

Pursuant to the authority vested in the Commissioner of Health by Section 619 of the Public Health Law, Sections 40-1.61, 40-2.1 and 40-2.3 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Subdivision (a) of Section 40-1.61 is amended to read as follows:

Expenditures by local health departments shall be reimbursed as follows, provided all requirements of this Part are met:

(a) Base grant:

(1) For local health departments providing all of the core services set forth in Subpart 40-2 of this Part, the State Aid base grant shall be 100 percent of net eligible expenditures for performance of these services to a maximum of [~~\$650,000~~] \$750,000 or the amount representing [~~65 cents~~] \$1.30 per capita, whichever is greater.

\* \* \*

Subdivision (b) of Section 40-2.1 is amended and new Subdivision (d) is added, to read as follows:

(b) Local health departments may contract for core public health services provided, however, that:

\* \* \*

(2) pursuant to section 616 of the Public Health Law, the local health department shall not claim as State Aid eligible expenses any portion of the contract cost relating to indirect costs [or fringe benefits, including but not limited to retirement funds, health insurance and federal old age and survivors insurance]; and

\* \* \*

(d) Fringe benefits are eligible for State Aid reimbursement only if such costs are:

(1) consistent with a municipality's documented fringe benefit costs; and

(2) do not exceed fifty per centum of the municipality's eligible personnel services.

Subdivision (d) of Section 40-2.3 is amended to read as follows:

Activities, services, and costs that are ineligible for State Aid include, but are not limited to, the following:

\* \* \*

(d) infrastructure and administration costs:

\* \* \*

(10) Indirect costs [and fringe benefits]. Contributions by the local health department for indirect costs [and fringe benefits], including but not limited to contractor [fringe and] indirect costs[, employee retirement funds, health insurance, workers' compensation, and Federal old age and survivor's insurance].

## NOTICE OF CONSENSUS RULEMAKING

### **Statutory Authority:**

Public Health Law (PHL) § 619 authorizes the Commissioner to effectuate the provisions and purposes of the State Aid program under PHL Article 6.

### **Basis:**

Article 6 of the PHL, relating to State Aid to Cities and Counties, was amended by Part E of Chapter 57 of the Laws of 2022 to increase base funding to local health departments and remove the categorical prohibition on partial State reimbursement of costs associated with personnel-related fringe, including employee retirement funds, health insurance, Workers' Compensation, and federal old age and survivor's insurance. These regulatory amendments to Part 40 are necessary to enact the changes made to Article 6 of the PHL and therefore no person is likely to object to the adoption of the rule as written. In fact, these regulatory amendments will be highly beneficial to the local health departments and the New York State Association of County Health Officials (NYSACHO) has expressed support for the changes.

## **STATEMENT IN LIEU OF JOB IMPACT STATEMENT**

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendments, that it will not have an adverse impact on jobs and employment opportunities.