

2022 -- S 2311

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

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

Introduced By: Senators DiPalma, Miller, Ruggerio, McCaffrey, Goodwin, Picard,
Coyne, Calkin, Mendes, and Acosta

Date Introduced: February 16, 2022

Referred To: Senate 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 SOCIAL AND HUMAN SERVICES PROGRAMS RATE REVIEW AND RATE SETTING

5 ACT OF 2022

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

7 As used in this chapter:

8 (1) "Rate review" means the process of reviewing and reporting of specific trending factors
9 that influence the cost of service that informs rate setting.

10 (2) "Rate setting" means the process of establishing rates for social and human service
11 programs that are based on a thorough rate review process.

12 (3) "Social and human service program" means a social, mental health, developmental
13 disability, child welfare, juvenile justice, prevention services, habilitative, rehabilitative, substance
14 use disorder treatment, residential care, adult or adolescent day services, vocational, employment
15 and training, or aging service program or accommodations purchased by the state, excluding any
16 program, service, or accommodation that is reimbursable exclusively by a federal grant.

17 (4) "Social and human service provider" means a provider of social and human service
18 programs pursuant to a contract with the state or any subdivision or agency to include, but not

1 limited to, the department of children, youth and families (DCYF), the department of behavioral
2 healthcare, developmental disabilities, and hospitals (BHDDH), department of human services
3 (DHS), department of health (DOH) and Medicaid.

4 **40-23-2. Social and human service program rate review and rate reform.**

5 The executive office of health and human services (EOHHS) shall conduct a
6 comprehensive rate review of all social and human service programs pursuant to having a contract
7 with or licensed by the state or any subdivision of the department of children, youth and families
8 (DCYF), the department of behavioral healthcare, developmental disabilities, and hospitals
9 (BHDDH), department of human services (DHS), department of health (DOH) and Medicaid for
10 the purposes of:

11 (1) Establishing a baseline understanding of reimbursement rates for all social and human
12 service programs;

13 (2) Ensuring accurate and adequate reimbursement to social and human service providers
14 that facilitate the availability of high-quality services to individuals receiving home and
15 community-based long-term services and supports provided by social and human service providers;
16 and

17 (3) Ensuring the general assembly is informed and provided accurate financial projections
18 on social and human service program costs, demand for services, and workforce needs to ensure
19 access to entitled beneficiaries and services.

20 **40-23-3. Assessment and detailed reporting of current rates -- Collaboration of**
21 **departments and advisory committee.**

22 (a) EOHHS shall work in collaboration with the department of children, youth and families
23 (DCYF), the department of behavioral healthcare, developmental disabilities, and hospitals
24 (BHDDH), department of human services (DHS), department of health (DOH) and Medicaid and
25 the advisory committee established in § 40-23-4 to assess current rates for social and human service
26 programs. This assessment shall include, but is not limited to, the following information and report
27 development:

28 (1) Assessment and detailed reporting on all social and human service program rates to be
29 completed by October 1, 2022;

30 (2) Assessment and detailed reporting on eligible social and human service programs to be
31 completed by October 1, 2022;

32 (3) Assessment and detailed reporting on utilization trends from the period of January 1,
33 2017 through December 31, 2021 for social and human service programs to be completed by
34 October 31, 2022;

1 (4) Assessment and detailed reporting on all rate methodology and rationale for established
2 rates as of January 1, 2023, for social and human service programs;

3 (5) Assessment and detailed reporting on social and human service provider reported cost
4 of established rates for services and contracts by January 1, 2023 for social and human service
5 programs as of December 31, 2021;

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

9 (7) Assessment and reporting on access to social and human service programs, to include
10 any wait lists and length of time on wait lists, in each service category by January 1, 2023.

11 (8) Assessment and reporting that includes comparable rates paid regionally for similar
12 social and human service providers by January 1, 2023;

13 (9) Assessment and reporting of national Medicaid rates in comparison to Rhode Island
14 social and human service provider rates by January 1, 2023; and

15 (10) Assessment and reporting on usual and customary rates paid by private insurers and
16 private pay for similar social and human service providers by January 1, 2023;

17 (b) Detailed reports of this assessment will be submitted to the advisory committee, the
18 speaker of the house, president of the senate, governor, senate finance committee, house finance
19 committee, house fiscal advisor, senate fiscal advisor, and director of the office of management and
20 budget on or before March 1, 2023, and biennially thereafter.

21 **40-23-4. Advisory committee**

22 (a) There is hereby established the social and human services provider rate review and rate
23 setting advisory committee, referred to in this section as the "advisory committee." The purpose of
24 this advisory committee is to provide expert review and recommendations for the process of rate
25 setting and ongoing review of rate setting. The advisory committee shall:

26 (1) Review documents, reports, assumptions, and fiscal data for annual rate review
27 assessment within thirty (30) days of receipt;

28 (2) Define and establish consistent policy and methods for standardized service rate
29 development, for the purposes of conducting a biennial "rate setting" in coordination with EOHHS
30 by July 1, 2023 to ensure payments are consistent with efficiency, economy, and quality of care in
31 order to enlist enough social and human service providers in order that care and services are
32 available for beneficiaries and/or eligible persons. The biennial rate setting will be consistent with
33 payment requirements established in §1902(a)(30)(A) of the Social Security Act and all federal,
34 and state law, regulations and quality and safety standards. The rate setting process must include,

1 but is not that limited to, industry standard methodology(ies); industry standard cost based
2 assumptions, access to service benchmarks, relevant regional and national economic inflationary
3 index, regional labor market indicators and benchmarks, Centers for Medicaid and Medicare
4 Services (CMS) market basket indicators for relevant services, state mandated regulations and
5 requirements of social and human service providers, triggers for adjustments according to projected
6 trends, for the purposes of pricing of social and human service program rates. Proposed rates will
7 be published by January 1, 2024 and effective no later than July 1, 2024;

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

10 (4) Review petitions or proposals for provider rates to be reviewed or adjusted that are
11 received by the advisory committee from EOHHS pursuant to the provisions of subsection (a) of
12 this section; and

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

17 (b) The advisory committee, may, by a majority vote, recommend to the EOHHS to include
18 any rate that the EOHHS has selected to exclude or remove any rate that EOHHS has selected for
19 inclusion from the schedule pursuant to this section:

20 (1) Determine whether any provider rates not scheduled for review during the next calendar
21 year should be recommended for review during that calendar year; and

22 (2) Provide other assistance to the EOHHS and HHS agencies as requested.

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

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

30 (1) The following members appointed by the senate president and the speaker of the house:

31 (i) Four (4) providers of social and human service programs, at least one of whom is a long-
32 term care home care provider, with two (2) to be appointed by the senate president and two (2) to
33 be appointed by the speaker of the house, two (2) recipients, or designees of the recipients of social
34 and human service programs, one to be appointed by the senate president and one to be appointed

1 by the speaker of the house, four (4) experts with relevant rate setting expertise (such as economists,
2 actuarialists, billing experts, policy experts), two (2) to be appointed by the senate president and
3 two (2) to be appointed by the speaker of the house, two (2) senators to be appointed by the senate
4 president, one from each political party, and two (2) representatives appointed by the speaker of
5 the house, one from each political party.

6 (ii) The following additional ten (10) members to be appointed by the secretary of EOHHS
7 as follows:

8 (A) A representative of the developmental disability council;

9 (B) A representative of the mental health association;

10 (C) A representative of the child advocate office;

11 (D) A representative of the Rhode Island parent information network;

12 (E) A representative of the community provider network of Rhode Island;

13 (F) A representative of the substance use and mental health leadership council of RI;

14 (G) A representative of the Rhode Island coalition for children and families;

15 (H) A representative of the senior agenda coalition;

16 (I) A representative of the AARP; and

17 (J) A representative of adult day services providers.

18 (e) The appointing authorities shall make their initial appointments to the advisory
19 committee no later than August 1, 2022. In making appointments to the advisory committee, to the
20 greatest extent possible, the appointing authorities shall consider the diversity of Rhode Island.

21 (f) Each member of the advisory committee shall serve at the pleasure of the official who
22 appointed the member. Each member of the advisory committee shall serve a four (4) year term
23 and may be reappointed for no more than one additional term. Members who have served two (2)
24 consecutive terms may be reappointed no sooner than one year after the end of the second term.

25 (g) The members of the advisory committee shall serve without compensation and without
26 reimbursement for expenses.

27 (h) At the first meeting of the advisory committee, to be held on or before September 1,
28 2022, the members shall elect a chair, vice-chair and secretary from among the members.

29 (i) The advisory committee shall meet at least once every quarter. The chair may call such
30 additional meetings as may be necessary for the advisory committee to perform its duties.

31 (j) The advisory committee shall develop bylaws and procedures to govern its operations.

32 (k) The department of administration, in collaboration with the executive office of health
33 and human services, shall assist the advisory committee in its work by providing resources, staff
34 support and any information that may be necessary to facilitate the purposes of this chapter.

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40-23-5. Funding.

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

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 -- SOCIAL AND HUMAN 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 social
4 and human service programs with a contract with or licensed by the state or any department of the
5 state as well as Medicaid.

6 This act would take effect upon passage.

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