

Pursuant to the authority vested in the Commissioner of Health by Section 4012(5) of the Public Health Law (PHL), Section 86-6.2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby amended to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Subdivision (h) of 86-6.2 is amended to read as follows:

(h) Daily payment will be made to a hospice residence for Medicaid-eligible patients who have elected hospice care and reside in a hospice residence. Payment shall be made for a hospice residence patient to take into account the room and board furnished by the hospice residence and will be in an amount equal to 94% of the weighted average Medicaid rate of the nursing facilities located in the region that the hospice residence is located in, as specified in Appendix 13-A, *infra*, of this Title. The Department will calculate a 10% increase in the hospice residence reimbursement rate for each Wage Equalization Factor (WEF) region, as specified in Appendix 13-A of this Title, relative the rate in effect on March 31, 2018. For fiscal periods beginning April 1, 2018 and ending December 31, 2018, and for every calendar year thereafter, hospice residence reimbursement rates will be equal to 94% of the weighted average Medicaid rate of the nursing facilities located in the WEF region, plus the per diem value based upon the 10% increase calculated pursuant to this subdivision.

REGULATORY IMPACT STATEMENT

Statutory Authority:

The statutory authority for this regulation is contained in Section 4012 of the Public Health Law (PHL), and Chapter 57 of The Laws of 2018, which authorizes the Commissioner to promulgate regulations with regard to Medicaid reimbursement rates for hospice facilities. Such rate regulations are set forth in Subpart 86-6.2 of Title 10 (Health) of the Official Compilation of Codes, Rules, and Regulation of the State of New York.

Legislative Objectives:

The legislative objective of Section 4012 of the Public Health Law is to authorize the Department to establish methodologies for determining Medicaid rates of payment for hospice services.

Needs and Benefits:

This regulation effectuates a 10% increase in Medicaid rates for hospice services, calculated based on rates in effect March 31, 2018 and maintained at that level prospectively, pursuant to a statutory amendment to Section 4012 of the Public Health Law. Costs for Hospice programs have been increasing. This enhancement will support the growing costs associated with providing safe and cost-effective hospice programs.

Costs:

The gross impact to the hospice industry is an increase of approximately \$300,000 for the State Fiscal year ending March 31, 2019, which the Department expects to be maintained annually thereafter.

Costs to Private Regulated Parties:

There will be no additional costs to private regulated parties.

Costs to State Government:

A Medicaid rate of payment shall be established, with an increase of approximately \$150,000, state share anticipated as a result of this proposed regulation.

Costs to Local Government:

Local districts' share of Medicaid costs is statutorily capped; therefore, there will be no additional costs to local governments as a result of this proposed regulation.

Costs to the Department of Health:

There is no additional cost to the Department of Health as a result of this proposed regulation.

Local Government Mandates:

The proposed regulation does 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 required paperwork.

Duplication:

This is an amendment to an existing State regulation. The amendment does not duplicate existing State or federal requirements.

Alternatives:

No significant alternatives are available, as this regulation is needed to effectuate rate changes required by statute.

Federal Standards:

The proposed regulation does not exceed any minimum standards of the federal government for the same or similar subject area.

Compliance Schedule:

This regulation does not impose any new requirements on regulated parties; therefore, no compliance schedule is needed.

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**STATEMENT IN LIEU OF
REGULATORY FLEXIBILITY ANALYSIS**

No regulatory flexibility analysis is required pursuant to section 202-b(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

**STATEMENT IN LIEU OF
RURAL AREA FLEXIBILITY ANALYSIS**

No rural flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed regulation does not impose an adverse economic impact on facilities in rural areas, and it does not impose reporting, record keeping or other compliance requirement on facilities in rural areas.

**STATEMENT IN LIEU OF
JOB IMPACT STATEMENT**

A Job Impact Statement for these amendments is not being submitted because it is apparent from the nature and purpose of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities.