

**NEW YORK STATE OFFICE FOR THE AGING**

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Andrew M. Cuomo, Governor

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Corinda Crossdale, Director

<b>PROGRAM INSTRUCTION</b>	<b>Number 15-PI-19</b>
	<b>Supersedes 91-PI-11, 09-PI-02</b>
	<b>Expiration Date</b>

**DATE:** October 22, 2015

**TO:** Area Agency on Aging (AAA) Directors

**SUBJECT:** Change in EISEP and CSE Personal Care Rate Policy

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**RESPONSE DUE DATE:** Effective Immediately

**PURPOSE:**

The purpose of this Program Instruction is to inform Area Agencies on Aging (AAAs) of a change in the NYSOFA policy regarding personal care rates under the Expanded In-Home Services for the Elderly Program (EISEP) and Community Services for the Elderly (CSE) program for EISEP-like services. As of April 1, 2015, AAAs may choose to negotiate their Personal Care Level I and Level II (PC I & II) rates with home care providers and will no longer be required to keep rates at or below the Fee For Service (FFS) Medicaid rate.

**BACKGROUND:**

The types of In-home services and supports provided under EISEP and CSE EISEP-like are comparable to Medicaid Personal Care (PC) services. The main difference between services provided through EISEP and CSE EISEP-like funds and those provided through Medicaid funds is that, by statutory intent, EISEP and CSE EISEP-like

in home services are considered non-medical. Therefore, NYSOFA does not require the inclusion of certain medical components and related costs, which are included in the Medicaid Personal Care Program.

The intent of the original rate requirement was to maintain equal access to the supply of In-home services for both Medicaid, EISEP and CSE EISEP-like clients. Consequently, it was determined that EISEP PC I & II rates should be no higher than the comparable Medicaid Personal Care rates. As such, the EISEP In-home Services Rate policy was established and stated that the cost per unit of EISEP In-home services cannot exceed the cost per unit (hour) of the comparable service provided under the Medicaid Personal Care Program. Effective April 1, 1991 (91-PI-11), this requirement was also applied to EISEP-like In-home services that were funded under CSE. If an AAA chose to pay a subcontractor at a unit cost higher than the comparable Medicaid rate, they were required to use local, non-matching dollars to pay for the amount of the unit cost that exceeded the Medicaid rate.

The Health Care Reform Act of 2002 (HCRA 2002) provided additional Federal and State Medicaid funds to improve the recruitment and retention of personal care aides and nursing supervisors and assessors. These funds were distributed through an add-on to every unit of service provided to Medicaid clients by personal care aides and the nurses who supervised the aides and assessed the clients. In 2009, NYSOFA issued 09-PI-02, which allowed AAAs to pay up to the approved Medicaid rate, including the recruitment and retention add-on for In-Home services in order to continue to align the EISEP and CSE EISEP-like services with Medicaid.

Further, recent Medicaid reforms have resulted in Managed Long Term Care (MLTC) plans negotiating PC I & II rates directly with the service providers. Some AAAs may notice this change having an impact upon their ability to obtain personal care aides in a given service area. NYSOFA recognizes the challenges this new environment has created for AAAs in securing the PC I & II services needed.

This PI, 15-PI-19 changes the policy for EISEP and CSE EISEP-like Personal Care rates by removing the requirements previously set forth in the In-home Services Rate Policy. NYSOFA is providing the option and flexibility for the AAAs to negotiate PC I & II rates, which may exceed the annually approved Medicaid FFS rates. Note: The Medicaid FFS rates will still be available and updated annually on the Department of Health's website should AAAs choose to maintain their existing policy of staying at or below the approved Medicaid rate. These rates can be found at: [http://www.health.ny.gov/facilities/long\\_term\\_care/reimbursement/pcr](http://www.health.ny.gov/facilities/long_term_care/reimbursement/pcr)

**ACTION REQUESTED:**

There are no specific actions required for AAAs to proceed with negotiating PC rates at this time. As AAAs begin new procurement processes or enter into new contracts for PC services, they may exceed current Medicaid rates for those services if necessary, in

order to obtain the best services for their clients. AAAs must continue to follow all local procurement processes and requirements and ensure they contract for the best possible rates for PC services, as with any other service they provide. Area Agencies are encouraged to continue to review current approved Medicaid rates for their planning and service area as one possible benchmark for ensuring the cost of PC is reasonable.

AAAs should be aware that contracting for higher PC rates may result in providing fewer units of service and serving a smaller number of clients within the available funding levels and should analyze this impact when negotiating rates. AAAs must also be aware higher PC rates will have an impact on individuals paying a cost share.

If a rate change results in a significant increase or decrease in unit cost (20%), or units provided (20%), the AAA must explain the variance in Attachment C to their Four Year/Annual Implementation Plan or Budget Modification.

NYSOFA will, over time, revise its documents such as the Four Year/Annual Implementation Plan, Standard Assurances, Vouchering Procedures and Fiscal Assessment documents to reflect the elimination of the Medicaid Rate Cap policy.

Any questions or need for technical assistance should be directed to [EISEP@aging.ny.gov](mailto:EISEP@aging.ny.gov) .

<b>PROGRAMS AFFECTED:</b>	<input type="checkbox"/> Title III-B	<input type="checkbox"/> Title III-C-1	<input type="checkbox"/> Title III-C-2	
<input type="checkbox"/> Title III-D	<input type="checkbox"/> Title III-E	X CSE	<input type="checkbox"/> WIN	<input type="checkbox"/> Energy
X EISEP	<input type="checkbox"/> NSIP	<input type="checkbox"/> Title V	HIICAP	<input type="checkbox"/> LTCOP

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