

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO HUMAN SERVICES - MEDICAL AND CLINICAL SERVICES PROGRAMS
RATE REVIEW AND RATE SETTING PROCESS ACT OF 2022

Introduced By: Representatives Casimiro, Noret, Solomon, McEntee, Kislak,
Chippendale, Kazarian, Felix, Henriess, and McGaw

Date Introduced: February 16, 2022

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 23

4 MEDICAL AND CLINICAL SERVICES PROGRAMS RATE REVIEW AND RATE

5 SETTING ACT OF 2022

6 **40-23-1. Definitions.**

7 As used in this chapter:

8 (1) "Medical and clinical service program" means medical care, financial assistance for:
9 medical care, health insurance, prescription drug assistance, medical equipment, medical supplies,
10 disease screening or other medical assistance program or services purchased by the state, excluding
11 any program, service, or accommodation that is reimbursable exclusively by a federal grant.

12 (2) "Medical and clinical service provider" means a provider of medical and clinical service
13 programs pursuant to a contract with the state or any division or agency including, but not limited
14 to, the department of children, youth and families (DCYF), the department of behavioral healthcare,
15 developmental disabilities, and hospitals (BHDDH), department of human services (DHS),
16 department of health (DOH) and Medicaid.

17 (3) "Rate review" means the process of reviewing and reporting of specific trending factors
18 that influence the cost of service that informs rate setting.

1 (4) "Rate setting" means the process of establishing rates for medical and clinical service
2 programs that are based on a thorough rate review process.

3 **40-23-2. Medical and clinical service program rate review and rate reform.**

4 The executive office of health and human services (EOHHS) shall conduct a
5 comprehensive rate review of all medical and clinical service programs pursuant to having a
6 contract with or licensed by the state or any subdivision DCYF, BHDDH, DHS, DOH, Medicaid
7 for the purposes of:

8 (1) Establishing a baseline understanding of reimbursement rates for all medical and
9 clinical service programs;

10 (2) Ensuring accurate and adequate reimbursement to medical and clinical service
11 providers that facilitate the availability of high-quality services to individuals receiving home and
12 community-based long-term services and supports provided by medical and clinical service
13 providers; and

14 (3) Ensuring the general assembly is informed and provided accurate financial projections
15 on medical and clinical service program costs, demand for services, and workforce needs to ensure
16 access to entitled beneficiaries and services.

17 **40-23-3. Assessment and detailed reporting of current rates -- Collaboration of**
18 **departments and advisory committee.**

19 (a) EOHHS shall work in collaboration with DCYF, BHDDH, DHS, DOH, Medicaid, and
20 the advisory committee established in § 40-23-4 to assess current rates for medical and clinical
21 service programs. This assessment shall include, but not be limited to, the following information
22 and report development:

23 (1) Assessment and detailed reporting on all medical and clinical service program rates to
24 be completed by October 1, 2022;

25 (2) Assessment and detailed reporting on eligible medical and clinical service programs to
26 be completed by October 1, 2022;

27 (3) Assessment and detailed reporting on utilization trends from the period of January 1,
28 2017 through December 31, 2021 for medical and clinical service programs to be completed by
29 October 31, 2022;

30 (4) Assessment and detailed reporting on all rate methodology and rationale for established
31 rates as of January 1, 2023, for medical and clinical service programs;

32 (5) Assessment and detailed reporting on medical and clinical service provider reported
33 cost of established rates for services and contracts by January 1, 2023 for medical and clinical
34 service programs as of December 31, 2021;

1 (6) Assessment and detailed reporting by January 1, 2023 on all professional licensed and
2 unlicensed personnel requirements for established rates for medical and clinical service programs
3 pursuant to a contract or established fee schedule;

4 (7) Assessment and reporting on access to medical and clinical service programs, to include
5 any wait lists and length of time on wait lists, or any delays in care, or denials due to limited
6 resources, that can be tracked and quantified in each service category by January 1, 2023.

7 (8) Assessment and reporting that includes comparable rates paid regionally for similar
8 medical and clinical service providers by January 1, 2023;

9 (9) Assessment and reporting of national Medicaid rates in comparison to Rhode Island
10 medical and clinical service provider rates by January 1, 2023; and

11 (10) Assessment and reporting on usual and customary rates paid by private insurers and
12 private pay for similar medical and clinical service providers by January 1, 2023.

13 (b) Detailed reports of this assessment shall be submitted to the advisory committee, the
14 speaker of the house, president of the senate, governor, senate finance committee, house finance
15 committee, house fiscal advisor, senate fiscal advisor, and director of the office of management and
16 budget on or before March 1, 2023, and biennially thereafter.

17 **40-23-4. Advisory committee.**

18 (a) There is hereby established the medical and clinical services provider rate review and
19 rate setting advisory committee, referred to in this section as the ("advisory committee"). The
20 purpose of this advisory committee is to provide expert review and recommendations for the
21 process of rate setting and ongoing review of rate setting. The advisory committee shall:

22 (1) Review documents, reports, assumptions, and fiscal data for biennial rate review
23 assessment within thirty (30) days of receipt as they relate to petitions or proposals received from
24 EOHHS as detailed in subsection (a)(4) of this section;

25 (2) Define and establish consistent policy and methods for standardized service rate
26 development, for the purposes of conducting a biennial "rate setting" in coordination with EOHHS
27 by July 1, 2023, to ensure payments are consistent with efficiency, economy, and quality of care in
28 order to enlist enough medical and clinical service providers to ensure that care and services are
29 available for beneficiaries and/or eligible persons. The biennial rate setting shall be consistent with
30 payment requirements established in § 1902(a)(30) of the Social Security Act, 42 U.S.C. 1396 a,
31 and all federal, and state law, regulations and quality and safety standards. The rate setting process
32 shall include, but is not that limited to, industry standard methodology(ies); industry standard cost-
33 based assumptions, access to service benchmarks, relevant regional and national economic
34 inflationary index, regional labor market indicators and benchmarks, Centers for Medicaid and

1 Medicare Services (CMS) market-based indicators for relevant services, state mandated regulations
2 and requirements of medical and clinical service providers, triggers for adjustments according to
3 projected trends, for the purposes of pricing of medical and clinical service program rates. Proposed
4 rates shall be published by January 1, 2024 and effective no later than July 1, 2024;

5 (3) With EOHHS, conduct public meetings to allow providers, recipients, and other
6 interested parties an opportunity to comment on the report required by the provisions of this section;

7 (4) Review petitions or proposals for provider rates to be reviewed or adjusted that are
8 received by the advisory committee from EOHHS; and

9 (5) Prepare written recommendations to the governor, the speaker of the house, and
10 president of the senate as to all changes to the process of reviewing provider rates, including
11 measures to increase access to the process such as by providing for electronic comments by
12 providers and the public.

13 (b) The advisory committee may, by a majority vote, recommend to EOHHS to include
14 any rate that the EOHHS has selected to exclude or remove any rate selected for inclusion from the
15 schedule pursuant to this section. The advisory committee may recommend that EOHHS determine
16 whether any provider rates not scheduled for review during the next calendar year should be
17 recommended for review during that calendar year. The advisory committee shall provide other
18 assistance to the EOHHS and DHS agencies as requested.

19 (c) On or before November 1, 2022, and each November 1 thereafter, EOHHS shall submit
20 a written report to the speaker of the house, the president of the senate, the governor, and the
21 advisory committee containing its determinations on all the provider rates reviewed pursuant to this
22 section and all of the data relied upon by EOHHS in making its determinations for rate setting.
23 EOHHS shall prepare proposed projections of costs associated with biennial rate setting for medical
24 and clinical service programs.

25 (d) The advisory committee shall consist of the following twenty-four (24) members:

26 (1) The following members shall be appointed by the senate president:

27 (i) Two (2) members of the senate;

28 (ii) A representative of the Hospital Association of Rhode Island;

29 (iii) A representative of the Psychological Association;

30 (iv) A representative of the Chiropractic Society of Rhode Island;

31 (v) A representative of the specialized community-based health care;

32 (vi) A representative of the Leading Age RI;

33 (vii) A representative of the Substance Use and Mental Health Leadership Council of RI;

34 (viii) A representative of pediatric primary care physicians who see patients;

- 1 (ix) A representative of the Rhode Island Health Care Association;
2 (x) A representative of providers of home-based hospice/palliative care; and
3 (xi) A representative of facility-based physicians, who see patients, including
4 anesthesiologists, emergency room physicians, neonatologists, pathologists and radiologists;
5 (2) The following members shall be appointed by the speaker of the house:
6 (i) Two (2) members of the house of representatives, one from each political party;
7 (ii) A representative of a provider of emergency medical transportation;
8 (iii) A representative of the providers of durable medical equipment;
9 (iv) A representative of primary care physicians who see patients;
10 (v) A representative of dentists who see patients;
11 (vi) A representative of providers of alternative care facilities;
12 (vii) A representative of obstetricians who see patients;
13 (viii) A representative of pharmacists providing services to recipients;
14 (ix) A representative of physical or occupational therapists providing services to patients;
15 (x) A representative of advance practices nurses; and
16 (xi) A representative of ambulatory surgical centers.
17 (e) The appointing authorities shall make their initial appointments to the advisory
18 committee no later than August 1, 2022. In making appointments to the advisory committee, to the
19 greatest extent possible, the appointing authorities shall consider the diversity of Rhode Island.
20 (f) Each member of the advisory committee shall serve at the pleasure of the official who
21 appointed the member. Each member of the advisory committee shall serve a four (4) year term
22 and may be reappointed for no more than one additional term. Members who have served two (2)
23 consecutive terms may be reappointed no sooner than one year after the end of the second term.
24 (g) The members of the advisory committee shall serve without compensation and without
25 reimbursement for expenses.
26 (h) At the first meeting of the advisory committee, to be held on or before September 1,
27 2022, the members shall elect a chair, vice-chair and secretary from among the members.
28 (i) The advisory committee shall meet at least once every quarter. The chair may call such
29 additional meetings as may be necessary for the advisory committee to perform its duties.
30 (j) The advisory committee shall develop bylaws and procedures to govern its operations.
31 (k) The department of administration, in collaboration with EOHHS, shall assist the
32 advisory committee in its work by providing resources, staff support, and any information that may
33 be necessary to facilitate the purposes of this chapter.

34 **40-24-5. Funding.**

1 The general assembly shall annually appropriate any sums it may deem necessary to enable
2 the advisory committee to carry out its assigned purposes.

3 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HUMAN SERVICES - MEDICAL AND CLINICAL SERVICES PROGRAMS
RATE REVIEW AND RATE SETTING PROCESS ACT OF 2022

1 This act would require the executive office of health and human services (EOHHS) with
2 the assistance of a twenty-four (24) person advisory committee to provide expert review and
3 recommendations for the process for rate setting and ongoing review of rate setting for all medical
4 and clinical service programs contracted by, or with or licensed by the state or any department of
5 the state as well as Medicaid.

6 This act would take effect upon passage.

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