CLIN C, FUNC F, AGE GRP 3	\$4,204.17	\$4,244.11	\$4,660.74	\$4,705.02
4855	EPS START OF CARE, CLIN C, FUNC F, AGE GRP 4	\$4,674.59	\$4,719.00	\$5,182.25	\$5,231.48
4856	EPS START OF CARE, CLIN C, FUNC F, AGE GRP 5	\$4,674.59	\$4,719.00	\$5,182.25	\$5,231.48
4857	EPS START OF CARE, CLIN C, FUNC F, AGE GRP 6	\$4,913.00	\$4,959.67	\$5,446.55	\$5,498.29
4858	EPS START OF CARE, CLIN C, FUNC G, AGE GRP 1	\$4,556.38	\$4,599.67	\$5,051.20	\$5,099.19
4859	EPS START OF CARE, CLIN C, FUNC G, AGE GRP 2	\$6,408.75	\$6,469.63	\$7,104.74	\$7,172.24
4860	EPS START OF CARE, CLIN C, FUNC G, AGE GRP 3	\$6,408.75	\$6,469.63	\$7,104.74	\$7,172.24
4861	EPS START OF CARE, CLIN C, FUNC G, AGE GRP 4	\$6,430.41	\$6,491.50	\$7,128.75	\$7,196.47
4862	EPS START OF CARE, CLIN C, FUNC G, AGE GRP 5	\$6,430.41	\$6,491.50	\$7,128.75	\$7,196.47
4863	EPS START OF CARE, CLIN C, FUNC G, AGE GRP 6	\$7,452.31	\$7,523.11	\$8,261.63	\$8,340.12
4864	EPS RECERTIFICATION, CLIN A, FUNC E, AGE GRP 1	\$1,207.59	\$1,219.06	\$1,338.73	\$1,351.45
4865	EPS RECERTIFICATION, CLIN A, FUNC E, AGE GRP 2	\$1,319.90	\$1,332.44	\$1,463.24	\$1,477.14

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New York State Medicaid - Episodic Payment System
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4866	EPS RECERTIFICATION, CLIN A, FUNC E, AGE GRP 3	\$1,319.90	\$1,332.44	\$1,463.24	\$1,477.14
4867	EPS RECERTIFICATION, CLIN A, FUNC E, AGE GRP 4	\$1,926.31	\$1,944.61	\$2,135.51	\$2,155.80
4868	EPS RECERTIFICATION, CLIN A, FUNC E, AGE GRP 5	\$1,926.31	\$1,944.61	\$2,135.51	\$2,155.80
4869	EPS RECERTIFICATION, CLIN A, FUNC E, AGE GRP 6	\$2,042.44	\$2,061.84	\$2,264.25	\$2,285.76
4870	EPS RECERTIFICATION, CLIN A, FUNC F, AGE GRP 1	\$2,872.59	\$2,899.88	\$3,184.55	\$3,214.80
4871	EPS RECERTIFICATION, CLIN A, FUNC F, AGE GRP 2	\$3,015.74	\$3,044.39	\$3,343.25	\$3,375.01
4872	EPS RECERTIFICATION, CLIN A, FUNC F, AGE GRP 3	\$3,015.74	\$3,044.39	\$3,343.25	\$3,375.01
4873	EPS RECERTIFICATION, CLIN A, FUNC F, AGE GRP 4	\$3,888.67	\$3,925.61	\$4,310.98	\$4,351.93
4874	EPS RECERTIFICATION, CLIN A, FUNC F, AGE GRP 5	\$3,888.67	\$3,925.61	\$4,310.98	\$4,351.93
4875	EPS RECERTIFICATION, CLIN A, FUNC F, AGE GRP 6	\$4,280.26	\$4,320.92	\$4,745.10	\$4,790.18
4876	EPS RECERTIFICATION, CLIN A, FUNC G, AGE GRP 1	\$3,560.23	\$3,594.05	\$3,946.87	\$3,984.37
4877	EPS RECERTIFICATION, CLIN A, FUNC G, AGE GRP 2	\$3,392.04	\$3,424.26	\$3,760.42	\$3,796.14
4878	EPS RECERTIFICATION, CLIN A, FUNC G, AGE GRP 3	\$3,392.04	\$3,424.26	\$3,760.42	\$3,796.14
4879	EPS RECERTIFICATION, CLIN A, FUNC G, AGE GRP 4	\$4,909.18	\$4,955.82	\$5,442.32	\$5,494.02
4880	EPS RECERTIFICATION, CLIN A, FUNC G, AGE GRP 5	\$4,909.18	\$4,955.82	\$5,442.32	\$5,494.02
4881	EPS RECERTIFICATION, CLIN A, FUNC G, AGE GRP 6	\$6,128.07	\$6,186.29	\$6,793.58	\$6,858.12
4882	EPS RECERTIFICATION, CLIN B, FUNC E, AGE GRP 1	\$1,411.16	\$1,424.57	\$1,564.41	\$1,579.27
4883	EPS RECERTIFICATION, CLIN B, FUNC E, AGE GRP 2	\$1,541.73	\$1,556.38	\$1,709.16	\$1,725.40
4884	EPS RECERTIFICATION, CLIN B, FUNC E, AGE GRP 3	\$1,541.73	\$1,556.38	\$1,709.16	\$1,725.40
4885	EPS RECERTIFICATION, CLIN B, FUNC E, AGE GRP 4	\$1,972.80	\$1,991.54	\$2,187.05	\$2,207.83
4886	EPS RECERTIFICATION, CLIN B, FUNC E, AGE GRP 5	\$1,972.80	\$1,991.54	\$2,187.05	\$2,207.83
4887	EPS RECERTIFICATION, CLIN B, FUNC E, AGE GRP 6	\$2,194.83	\$2,215.68	\$2,433.19	\$2,456.31
4888	EPS RECERTIFICATION, CLIN B, FUNC F, AGE GRP 1	\$2,979.26	\$3,007.56	\$3,302.81	\$3,334.19
4889	EPS RECERTIFICATION, CLIN B, FUNC F, AGE GRP 2	\$3,460.08	\$3,492.95	\$3,835.84	\$3,872.28
4890	EPS RECERTIFICATION, CLIN B, FUNC F, AGE GRP 3	\$3,460.08	\$3,492.95	\$3,835.84	\$3,872.28
4891	EPS RECERTIFICATION, CLIN B, FUNC F, AGE GRP 4	\$4,283.53	\$4,324.22	\$4,748.72	\$4,793.83
4892	EPS RECERTIFICATION, CLIN B, FUNC F, AGE GRP 5	\$4,283.53	\$4,324.22	\$4,748.72	\$4,793.83
4893	EPS RECERTIFICATION, CLIN B, FUNC F, AGE GRP 6	\$4,664.30	\$4,708.61	\$5,170.84	\$5,219.96
4894	EPS RECERTIFICATION, CLIN B, FUNC G, AGE GRP 1	\$4,050.17	\$4,088.65	\$4,490.02	\$4,532.68
4895	EPS RECERTIFICATION, CLIN B, FUNC G, AGE GRP 2	\$4,912.10	\$4,958.76	\$5,445.55	\$5,497.28
4896	EPS RECERTIFICATION, CLIN B, FUNC G, AGE GRP 3	\$4,912.10	\$4,958.76	\$5,445.55	\$5,497.28
4897	EPS RECERTIFICATION, CLIN B, FUNC G, AGE GRP 4	\$6,806.18	\$6,870.84	\$7,545.33	\$7,617.01
4898	EPS RECERTIFICATION, CLIN B, FUNC G, AGE GRP 5	\$6,806.18	\$6,870.84	\$7,545.33	\$7,617.01
4899	EPS RECERTIFICATION, CLIN B, FUNC G, AGE GRP 6	\$7,470.39	\$7,541.36	\$8,281.67	\$8,360.35
4900	EPS RECERTIFICATION, CLIN C, FUNC E, AGE GRP 1	\$1,439.31	\$1,452.98	\$1,595.62	\$1,610.78
4901	EPS RECERTIFICATION, CLIN C, FUNC E, AGE GRP 2	\$1,987.68	\$2,006.56	\$2,203.54	\$2,224.47
4902	EPS RECERTIFICATION, CLIN C, FUNC E, AGE GRP 3	\$1,987.68	\$2,006.56	\$2,203.54	\$2,224.47
4903	EPS RECERTIFICATION, CLIN C, FUNC E, AGE GRP 4	\$2,967.72	\$2,995.91	\$3,290.01	\$3,321.27
4904	EPS RECERTIFICATION, CLIN C, FUNC E, AGE GRP 5	\$2,967.72	\$2,995.91	\$3,290.01	\$3,321.27
4905	EPS RECERTIFICATION, CLIN C, FUNC E, AGE GRP 6	\$2,418.63	\$2,441.61	\$2,681.29	\$2,706.76
4906	EPS RECERTIFICATION, CLIN C, FUNC F, AGE GRP 1	\$3,875.40	\$3,912.22	\$4,296.27	\$4,337.08
4907	EPS RECERTIFICATION, CLIN C, FUNC F, AGE GRP 2	\$5,025.08	\$5,072.82	\$5,570.80	\$5,623.72
4908	EPS RECERTIFICATION, CLIN C, FUNC F, AGE GRP 3	\$5,025.08	\$5,072.82	\$5,570.80	\$5,623.72
4909	EPS RECERTIFICATION, CLIN C, FUNC F, AGE GRP 4	\$5,560.43	\$5,613.25	\$6,164.29	\$6,222.85
4910	EPS RECERTIFICATION, CLIN C, FUNC F, AGE GRP 5	\$5,560.43	\$5,613.25	\$6,164.29	\$6,222.85
4911	EPS RECERTIFICATION, CLIN C, FUNC F, AGE GRP 6	\$6,396.94	\$6,457.71	\$7,091.65	\$7,159.02
4912	EPS RECERTIFICATION, CLIN C, FUNC G, AGE GRP 1	\$5,980.41	\$6,037.22	\$6,629.88	\$6,692.86
4913	EPS RECERTIFICATION, CLIN C, FUNC G, AGE GRP 2	\$9,376.84	\$9,465.92	\$10,395.16	\$10,493.91
4914	EPS RECERTIFICATION, CLIN C, FUNC G, AGE GRP 3	\$9,376.84	\$9,465.92	\$10,395.16	\$10,493.91
4915	EPS RECERTIFICATION, CLIN C, FUNC G, AGE GRP 4	\$8,174.59	\$8,252.25	\$9,062.35	\$9,148.44
4916	EPS RECERTIFICATION, CLIN C, FUNC G, AGE GRP 5	\$8,174.59	\$8,252.25	\$9,062.35	\$9,148.44
4917	EPS RECERTIFICATION, CLIN C, FUNC G, AGE GRP 6	\$11,339.09	\$11,446.81	\$12,570.52	\$12,689.94
4919	ASSESSMENTS - LUPA ONLY - NO CHANGE				
4920	EPS MATERNITY, NO OASIS, 18 AND OLDER	\$1,207.59	\$1,219.06	\$1,338.73	\$1,351.45