



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 02 2016

Re: Personal Care - 2016 Initial Rates

Dear Administrator:

The purpose of this letter is to inform you of the determination of your initial 2016 Personal Care and/or Consumer Directed program reimbursement rates. A copy of the rates for the period January 1, 2016 through December 31, 2016 is now available on the HCS website.

These initial rates are all-inclusive and are based on the lower of 2014 allowable costs (held to ceiling) projected to the 2016 rate period or your established charges as reported by your agency.

For those programs who failed to file a 2014 cost report or a proper operator or certified public accountant certification, the Department was unable to determine an initial 2016 rate. For those programs who failed to submit a proper certification, the Department will not issue a final 2016 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 2016.

Trend Factor

The rates effective January 1, 2016 reflect the application of a 0% roll factor adjustment. The 2015 and 2016 trend factor components were both reduced to 0% in accordance with the enacted New York State Budget adopted for fiscal year 2015-2016.

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 2016 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 2016 ceiling.

In addition, the enclosed 2016 rates include an 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 and consistent with the recently published rates effective 10/13/15.

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, 2016 and subsequent cannot include a payment for background and fingerprinting reported in the base year cost report. Your initial 2016 rate calculation therefore excludes reimbursement for the cost of any background and fingerprinting costs reported in the 2014 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 2016 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, 2015 is .10%. 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 2015 was .05%. The percentage used in the profit/surplus adjustment for 2016 will therefore be the actual Treasury bill rate of .10%.

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 2016.

In accordance with subdivision 2 of SSL 367-q, the distribution methodology effective for 2016 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 notice rates are based on the preliminary uniform

allocation percentage add-on of 8.70 % determined in accordance with the statutory methodology for the prior rate period January 1, 2015 through December 31, 2015.

Also, included in the 2016 recruitment and retention percentage add-on of 8.70% is the adjustments to reimburse non-NYC personal care providers the uniform additional hourly FLSA add-on amount as determined in the recently published FLSA adjustment rates effective 10/13/15.

It is important to note that the final 2016 recruitment and retention allocation % may be adjusted at the completion of the 2016 hotline rate process, based on the latest complete 2014 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, 2016.

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.

Notice Rates

These initial 2016 rates are notice rates only, as required by Title 18 NYCRR Section 505.14(h) (7) and they will not be transmitted to the Office of Health Insurance Programs - eMedNY payment system at this time.

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 March 31, 2016.

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 new Bureau mail log at doh.sm.BLT-CR-PCA and be submitted no later than March 31, 2016 to effect a change in your rate through this accelerated administrative process.

Revisions to the 2014 Annual Cost Report

Any Hotline appeal item that alters the 2014 cost data requires the 2014 annual report to be filed electronically through the Health Commerce System (HCS) by March 31, 2016. 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 March 31, 2016. 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 2016 rate computation must be filed with this office and postmarked no later than May 30, 2016 in an e-mail submitted to the Bureau mail log at 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 2014 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 May 30, 2016.

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 2014 cost report submission.

If you have any questions regarding your rates, please direct them to Kathy Omecinsky or Tim Casey at (518) 473-4421.

Steven M. Simmons

A handwritten signature in dark ink, appearing to read 'S M Simmons', written in a cursive style.

Director
Bureau of Managed Long Term Care
Office of Health Insurance Programs

Enclosures