

H.153

An act relating to Medicaid reimbursement rates for home- and community-based service providers

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 33 V.S.A. § 900 is amended to read:

§ 900. DEFINITIONS

~~Unless otherwise required by the context, the words and phrases in this chapter shall be defined as follows~~ As used in this chapter:

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(7) “Home- and community-based services” means long-term services and supports provided to older adults and adults with physical disabilities in a home or community setting other than a nursing home, including enhanced residential care services, pursuant to the Choices for Care component of Vermont’s Global Commitment to Health Section 1115 Medicaid demonstration or a successor program. “Home- and community-based services” also includes non-Choices for Care home health and hospice services, adult day rehabilitation services, assistive community care services, and services for individuals with traumatic brain injury.

Sec. 2. 33 V.S.A. § 911 is added to read:

§ 911. PAYMENT RATES FOR PROVIDERS OF HOME- AND
COMMUNITY-BASED SERVICES

(a) The Secretary of Human Services shall determine payment rates for providers of home- and community-based services that are reasonable and adequate to achieve the required outcomes for the populations they serve. When determining these payment rates, the Secretary shall adjust the rate amounts to take into account factors that include:

(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and

(2) a cost adjustment factor to reflect changes in reasonable costs of goods to and services of providers of home- and community-based services, including those attributed to inflation and labor market dynamics.

(b) When determining reasonable and adequate rates of payment for providers of home- and community-based services, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

(c) The Secretary shall adopt rules setting forth the methodology for determining payment rates for providers of home- and community-based services in accordance with this section. The rules shall include a process for determining an annual inflationary rate adjustment, shall set forth a predictable

timeline for redetermination of base rates, and shall use Vermont labor market rates and Vermont costs of operation.

(d) The Secretary shall redetermine the payment rates for providers of home- and community-based services in accordance with this section at least annually and shall report those rates, and the amounts necessary to fund them, to the House Committees on Appropriations, on Human Services, and on Health Care and the Senate Committees on Appropriations and on Health and Welfare annually as part of the Agency's budget presentation.

Sec. 3. 18 V.S.A. § 8914 is amended to read:

§ 8914. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED
SERVICE AGENCIES

(a) The Secretary of Human Services shall ~~have sole responsibility for establishing~~ determine the Departments of Health's, of Mental Health's, and of Disabilities, Aging, and Independent Living's rates of payments for designated and specialized service agencies that are reasonable and adequate to achieve the required outcomes for designated populations. When ~~establishing~~ determining these rates of payment for designated and specialized service agencies, the Secretary shall adjust ~~rates~~ the rate amounts to take into account factors that include:

(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and

(2) a cost adjustment factor to reflect changes in reasonable costs of goods to and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics.

(b) When ~~establishing~~ determining reasonable and adequate rates of payment for designated and specialized service agencies, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

(c) The Secretary shall adopt rules setting forth the methodology for determining the payment rates for services provided by designated and specialized service agencies to individuals with mental conditions, individuals with substance use disorders, and individuals with developmental or intellectual disabilities in accordance with this section. The rules shall include a process for determining an annual inflationary rate adjustment, shall set forth a predictable timeline for redetermination of base rates, and shall use Vermont labor market rates and Vermont costs of operation.

(d) The Secretary shall redetermine the payment rates for designated and specialized service agencies in accordance with this section at least annually and shall report those rates, and the amounts necessary to fund them, to the House Committees on Appropriations, on Human Services, and on Health Care and the Senate Committees on Appropriations and on Health and Welfare annually as part of the Agency's budget presentation.

Sec. 4. HOME- AND COMMUNITY-BASED SERVICE PROVIDER
RATE STUDY; REPORT

(a) The Department of Vermont Health Access, in collaboration with the Departments of Disabilities, Aging, and Independent Living, of Health, and of Mental Health, shall conduct a rate study of the Medicaid reimbursement rates paid to providers of home- and community-based services, as defined in 33 V.S.A. § 900, and providers of substance use disorder treatment services, including their adequacy and the methodologies underlying the rates. As part of the rate study, the Department of Vermont Health Access shall:

(1) delineate a reasonable and predictable schedule for Medicaid rates and rate updates;

(2) identify ways to align Medicaid reimbursement methodologies and rates for providers of home- and community-based services with those of other payers, to the extent such other methodologies and rates exist; and

(3) determine ways to limit the number of methodological exceptions.

(b) On or before January 15, 2022, the Department of Vermont Health Access, in collaboration with the Departments of Disabilities, Aging, and Independent Living, of Health, and of Mental Health, shall report the results of the rate study conducted pursuant to this section and their findings and recommendations to the House Committees on Human Services and on

Appropriations, the Senate Committees on Health and Welfare and on
Appropriations, and the Secretary of Human Services.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage, with the rules adopted by the Secretary
of Human Services pursuant to Secs. 2 (33 V.S.A. § 911) and 3 (18 V.S.A.
§ 8914) taking effect on or before July 1, 2022.