

**NEW YORK**  
state department of  
**HEALTH**

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

DEC 06 2013

Re: Personal Care – 2014 Initial Rates

Dear Administrator:

The purpose of this letter is to inform you of the determination of your initial 2014 Personal Care and/or Consumer Directed program reimbursement rates. A copy of the rates for the period January 1, 2014 through December 31, 2014 is now available on the HCS website.

These initial rates are all-inclusive and are based on the lower of 2012 allowable costs (held to ceiling) projected to the 2014 rate period or your established charges as reported by your agency.

For those programs who failed to file a 2012 cost report or a proper operator or certified public accountant certification, the Department was unable to determine an initial 2014 rate. For those programs who failed to submit a proper certification, the Department will not issue a final 2014 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 2014.

### **Trend Factor**

The rates effective January 1, 2014 reflect the application of a 0% roll factor adjustment. The 2013 and 2014 trend factor components were both reduced to 0% in accordance with the enacted New York State Budget adopted for fiscal year 2013-2014.

### **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 2013 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 2014 ceiling.

### **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, 2014 and subsequent cannot include a payment for background and fingerprinting reported in the base year cost report. Your initial 2014 rate calculation therefore excludes reimbursement for the cost of any background and fingerprinting costs reported in the 2012 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 2014 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 as of September 30, 2013. 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 30, 2012 is .04%. 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 2013 was .14%. The percentage used in the profit/surplus adjustment for 2014 will therefore be the actual treasury bill rate of .04%.

### **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 2014.

In accordance with subdivision 2 of SSL 367-q, the distribution methodology effective for 2014 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 6.08% determined in accordance with the statutory methodology for the prior rate period January 1, 2013 through December 31, 2013. The final 2014 allocation %, will be determined at the completion of the hotline rate process, based on the latest complete cost report information in accordance with the statutory methodology to allocate the currently authorized amount of up to \$28.5M in the published rates for the period commencing January 1, 2014. It is important to note that, as a result of concerns raised about providing retroactive notice of a reduction in the allocation % and thus the corresponding add-on, the Department hereby commits that, under the current statute, the final allocation % published in the 2014 hotline rates will be no less than the 6.08% included in the enclosed 2014 notice rates.

### **Notice Rates**

These initial 2014 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.

### **Request for Rate Revisions**

A request to revise the 2014 rate computation must be filed with this office within **ninety (90) days** of receipt of this rate computation sheet. In order to file an appeal with this office, the following information should be provided.

1. A cover letter signed by the Operator or Chief Executive Officer, containing a summary of the items of appeal. Appeals will not be accepted from consultants or accountants.
2. The appeal packet, form DOH-2466 (copy enclosed) must be completed. The facility should complete items 1-6 on page 1 and also complete page 2. Page 2 should be duplicated as many times as necessary so that only one item of appeal appears on each page at Section 10. If more space is needed, summarize the item of appeal on page 3 and attach any further detail on your own schedules. Make sure the provider name appears on each page 2.
3. If the appeal is to correct data submission errors on the cost report used by the Department to calculate your rates, you must generate a new DCN number and upload the corrected report using the Department's Internet-Based Health Commerce System (HCS). The DCN number must be identified on the appeal packet form DOH-2466 and the report must be properly certified.
4. Supporting schedules or any other pertinent data NOT related to the annual cost report may be attached.

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 2012 cost report submission.

The submission of an appeal and any related information associated with the appeal **MUST** be forwarded to:


Mr. Steve Simmons  
Chief Health Care Fiscal Analyst  
Bureau of Long Term Care Reimbursement  
One Commerce Plaza – Room 1430  
99 Washington Ave  
Albany, New York 12210.

Appeals sent to any address other than the above may not be recognized as an appeal.

**It is important to note that the Department will continue to provide an expedited process for appeals received within 60 days of this notification. The Bureau will include all such appeals in the finalized initial 2014 rates, which are projected to be processed in the 1<sup>st</sup> quarter of 2014. All information, including any properly certified cost report revisions, must be received by no later than January 31, 2014 in order to be considered for expedited processing. Providers are encouraged to make every effort to utilize this process in an effort to avoid delay in receiving adjustment to your 2014 rate.**

If you have any questions regarding your rates, please direct them to Timothy E. Casey at (518) 473-4421.

Steven M. Simmons



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

Enclosures

1. NAME OF FACILITY:
2. ADDRESS OF FACILITY:
3. TYPE:
4. SPONSOR:
5. COUNTY:
6. OPCERT:

7. APPEAL NO:

DATE RECEIVED:

ACKNOWLEDGED:

8. SCHEDULE OF RATE REVISIONS DUE TO THIS APPEAL:

SERVICE:

FROM:

TO:

EFFECTIVE PERIOD:

NAME OF FACILITY:

APPEAL NO.

\*Item of appeal must be fully stated below and all required documentation must be attached. Failure to do so may result in a denial of this item of appeal.

\*Separate page required for each item of appeal.

**10. STATEMENT OF ISSUE:**