



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

February 1, 2017

Re: Certified Home Health Agencies -  
2017 Initial Rates for Pediatric Patients

Dear Administrator:

A copy of your initial 2017 Medicaid rate computation sheet for the period beginning January 1, 2017 is now available on the Health Commerce System (HCS) website and **have been transmitted** to the Office of Health Insurance Programs - eMedNY payment system for payment. The prior Dear Administrator letter dated December 7, 2016, stated that these rates were notice rates only, this statement was superseded by the need to publish rates containing a minimum wage increase as soon as possible.

These initial rates are all-inclusive and are based on the lower of 2015 allowable costs (held to regional ceilings) projected to the 2017 rate period or your established public charges as reported in your 2015 cost report. These rates will be used to reimburse claims for patients under 18 years of age, and for patients served by a pilot program which provides services to a special needs population of medically complex and fragile children, adolescents and young disabled adults. All other CHHA services are reimbursed on the basis of 60-day episodes of care beginning May 1, 2012.

For those agencies who failed to electronically file, through the HCS website, either the 2015 cost report or the corresponding operator and certified public accountant certifications on a timely basis, the Department was unable to determine an initial 2017 rate. For those agencies who failed to submit a proper certification, the Department will not issue a final 2017 rate until the report and certification(s) are electronically submitted. Failure to comply with the reporting requirements of Title 10, Parts 86-1.2, 1.3, 1.6 and 1.7 may result in the implementation of penalties pursuant to Part 86-1.2(c) and Section 12-d of the Public Health Law. Failure to correct the submission during the rate "Hotline" period noted below will result in the Department's determination that the program will not receive reimbursement rates for 2017.

### Trend Factor

The rates effective January 1, 2017 reflect the application of a 0.0% roll factor adjustment. The 2016 and 2017 trend factor components have been reduced to 0% in accordance with the adopted New York State budgets.

### Regional Ceilings and Administrative & General Cap

These rates reflect the 2017 peer group regional ceilings based on 2015 costs for each of the service rates, in accordance with Part 86-1.13(a). The statewide average cap on administrative and general costs of **27.44%** is based on 2015 costs and applied to the 2017 rate pursuant to Section 3614 of the Public Health Law. Both the regional ceilings and statewide

A&G calculation will be finalized based on the latest available 2015 cost report data after the rate Hotline process is completed.

### **Worker Recruitment and Retention Adjustment**

Chapter 82 of the Laws of 2002 added subdivision 8 to Section 3614 of the Public Health Law to provide payment to CHHAs for purposes of improving recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility. These rates include an adjustment for worker recruitment and retention. Each CHHA is required to submit to the Department of Health a signed certification statement attesting that the funds received will be utilized solely for the purpose of recruiting and retaining non-supervisory home care service workers or any worker with direct patient care responsibility. For those agencies that have returned a signed attestation, the initial 2017 rates are increased by three percent (3%) for each service.

### **Recruitment, Training and Retention Adjustment**

In accordance with PHL Section 3614.9, the Department is authorized to adjust Medicaid rates of payment for certified home health agencies, long term home health care programs, AIDS home care programs, hospice programs, and approved managed long term care operating demonstrations to provide funding for purposes of improving recruitment, training and retention (RT&R) of home health aides or other personnel with direct patient care responsibility.

In accordance with PHL Section 3614.10, the rate adjustments are allocated proportionally based on each certified home health agency, long term home health care program, AIDS home care and hospice program's home health aide or other direct care services total annual hours of service provided to Medicaid patients. In accordance with this statutory authority, your 2017 CHHA Medicaid rates have been determined to reimburse the appropriate agency-specific allocation of the total RT&R, based on the CHHA proportion of services to the total proportion of services for all of the eligible home care provider programs, as determined from Medicaid service utilization. The adjustments are based on a uniform allocation percentage add-on of 4.70% for the 2017 rate.

In accordance with PHL Section 3614.10 (b), programs which have their rates adjusted pursuant to this subdivision shall use such funds solely for the purposes of recruitment, training and retention of non-supervisory home care services workers or other personnel with direct patient care responsibility. Such purposes shall include the recruitment, training and retention of non-supervisory home care services workers or any worker with direct patient care responsibility employed in licensed home care services agencies under contract with such agencies. Agencies are prohibited from using such funds for any other purpose. In accordance with this section, each agency must complete and submit a written certification attesting that such funds will be used solely for the purpose of recruitment, training and retention of non-supervisory home health aides or any personnel with direct patient care responsibility. Only those agencies which properly submitted this attestation received RT&R funding. The statute further authorizes the Commissioner to audit each agency or program to ensure compliance with the written certification and recoup any funds determined to have been used for purposes other than recruitment and retention of non-supervisory home health aides or other personnel

with direct patient care responsibility. Such recoupment shall be in addition to any other penalties provided by law.

PHL Section 3614.10(c) states that in the case of services provided by agencies or programs through contracts with licensed home care services agencies, rate increases received by such agencies or programs pursuant to this subdivision shall be reflected, consistent with the purposes of this subdivision, in either the fees paid or benefits or other supports, including training, provided to non-supervisory home health aides or any other personnel with direct patient care responsibility of such contracted licensed home care services agencies, and such fees, benefits or other supports shall be proportionate to the contracted volume of services attributable to each contracted agency. Such agencies or programs shall submit, to providers with which they contract, written certifications attesting that such funds will be used solely for the purposes of recruitment, training and retention of non-supervisory home health aides or other personnel with direct patient care responsibility and shall maintain in their files expenditure plans specifying how such funds are used. The Commissioner is authorized to audit such agencies or programs to ensure compliance with such certifications and expenditure plans and shall recoup any funds determined to have been used for purposes other than those set forth in this subdivision.

### **FLSA Adjustment**

Effective October 13, 2015, 34 cents was added to the CHHA pediatric hourly rates for home health aide services to reflect changes which were effective on that date in the federal Fair Labor Standards Act (FLSA). Because the 2017 rates are based on agencies' 2015 cost reports, approximately 2.5 months of increased FLSA costs are already included in the base year cost data. Consequently, home health aide rates for 2017 have been increased by 27 cents (9.5/12 times 34 cents).

It is important to note that this additional funding is provided under the recruitment training and retention methodology authorized by PHL Section 3614, paragraphs 9 and 10, and as such, to the extent such funding is not utilized to meet new overtime and travel requirements, agencies must use such funds for the purpose of recruitment, training and retention of non-supervisory direct care workers only, and agencies are prohibited from using such funds for any other purpose. The funding is subject to all existing statutory requirements in PHL Section 3614, paragraphs 9 and 10.

### **NYC Wage Parity and Minimum Wage Adjustment**

Home Health Aide payment rates for New York City providers were adjusted to a minimum of \$20.95 per hour, beginning March 1, 2014, to enable CHHAs to meet the "wage parity" requirements of Section 3614.14 of the New York State Public Health Law. Effective January 1, 2017, the minimum payment rate for NYC CHHAs has been increased to \$22.28 to additionally reflect the scheduled increase in the minimum wage in New York City. The additional amount consists of \$1.00 per hour in wages and 33 cents per hour in payroll taxes and fringe benefits. The 27-cent FLSA adjustment detailed above is in addition to the \$22.28 minimum.

**NOTE:** Both the FLSA adjustment and the NYC wage adjustments, if applicable, have been applied to the bottom-line "Revised 2017 Rates," usually on page 3 of the rate sheet, through an override to the "2017 Medicaid Rate" which follows the A&G adjustment (usually on page 2), prior to the addition of the Health Recruitment & Retention percentage adjustment and the Recruitment, Training & Retention percentage adjustment.

### **Rate Hotline**

The Office of Health Insurance Programs has made every attempt to insure that your rate calculation is complete and accurate. However, mistakes do occur and the Bureau of Long Term Care Rate Setting has instituted an accelerated administrative process to correct any errors. This process, the "Rate Hotline," will be continued this year and will be in effect until April 3, 2017.

Providers may phone the Bureau of Long Term Care Rate Setting with inquiries as to the accuracy of the rates; however, no rate change will be made unless the Bureau has received such inquiry, in writing, properly documented in accordance with Part 86-1. All such expedited Hotline appeals must be submitted in a letter scanned in an e-mail to the Bureau mail log at [bltcr-ch@health.ny.gov](mailto:bltcr-ch@health.ny.gov) and must be submitted no later than April 3, 2017 to effect a change in your rate through this accelerated administrative process.

### **Revisions to the 2015 Annual Cost Report**

Any Hotline appeal item that alters the 2015 cost data requires that the 2015 annual report be refiled electronically through the Health Commerce System by April 1, 2017. The revised reports must have a new Declaration Control Number (DCN) and must be electronically certified by both the operator and the independent accountant. The electronic certification must be submitted no later than April 3, 2017. Revised cost reports will not be used for Hotline appeal adjustments unless an acceptable appeal is filed in accordance with the above underlined instructions.

### **Appeals**

An appeal to the initial 2017 rate computation must be filed with this office and sent no later than June 1, 2017 in an e-mail submitted to the Bureau mail log at:

**[bltcr-ch@health.ny.gov](mailto:bltcr-ch@health.ny.gov)**

In order to file an appeal with this office, the following information should be provided:

1. A scanned letter, signed by the Operator or Chief Executive Officer, containing a detailed summary of the items of appeal and the DCN of any revised cost report submission. Appeals will not be accepted from consultants or accountants.

2. Supporting schedules or any other pertinent data NOT related to the annual cost report may be attached to the e-mail submission.
3. Any item of appeal that alters the cost data for the 2015 annual cost report requires that the revised report be filed electronically. The revised report must have a new Declaration Control Number and must be recertified by both the operator and the independent accountant, if applicable.

To be considered timely filed, the above-mentioned requirements must be met and the appeal e-mail submitted no later than June 1, 2017.

If you have any questions related to the methodology utilized in the calculation of your 2017 Medicaid rates or the accuracy of your rate, please contact the following email address:

**[bltcr-ch@health.ny.gov](mailto:bltcr-ch@health.ny.gov)**

Sincerely,

A handwritten signature in black ink, appearing to read "S.M. Simmons", written over a horizontal line.

Steven M. Simmons  
Director  
Bureau of Long Term Care Rate Setting  
Office of Health Insurance Programs