

CHAPTER 275
(CORRECTED COPY)

AN ACT concerning the Medicaid reimbursement rate for personal care services and supplementing and amending P.L.2017, c.239.

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

1. The Legislature finds and declares that:

a. Personal care services are an integral part of providing reliable and accessible healthcare to New Jersey's elderly, sick, and disabled populations. Such services are provided in the home and include assistance with activities of daily living and household duties essential to the patient's health and comfort. For the applicable patients, home health care provides greater cost efficiencies, better patient outcomes, and more dignified treatment than care provided in long term care facilities, and is consistent with the 1999 United States Supreme Court decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999) and New Jersey public policy.

b. In FY 2019, the Medicaid reimbursement rate for personal care services provided in the managed care delivery system is a minimum of \$16.12 per hour. Home health agency providers utilize these funds to cover direct and indirect administrative costs, as well as wages for workers.

c. New Jersey's Medicaid reimbursement rate for personal care services is one of the lowest in the United States and on average approximately 25 percent less than neighboring states, despite that the cost of providing these services is similar across the region. For example, Connecticut has a rate of \$19.05 per hour, Pennsylvania has an average rate of \$19.50 per hour, New York has a rate between \$21.00 and \$23.00 per hour, and Massachusetts has a rate of \$24.40 per hour.

d. While New Jersey has one of the lowest Medicaid reimbursement rates for personal care services in the entire country, it has one of the highest costs of labor, averaging at 18 percent above the normal wage rate for home health workers. States like Oklahoma and Mississippi, which have Medicaid reimbursement rates at \$16.20 and \$17.64 per hour, respectively, each have substantially lower costs of labor than New Jersey.

e. Dictated by this low reimbursement rate, providers cannot offer a competitive wage to the workers who directly provide personal care services, which has led to instability and high turnover within the home health industry. With private companies, such as Amazon, and State hospital systems, such as Cooper University Health Care, paying \$15.00 per hour, there is a significant workforce issue in retaining and recruiting workers to provide personal care services. The recent adoption of a \$15.00 per hour State minimum wage, pursuant to P.L.2019, c.32 (C.34:11-56a4.9 et al.), further amplify the challenges to develop and grow this essential workforce under the current reimbursement rate.

f. While the Department of Human Services has focused its efforts on an ongoing multi-year initiative to provide lower-cost community-based services to long-term care Medicaid clients rather than providing higher cost care in nursing homes, this effort is dependent on a strong and thriving home health workforce to deliver services in the home. The cost-effectiveness of home and community-based services as a substitute for nursing home use is clear, with community-based services projected to cost \$42,200 per client in FY 2019 and nursing homes services projected to cost \$71,000 in the same fiscal year.

g. In the coming years, a rapidly growing elder population will increase the demand on the home health system. According to the recent New Jersey Governor's Advisory Council on End-of-Life Care Report and Recommendations, the number of New Jersey residents age 65 and older is expected to grow by 54 percent by 2030, leaving 2 million people potentially

needing personal care services. The report further stresses the uncertainty in how the current healthcare system will be able to meet the growing needs for chronic, palliative, and end-of-life care. With the current personal care workforce unable to meet the needs of this expanding population, the State will likely experience an increase in high-cost hospital and nursing home admissions.

h. It is, therefore, in the public interest for the Legislature to set a competitive Medicaid reimbursement rate for personal care services that reflects the rates of neighboring states and the implementation of a \$15.00 per hour State minimum wage. Affording the employees who directly provide these critical services with a competitive wage will stabilize the home health workforce, maintain the quality of care for personal care service recipients, and deliver cost savings to the State of New Jersey by further rebalancing long-term care services.

2. Section 1 of P.L.2017, c.239 (C.30:4D-7n) is amended to read as follows:

C.30:4D-7n Hourly reimbursement rate for Medicaid personal care services.

1. The hourly reimbursement rate for personal care services within the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), whether the services are provided in the Medicaid fee-for-service delivery system or through a managed care delivery system, shall be no less than the established State Medicaid fee-for-service rate. On July 1, 2019, the reimbursement rate shall be \$18 per hour.

3. Section 2 of P.L.2017, c.239 (C.30:4D-7o) is amended to read as follows:

C.30:4D-7o Report.

2. Every provider that receives reimbursement for personal care services pursuant to a Medicaid managed care contract shall annually provide a report to the Division of Medical Assistance and Health Services in the Department of Human Services regarding the use of funds received as reimbursement for personal care services, including detailed data on any salary increases resulting from section 1 of P.L.2017, c.239 (C.30:4D-7n); including the prior salary, current salary, and other changes to the salary of the workers who directly provide personal care services.

4. This act shall take effect immediately and shall apply to services provided on or after the effective date of this act and to any managed care organization contract which provides benefits under the Medicaid program and which is executed or renewed by the Division of Medical Assistance and Health Services in the Department of Human Services on or after the effective date of this act.

Approved December 19, 2019.