

[First Reprint]

## **ASSEMBLY, No. 5098**

# **STATE OF NEW JERSEY**

## **218th LEGISLATURE**

INTRODUCED FEBRUARY 25, 2019

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**Assemblywomen Murphy, Vainieri Huttie, Quijano, Senators Diegnan and Singleton**

### **SYNOPSIS**

Raises, over time, hourly Medicaid reimbursement rate for personal care services to \$25.

### **CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on June 18, 2019, with amendments.

(Sponsorship Updated As Of: 6/21/2019)

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

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. (New section) The Legislature finds and declares that:

8 a. Personal care services are an integral part of providing  
9 reliable and accessible healthcare to New Jersey's elderly, sick, and  
10 disabled populations. Such services are provided in the home and  
11 include assistance with activities of daily living and household  
12 duties essential to the patient's health and comfort. For the  
13 applicable patients, home health care provides greater cost  
14 efficiencies, better patient outcomes, and more dignified treatment  
15 than care provided in long term care facilities, and is consistent  
16 with the 1999 United States Supreme Court decision in <sup>1</sup>**[Olmstead**  
17 **v. L.C.]** Olmstead v. L.C., 527 U.S. 581 (1999)<sup>1</sup> and New Jersey  
18 public policy.

19 b. <sup>1</sup>**[The current]** In FY 2019, the<sup>1</sup> Medicaid reimbursement  
20 rate for personal care services provided in the managed care  
21 delivery system is a minimum of \$16.12 per hour. Home <sup>1</sup>**[Health**  
22 **Agency Providers]** health agency providers<sup>1</sup> utilize these funds to  
23 cover direct and indirect administrative costs, as well as wages for  
24 workers.

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

33 d. While New Jersey has one of the lowest Medicaid  
34 reimbursement rates for personal care services in the entire country,  
35 it has one of the highest costs of labor, averaging at 18 percent  
36 above the normal wage rate for home health workers. States like  
37 Oklahoma and Mississippi, <sup>1</sup>**[that]** which<sup>1</sup> have Medicaid  
38 reimbursement rates at \$16.20 and \$17.64 per hour, respectively,  
39 each have substantially lower costs of labor than New Jersey.

40 e. Dictated by this low reimbursement rate, providers cannot  
41 offer a competitive wage to the workers who directly provide  
42 personal care services, which has led to instability and high  
43 turnover within the home health industry. With private companies,  
44 such as Amazon, and State hospital systems, such as Cooper  
45 University Health Care, paying \$15.00 per hour, there is a

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted June 18, 2019.

1 significant workforce issue in retaining and recruiting workers to  
2 provide personal care services. The recent adoption of a \$15.00 per  
3 hour State minimum wage, pursuant to P.L.2019, c.32 <sup>1</sup>(C.34:11-  
4 56a4.9 et al.)<sup>1</sup>, further amplify the challenges to develop and grow  
5 this essential workforce under the current reimbursement rate.

6 f. While the Department of Human Services has focused its  
7 efforts on an ongoing multi-year initiative to provide lower-cost  
8 community-based services to long-term care Medicaid clients rather  
9 than <sup>1</sup>[to place them in] providing<sup>1</sup> higher cost <sup>1</sup>care in<sup>1</sup> nursing  
10 homes, this effort is dependent on a strong and thriving home health  
11 workforce to deliver services in the home. The cost-effectiveness  
12 of home and community-based services as a substitute for nursing  
13 home use is clear, with community-based services projected to cost  
14 \$42,200 per client in FY 2019 and nursing homes services projected  
15 to cost \$71,000 <sup>1</sup>in the same fiscal year<sup>1</sup>.

16 g. In the coming years, a rapidly growing elder population will  
17 increase the demand on the home health system. According to the  
18 recent New Jersey Governor's Advisory Council on End-of-Life  
19 Care Report and Recommendations, <sup>1</sup>the number of<sup>1</sup> New Jersey  
20 residents <sup>1</sup>age<sup>1</sup> 65 and <sup>1</sup>[over are] older is<sup>1</sup> expected to grow by 54  
21 percent by 2030, leaving 2 million people potentially needing  
22 personal care services. The report further stresses the uncertainty in  
23 how the current healthcare system will be able to meet the growing  
24 needs for chronic, palliative, and end-of-life care. With the current  
25 personal care workforce unable to meet the needs of this expanding  
26 population, <sup>1</sup>[it is likely that]<sup>1</sup> the State will <sup>1</sup>likely<sup>1</sup> experience an  
27 <sup>1</sup>[escalation] increase<sup>1</sup> in <sup>1</sup>[high cost] high-cost<sup>1</sup> hospital and  
28 nursing home admissions.

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

38

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

41 1. The hourly reimbursement rate for personal care services  
42 within the Medicaid program established pursuant to P.L.1968,  
43 c.413 (C.30:4D-1 et seq.), whether the services are provided in the  
44 Medicaid fee-for-service delivery system or through a managed care  
45 delivery system, shall be no less than the established State Medicaid  
46 fee-for-service rate. [Any and all rate increases realized pursuant to  
47 this section shall be used solely to increase wages for workers who

1 directly provide personal care services】 On January 1 of 2020 and  
2 January 1 of each subsequent year, the reimbursement rate shall be  
3 increased by an increase in the consumer price index for all urban  
4 wage earners and clerical workers (CPI-W) as calculated by the  
5 federal government for the 12 months prior to September 30  
6 preceding that January 1, except that any of the following rates shall  
7 apply if it exceeds that rate determined in accordance with the  
8 applicable CPI-W for the indicated year: on July 1, 2019, the  
9 reimbursement rate shall be \$20 per hour; on January 1, 2020, the  
10 reimbursement rate shall be \$21 per hour; and on January 1 of each  
11 year from 2021 to 2024, inclusive, the reimbursement shall be  
12 increased from the rate of the preceding year by \$1 per hour. If the  
13 federal minimum hourly wage rate set by section 6 of the federal  
14 "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or a  
15 successor federal law, is raised to a level higher than the State  
16 minimum wage rate set in section 5 of P.L.1966, c.113 (C.34:11-  
17 56a4), then the hourly reimbursement rate for personal care services  
18 established pursuant this section shall be increased by the level of  
19 the federal minimum wage rate. Subsequent increases based on  
20 increases in the CPI-W pursuant to this section shall be applied to  
21 the higher hourly reimbursement rate for personal care services.

22 (cf: P.L.2017, c.239, s.1)

23  
24 <sup>1</sup>3. Section 2 of P.L.2017, c.239 (C.30:4D-7o) is amended to  
25 read as follows:

26 2. Every provider that receives reimbursement for personal  
27 care services pursuant to a Medicaid managed care contract shall  
28 annually provide a report to the Division of Medical Assistance and  
29 Health Services in the Department of Human Services regarding the  
30 use of funds received as reimbursement for personal care services,  
31 including 【assurances that the increased funds received pursuant to  
32 section 1 of P.L.2017, c.239 (C.30:4D-7n) are being used  
33 exclusively for salary increases for workers who directly provide  
34 personal care services and】 detailed data on 【the】 any salary  
35 increases resulting from section 1 of P.L.2017, c.239 (C.30:4D-7n);  
36 including the prior salary, current salary, and other changes to the  
37 salary of the workers who directly provide personal care services.<sup>1</sup>

38 (cf: P.L. 2017, c.239, s.2)

39  
40 <sup>1</sup>【3.】4.<sup>1</sup> This act shall take effect <sup>1</sup>【on July 1, 2019】  
41 immediately<sup>1</sup> and shall apply to services provided on or after the  
42 effective date of this act and to any managed care organization  
43 contract which provides benefits under the Medicaid program <sup>1</sup>and  
44 which is<sup>1</sup> executed or renewed by the Division of Medical  
45 Assistance and Health Services in the Department of Human  
46 Services on or after the effective date of this act.