

CHAPTER 80

AN ACT concerning the Medicaid per diem rate for assisted living programs, supplementing Title 30 of the Revised Statutes, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.30:4D-7mm Assisted living residences, comprehensive personal care homes, assisted living programs, reimbursement, Medicaid beneficiaries, minimum per diem rates; definitions.

1. a. Notwithstanding the provisions of any other law or regulation to the contrary, commencing upon the effective date of P.L.2023, c.80 (C.30:4D-7mm et seq.), assisted living residences, comprehensive personal care homes, and assisted living programs shall receive a per diem rate of no less than \$89.50, \$79.50, and \$89.50, respectively, as reimbursement for each Medicaid beneficiary under the care of the residence, home, or program, as applicable.

b. In addition to the minimum per diem rates established pursuant to subsection a. of this section, assisted living residences and comprehensive personal care homes shall receive an increased per diem rate based on the percentage of residents who are Medicaid beneficiaries. Rate increases for assisted living residences and comprehensive personal care homes shall be as follows:

(1) in the case of an assisted living residence or comprehensive personal care home that is not a Medicaid partner community as described pursuant to subsection d. of this section, the following rate increases shall apply:

(a) those assisted living residences and comprehensive personal care homes with a population of Medicaid beneficiaries that is at least 15 percent but less than 30 percent of the total resident population shall receive a per diem rate that is \$10 higher than the minimum per diem rate established under subsection a. of this section;

(b) those assisted living residences and comprehensive personal care homes with a population of Medicaid beneficiaries that is at least 30 percent but less than 50 percent of the total resident population shall receive a per diem rate that is \$15 higher than the minimum per diem rate established under subsection a. of this section;

(c) those assisted living residences and comprehensive personal care homes with a population of Medicaid beneficiaries that is at least 50 percent but less than 70 percent of the total resident population shall receive a per diem rate that is \$30 higher than the minimum per diem rate established under subsection a. of this section; and

(d) those assisted living residences and comprehensive personal care homes with a population of Medicaid beneficiaries that is at least 70 percent shall receive a per diem rate that is \$35 higher than the minimum per diem rate established under subsection a. of this section.

(2) in the case of an assisted living residence or comprehensive personal care home that is a Medicaid partner community as described pursuant to subsection d. of this section, a per diem rate that is \$35 higher than the minimum per diem rate established under subsection a. of this section shall apply.

c. For the purposes of subsection b. of this section, the population percentage of Medicaid beneficiaries at an assisted living residence or comprehensive personal care home shall be determined on a yearly basis using the average census of Medicaid beneficiaries at the assisted living residence or comprehensive personal care home during the measurement period, as determined by paid claims, measured against the total number of licensed beds approved for the assisted living residence or comprehensive personal care home by the Department of Health.

d. For the purposes of applying the per diem rate established pursuant to paragraph (2) of subsection b. of this section, an assisted living residence or comprehensive personal care home

shall be deemed to be a Medicaid partner community if the assisted living residence or comprehensive personal care home:

(1) has participated in the NJ FamilyCare program for two or fewer cycles of the yearly rate measurement period described in subsection c. of this section or has submitted its first NJ FamilyCare claim within the preceding 18 months, whichever period is longer;

(2) has provided NJ FamilyCare with a valid land use restriction agreement encumbering the applicable facility site, which land use restriction agreement limits the use of the facility to serving low-income residents such that 100 percent of residents are required to have an annual income that is below 80 percent of the area median income;

(3) has not met the requirements in paragraphs (1) or (2) solely as the result of a name change or change of ownership; and

(4) meets such other requirements as may be required by the Commissioner of Human Services.

e. As used in this act:

“Area median income” means the median income by household size for an applicable county as determined by the division.

“Division” means the Division of Medical Assistance and Health Services in the Department of Human Services.

“NJ FamilyCare” means the program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), which includes the State’s Medicaid Program and the Children’s Health Insurance Program.

“Medicaid” means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

C.30:4D-7nn State plan amendments, waivers, provisions, implementation.

2. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

3. The Commissioner of Human Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act" P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

4. There is appropriated from the General Fund to the Department of Human Services such an amount as is necessary, as determined by the Commissioner of Human Services, to effectuate the provisions of this act.

5. This act shall take effect immediately.

Approved June 30, 2023.