



## Department of Health

ANDREW M. CUOMO  
Governor

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

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Executive Deputy Commissioner

MAY 05 2017

Re: Personal Care - 2017 Initial Rates

Dear Administrator:

The purpose of this letter is to inform you of the publication of your initial 2017 Personal Care and/or Consumer Directed program reimbursement rates. A copy of the rates for the period January 1, 2017 through December 31, 2017 is now available on the HCS website and have been transmitted to the Office of Health Insurance Programs - eMedNY payment system for payment.

These initial rates are all-inclusive and are based on the lower of 2015 allowable costs (held to ceiling) projected to the 2017 rate period or your established charges as reported by your agency.

For those programs who failed to file a 2015 cost report or a proper operator or certified public accountant certification, the Department was unable to determine an initial 2017 rate. For those programs who failed to submit a proper certification, the Department will not issue a final 2017 rate until the certification(s) are submitted. The failure to comply with the reporting requirements of Title 10, Parts 86-1.3, 1.6 and 1.7 may result in the implementation of penalties pursuant to Part 86-1.3(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 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% roll factor adjustment. The 2016 and 2017 trend factor components were both reduced to 0% in accordance with the enacted New York State Budget adopted for fiscal year 2016-2017.

### 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 2017 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 2017 ceiling.

In addition, the enclosed 2017 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.

## **Criminal History Record Checks**

It is important to note that based on the current direct reimbursement mechanism for criminal history record check expenses of licensed home care services agencies, including personal care providers, as determined in accordance with Section 2899-a, Subdivision 9-a of the Public Health Law, the rates effective January 1, 2017 and subsequent cannot include a payment for background and fingerprinting reported in the base year cost report. Your initial 2017 rate calculation therefore excludes reimbursement for the cost of any background and fingerprinting costs reported in the 2015 base year report.

## **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 2017 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 26, 2016 is .42%. 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 2016 was .10%. The percentage used in the profit/surplus adjustment for 2017 will therefore be the actual Treasury bill rate of .42%.

## **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 2017.

In accordance with subdivision 2 of SSL 367-q, the distribution methodology effective for 2017 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 8.16 % determined in accordance with the statutory methodology for the prior rate period January 1, 2016 through December 31, 2016.

Also, included in the 2017 recruitment and retention percentage add-on of 8.16% is the adjustments to reimburse non-NYC personal care providers the uniform additional hourly FLSA add-on amount as determined in the FLSA adjustment rates effective 10/13/15.

Effective October 13, 2015, 34 cents was added to the Personal Care rates which was reimbursed as part of the Recruitment and Retention percent of 8.70% for the 2015 rate. 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, the recruitment and retention percentage for Personal Care rates for 2017 has been revised to 8.16%.  $((9.5/12 \text{ times } (8.70\% - 6.08\%)) + 6.08\%)$

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 2017 recruitment and retention allocation % may be adjusted at the completion of the 2017 hotline rate process, based on the latest complete 2015 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, 2017.

### **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 Reimbursement 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 June 30, 2017.

Providers may phone the Bureau of Long Term Care Reimbursement 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 Section 505.14(h)(7). All such expedited "hotline" appeals must be submitted in a letter scanned to an e-mail to the Bureau mail log at doh.sm.BLTCR-PCA and be submitted no later than June 30, 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 the 2015 annual report to be filed electronically through the Health Commerce System (HCS) by June 30, 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 June 30, 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 postmarked no later than August 25, 2017 in an e-mail submitted to the Bureau mail log at [doh.sm.BLTcr-PCA](mailto:doh.sm.BLTcr-PCA).

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 in 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.

To be considered timely filed, the above-mentioned requirements must be met and the appeal e-mail submitted no later than August 25, 2017.

Please be aware that 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.

If you have any questions regarding your 2017 rates, please contact the following email address:

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

Steven M. Simmons



Director  
Bureau of Residential Health Care Reimbursement  
Office of Health Insurance Programs

Enclosures