



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

July 22, 2019

Dear Administrator:

This letter provides you with information regarding your Personal Care Agency (PCA) and or Consumer Directed Medicaid reimbursement rates effective January 1, 2019. The formula on which these rates have been promulgated in accordance with Title 18, Section 505.14 of the Commissioner's Administration Rules and Regulations.

The all-inclusive rates provided on Healthcare Financial Data Gateway are based on the lower of 2017 allowable costs (held to ceiling) projected to the 2019 rate period or your established charges as reported by your agency. For those programs that did not submit a 2017 certified Cost Report, the Department is not able to determine an initial 2019 rate until the certification(s) are submitted. Please refer to further details on the rate components in Attachments A.

The Department's regulations allow rate appeals to be filled within **90 Days** from the date of this letter (see Attachment B). The payment for the January 1, 2019 initial rates will be made in cycle 2188, check release date August 14, 2019. If you have any questions regarding the above information, please send an email to [PersonalCare-Rates@health.ny.gov](mailto:PersonalCare-Rates@health.ny.gov) and Robert Yankowski will respond to your inquiries.

Sincerely,

Laura Rosenthal  
Director  
Bureau of Residential Health Care Reimbursement  
Division of Finance and Rate Setting  
Office of Health Insurance Program

Attachments

## **ATTACHMENT A RATE COMPONENTS**

### **Trend Factor**

The rates effective January 1, 2019 reflect the application of a 0% roll factor adjustment. The 2018 and 2019 trend factor components were both reduced to 0% in accordance with the enacted New York State Budget adopted for fiscal year 2018-2019.

### **Administrative and General Caps**

Pursuant to Title 18 NYCRR Section 505.14(h)(7)(ii), the amount which may be paid for administrative and general costs in the 2019 personal care rates is limited to no more than 28% of the total costs reported by an agency. The administrative cap for consumer directed services continues to be 18% based on 2004 actual allowable cost data for consumer directed providers.

### **Aide and Training Ceiling**

The combined direct care and training costs trended are compared to the regional ceiling for each service level. The rate calculation is based on the lower of a provider's combined trended costs or the 2019 ceiling.

In addition, the enclosed 2019 rates include the adjustment to the live-in ceilings for both personal care and consumer directed services to be based on 13 hours of care, consistent with the requirements of MLTC Policy 14-08.

### **Capital Costs**

Capital costs are not subject to either the Administrative and General cap or the Aide and Training ceiling. The expenditure items included in the capital costs as identified in the cost report by line number and description are as follows: 0300 Rent - Building, 0360 Rent - Equipment and Furnishings, 0320 Rent - Vehicles, 0390 Interest - Property, 0410 Depreciation - Plant, 0420 Depreciation - Equipment and Furnishings, 0430 Depreciation - Vehicles.

### **Profit/Surplus Percent**

For the 2019 rates, pursuant to Section 505.14 (h)(7)(ii), the profit/surplus margin is determined by calculating the ratio of the provider's allowable costs for aide wages and benefits to the provider's total allowable personal care services costs, multiplied by the published rate for six-month treasury bills in the last week of September. Each base rate is multiplied by this percentage to determine the amount added to the provider's rate for profit/surplus. The published rate for six-month treasury bills as of September 28, 2018 is 2.30%. Section 505.14(h)(7)(ii) states that when the treasury bill rate has increased or decreased from the previous applicable treasury bill rate by more than two percent, the Department will consider only a two percent increase or decrease in the treasury bill rate when determining providers' adjustments for profit or surplus for a particular year. The profit/surplus margin for 2018 was .60%. The percentage used in the profit/surplus adjustment for 2019 will therefore be the actual Treasury bill rate of 2.30%.

## **Worker Recruitment & Retention**

In accordance with Section 367-q of the Social Services Law, an adjustment is authorized to provide payment to personal care providers, located in local social service districts which do not include a city with a population of over one million persons, for purposes of improving recruitment and retention of personal care services workers. Pursuant to this legislation, to be eligible for an adjustment, a personal care services provider must 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 personal care services workers. The authorized recruitment and retention amount is based on an aggregate amount of \$28,500,000 for 2019.

In accordance with subdivision 2 of SSL 367-q, the distribution methodology effective for 2019 rates shall be in the form of a percentage add-on to rates of payments of eligible providers based on the proportion of each personal care services providers' total annual hours of personal care services provided to recipients of medical assistance to the total annual hours of personal care services provided by all non-NYC providers to recipients of medical assistance. The adjustments included in your non-NYC PCA rates are based on the preliminary uniform allocation percentage add-on of 6.08% determined in accordance with the statutory methodology for the prior rate period January 1, 2019 through December 31, 2019.

It is important to note that this additional funding is provided under the recruitment and retention methodology authorized by SSL Section 367-q 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 and retention of non-supervisory personal care services workers only and agencies are prohibited from using such funds for any other purpose. The funding is subject to all existing statutory requirements of SSL Section 367-q.

It is important to note that the final 2019 recruitment and retention allocation % may be adjusted at the completion of the 2019 rate appeal process, based on the latest complete 2017 cost report information in accordance with the statutory methodology to most accurately allocate up to the currently authorized amount in the published rates for the period commencing January 1, 2019.

## **Miscellaneous Adjustment Line**

New for the 2019 rate sheets is the Miscellaneous Adjustment Line. This line will include any miscellaneous payment needed to meet mandates which were not part of the original methodology. Currently this line is being used to adjust the 2019 rates for the Article 19 of NYS Labor Law that establishes new minimum wage increases beginning January 1, 2017.

The January 1, 2019 Minimum Wage rate adjustment is as follows:

- Down State (Nassau, Westchester and Suffolk Counties) is \$2.46 and includes \$1.28 for 2018 \$1.00 minimum wage increase and \$.28 for fringe benefits plus the 2019 addition of \$1.00 minimum wage increase and \$.18 for fringe benefits.
- Rest of State (Not including NYC) is \$1.72 is includes the 2018 \$.90 which includes \$.70 minimum wage increase and \$.20 for fringe benefits plus the 2019 addition of \$.70 minimum wage increase and \$.12 for fringe benefits.

Providers cannot use any of these additional funds for any purpose other than appropriate statutory wage obligations directly associated to the minimum wage increase and shall reserve unspent funds to be returned to the State through a rate adjustment or some other mechanism, as determined by the Department. In compliance with the appropriation language included in the Budget, "Each eligible organization... may be required to submit written certification... attesting to the total amount of funds used by the eligible organization, how such funding will be or was used for purposes eligible under these appropriations and any other reporting deemed necessary by the commissioner.", the Department intends to issue a minimum wage supplemental cost report to ensure dollars were used appropriately.

## ATTACHMENT B RATE APPEAL PROCESS

Providers have **90 Days** from the date of this letter to submit appeal(s) to the rates posted herein.

The Department will consider only those appeal requests based on the following criteria as stated in Section 505.14(h)(7)(iii)(c):

- Mathematical, statistical, fiscal or clerical errors exist including, data submission errors on the cost report.
- By reason of costs associated with programs, services, activities or initiatives mandated or approved by the Commissioner.
- The agency is seeking a lower rate(s) in order to be more competitive among providers in their District.
- Changes in your charge to the general public not properly reported in the initial 2015 cost report submission.

The following information should be provided when submitting an appeal:

- A signed letter by the Operator or Chief Executive Officer, containing a detailed summary of the items of appeal and the Declaration Control Number (DCN) of any revised cost report submission.
- Supporting schedules or any other pertinent data not related to the annual cost report may be attached in the e-mail submission.
- Any item of appeal that alters the cost data for the 2017 annual cost report requires that the revised report be filed electronically. The revised report must have a **new** DCN and must be recertified by both the operator and the independent accountant.

Please submit appeals to **[PersonalCare-Rates@health.ny.gov](mailto:PersonalCare-Rates@health.ny.gov)** and file revised cost reports electronically through the Health Commence System.