

## Reduction to Statewide Base Price

Effective date: 2/19/14

Pursuant to the authority vested in the Commissioner of Health by section 2807-c(35)(b) of the Public Health Law, Subdivision (c) of section 86-1.16 of Subpart 86-1 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective upon publication of the Notice of Adoption in the New York State Register, to read as follows:

(c) (1) For the period effective July 1, 2011 through March 31, 2012, the statewide base price shall be adjusted such that total Medicaid payments are decreased by \$24,200,000.

(2) For the period May 1, 2012 through March 31, 2013 and for state fiscal year periods on and after April 1, 2013, the statewide base price shall be adjusted such that total Medicaid payments are decreased for such period and for each such state fiscal year period by \$19,200,000.

## REGULATORY IMPACT STATEMENT

### **Statutory Authority:**

The requirement to implement a modernized Medicaid reimbursement system for hospital inpatient services based upon 2005 base year operating costs pursuant to regulations is set forth in Section 2807-c(35) of the Public Health Law, which states that the Commissioner has the authority to set regulations for general hospital inpatient rates and such regulations shall include but not be limited to a case-mix neutral Statewide base price. Such Statewide base price will exclude certain items specified in the statute and any other factors as may be determined by the Commissioner.

### **Legislative Objectives:**

The Legislature and Medicaid Redesign Team adopted a proposal to reduce unnecessary cesarean deliveries to promote quality care and reduce unnecessary expenditures. Due to industry concerns with the initial proposal, it was determined that a more clinically sound method needed to be developed. To generate immediate savings, however, a \$24.2 million gross (\$12.1 million State share) reduction in the statewide base price was implemented for 2011-12 while an obstetrical workgroup worked to develop a more clinically sound approach to meet Legislative objectives. Based on the results of workgroup meetings, a new proposal was developed which achieved less savings than required by the Financial Plan (\$5 million gross/\$2.5 million State share). Therefore, this amendment continues the base price reduction at \$19.2 million gross (\$9.6 million State share) to account for the difference.

**Needs and Benefits:**

The proposed amendment appropriately implements the provisions of Public Health Law section 2807-c(35)(b)(xii), which authorizes the Commissioner to address the inappropriate use of cesarean deliveries. Cesarean deliveries are surgical procedures that inherently involve risks; however, elective cesarean deliveries increase the risks unnecessarily. Therefore, high rates of cesarean deliveries are increasingly viewed as indicative of quality of care issues.

Due to industry concerns with the initial proposal, it was determined that a more clinically sound approach to meeting Legislative objectives needed to be developed. To generate immediate savings, however, a \$24.2 million gross (\$12.1 million State share) reduction in the statewide base price was implemented for 2011-12 while an obstetrical workgroup worked to develop such an approach. Based on the results of those meetings, a new proposal was developed which achieved less savings than required by the Financial Plan (\$5 million gross/\$2.5 million State share). Therefore, this amendment continues the base price reduction at \$19.2 million gross (\$9.6 million State share) to account for the difference for periods subsequent to the 2011-12 state fiscal year.

**COSTS:****Costs to State Government:**

There are no additional costs to State government as a result of this amendment.

**Costs of Local Government:**

There will be no additional cost to local governments as a result of these amendments.

**Costs to the Department of Health:**

There will be no additional costs to the Department of Health as a result of this amendment.

**Local Government Mandates:**

The proposed amendments do not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

**Paperwork:**

There is no additional paperwork required of providers as a result of these amendments.

**Duplication:**

These regulations do not duplicate existing State and Federal regulations.

**Alternatives:**

No significant alternatives are available at this time. In collaboration with the hospital industry, the State developed a more clinically sound method to achieve savings. However, this amount was less than was required by the Financial Plan. Thus, there is no option to not act on this initiative since the Enacted Budget assumed savings that total \$24.2 million.

**Federal Standards:**

This amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

**Compliance Schedule:**

The proposed amendment to section 86-1.16 requires that the statewide base price be reduced by \$19,200,000 for the period May 1, 2012, through March 31, 2013 and for each state fiscal year period thereafter.

**Contact Person:** Katherine Ceroalo  
New York State Department of Health  
Bureau of House Counsel, Regulatory Affairs Unit  
Corning Tower Building, Rm. 2438  
Empire State Plaza  
Albany, New York 12237  
(518) 473-7488  
(518) 473-2019 (FAX)  
[REGSQNA@health.state.ny.us](mailto:REGSQNA@health.state.ny.us)

**REGULATORY FLEXIBILITY ANALYSIS**  
**FOR**  
**SMALL BUSINESS AND LOCAL GOVERNMENTS**

**Effect on Small Business and Local Governments:**

For the purpose of this regulatory flexibility analysis, small businesses were considered to be general hospitals with 100 or fewer full time equivalents. Based on recent financial and statistical data extracted from the Institutional Cost Report, seven hospitals were identified as employing fewer than 100 employees.

Health care providers subject to the provisions of this regulation under section 2807-c(35) of the Public Health Law will see a minimal decrease in funding as a result of the reduction in the statewide base price.

This rule will have no direct effect on Local Governments.

**Compliance Requirements:**

No new reporting, record keeping or other compliance requirements are being imposed as a result of these rules. Affected health care providers will bill Medicaid using procedure codes and ICD-9 codes approved by the American Medical Association, as is currently required. The rule should have no direct effect on Local Governments.

**Professional Services:**

No new or additional professional services are required in order to comply with the proposed amendments.

**Compliance Costs:**

As a result of the new provision of 86-1.16, overall statewide aggregate hospital Medicaid revenues for hospital inpatient services will decrease in an amount corresponding to the total statewide base price reduction.

**Economic and Technical Feasibility:**

Small businesses will be able to comply with the economic and technological aspects of this rule. The proposed amendments are technologically feasible because it requires the use of existing technology. The overall economic impact to comply with the requirements of this regulation is expected to be minimal.

**Minimizing Adverse Impact:**

The proposed amendments reflect statutory intent and requirements.

**Small Business and Local Government Participation:**

Hospital associations participated in discussions and contributed comments through the State's Medicaid Redesign Team process regarding these changes.

## RURAL AREA FLEXIBILITY ANALYSIS

### Types and Estimated Numbers of Rural Areas:

This rule applies uniformly throughout the state, including rural areas. Rural areas are defined as counties with a population less than 200,000 and counties with a population of 200,000 or greater that have towns with population densities of 150 persons or fewer per square mile. The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010 (<http://quickfacts.census.gov>).

Approximately 17% of small health care facilities are located in rural areas.

Allegany County	Greene County	Schoharie County
Cattaraugus County	Hamilton County	Schuyler County
Cayuga County	Herkimer County	Seneca County
Chautauqua County	Jefferson County	St. Lawrence County
Chemung County	Lewis County	Steuben County
Chenango County	Livingston County	Sullivan County
Clinton County	Madison County	Tioga County
Columbia County	Montgomery County	Tompkins County
Cortland County	Ontario County	Ulster County
Delaware County	Orleans County	Warren County
Essex County	Oswego County	Washington County
Franklin County	Otsego County	Wayne County
Fulton County	Putnam County	Wyoming County
Genesee County	Rensselaer County	Yates County
	Schenectady County	

The following counties have a population of 200,000 or greater and towns with population densities of 150 persons or fewer per square mile. Data is based upon the United States Census estimated county populations for 2010.

Albany County	Monroe County	Orange County
Broome County	Niagara County	Saratoga County
Dutchess County	Oneida County	Suffolk County
Erie County	Onondaga County	

**Compliance Requirements:**

No new reporting, record keeping, or other compliance requirements are being imposed as a result of this proposal.

**Professional Services:**

No new additional professional services are required in order for providers in rural areas to comply with the proposed amendments.

**Compliance Costs:**

No initial capital costs will be imposed as a result of this rule, nor is there an annual cost of compliance.

**Minimizing Adverse Impact:**

The proposed amendments reflect statutory intent and requirements.

**Rural Area Participation:**

This amendment is the result of discussions with industry associations as part of the Medicaid Redesign team process. These associations include members from rural areas. As well, the Medicaid Redesign Team held multiple regional hearings and solicited ideas through a public process.

## **JOB IMPACT STATEMENT**

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent from the nature and purpose of the proposed rule that it will not have a substantial adverse impact on jobs or employment opportunities. The proposed regulation revises the final statewide base price for the period beginning May 1, 2012, through March 31, 2013 and for each state fiscal year thereafter.