

## **OFFICE OF POLICY AND LEGAL ANALYSIS**

Date: May 6, 2021  
To: Joint Standing Committee on Health & Human Services  
From: Anna Broome, Legislative Analyst

### **LD 1528 Resolve, Directing the Department of Health and Human Services To Adjust Reimbursement Rates for Certain Home-based Services**

**SUMMARY:** This resolve directs DHHS to increase reimbursement rates for RN, LPN and independent registered nursing services under Secs. 19, 96 and 63 by 39% by January 15, 2022. The resolve also indexes Sec. 40 home health rates to the low-utilization payment adjustment rates (Medicare), by January 15, 2022.

#### **ISSUES FROM TESTIMONY:**

- Proponents: rates are currently based on 2014 BLS data and rate study indicates adjustment won't be until at least SFY26-28. 39% comes from adjusting for inflation and include new costs (EVV) from 2014 data. Pay is lower than other nursing settings so can't compete; lower cost service than hospitalization. LPN rates closer to RN rates in other states.
- DHHS opposed: Rate evaluation shows that Secs 19 and 96 are low and in need of an update; Sec. 40 shows rates are on the higher side but with variation. RSE recommended a rate study for 19, 40, 96 and 102 at the same time (with 63 tracking). Also questions about PT and OT in Secs. 19 and 40 and whether they are unique to these sections.

#### **DRAFTING ISSUES:**

- Is rulemaking needed? Is it needed when tracking Medicare rates? Sec. 40, Ch III rules (reimbursement) are major substantive. Would assume this would fall under the major substantive rulemaking? (Other sections are routine technical.)

## ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:

- Mike Stair providing background for the numbers for the 39% (separate email).
- LUPA info from Lisa Harvey-McPherson:

Our proposal is based on Medicare home health payment. Medicare pays for home care in two ways. The primary payment is an episodic payment that covers a 60 day period of care. But there are cases where there will be four visits or less in a 60 day period so when this occurs Medicare pays a per visit rate for home health services. Our bill sets the MaineCare reimbursement rate for section 40 services indexed to the LUPA rate per visit reimbursement. We are not adopting the policy of 4 visits or less in a 60 day period, we are simply adopting the rate that Medicare pays for the visits. We chose this policy approach as all Section 40 home care providers must also be certified to participate in the Medicare home health program. Here is the table of LUPA rates for 2021, the table is on page 70317. The source document link is also below, it is the final rule on home health payments for 2021.

**TABLE 9: CY 2021 NATIONAL PER-VISIT PAYMENT AMOUNTS**

<b>HH Discipline</b>	<b>CY 2020 Per-Visit Payment</b>	<b>Wage Index Budget Neutrality Factor</b>	<b>CY 2021 HH Payment Update</b>	<b>CY 2021 Per-Visit Payment</b>
Home Health Aide	\$67.78	X 0.9997	X 1.020	\$69.11
Medical Social Services	\$239.92	X 0.9997	X 1.020	\$244.64
Occupational Therapy	\$164.74	X 0.9997	X 1.020	\$167.98
Physical Therapy	\$163.61	X 0.9997	X 1.020	\$166.83
Skilled Nursing	\$149.68	X 0.9997	X 1.020	\$152.63
Speech-Language Pathology	\$177.84	X 0.9997	X 1.020	\$181.34

<https://www.govinfo.gov/content/pkg/FR-2020-11-04/pdf/2020-24146.pdf>

## FISCAL IMPACT:

Not yet received from OFPR.