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§7–306.3. IN EFFECT

// EFFECTIVE UNTIL CONTINGENCY MET PER CHAPTER 648 OF 2014 //

(a) (1) Beginning in fiscal 2014, the wage survey required under § 7–306.1 of this subtitle shall be submitted by a community provider in a format that:

(i) Meets the requirements of this subsection; and

(ii) Is approved by the Department.

(2) The wage survey shall:

(i) Allow the Department to accurately assess the level of wages and benefits paid by a community provider to direct support employees who provide services funded by the Administration;

(ii) At a minimum, include:

1. The starting wage and the average wage paid by the community provider to direct support employees;

2. The expenditures made annually by the community provider for direct support employee wages;

3. The costs and expenditures for mandatory and voluntary fringe benefits; and

4. The average tenure and turnover of direct support employees; and

(iii) Include an attestation by an independent certified public accountant that the data in the wage survey is accurate.

(3) At the request of the Department, a community provider shall make available to the Department individualized payroll information for each direct support employee of the community provider.

(b) (1) This subsection applies in fiscal 2015 and each fiscal year thereafter before the earlier of:

(i) The implementation of the payment system required under § 7–306.2 of this subtitle; or

(ii) The end of fiscal year 2019.

(2) The percentage of a community provider's total reported operating expenses, excluding interest on capital and other capital expenses, that is spent on direct support employee salaries, wages, and fringe benefits for a fiscal year, as reported to the Department by the provider in its fiscal year cost report data form, may not be less than the percentage of the community provider's total reported operating expenses spent on direct support employee salaries, wages, and fringe benefits for fiscal year 2014.

(3) If the Department determines that the proportion of a community provider's expenses for direct support employee salaries, wages, and fringe benefits for a fiscal year falls below the level required under paragraph (2) of this subsection, the Department shall notify the community provider of the determination in writing.

(4) A community provider shall have 45 days after receiving notice of the determination under paragraph (3) of this subsection to:

(i) Contest the determination;

(ii) Provide information to the Department demonstrating mitigating circumstances justifying the community provider's noncompliance with paragraph (2) of this subsection, which may include proof that the average wage paid to direct support employees by the community provider increased in proportion to the rate increase to the community provider for the fiscal year; or

(iii) Submit a plan of correction to the Department.

(5) The Department shall notify a community provider in writing of its final determination after affording the community provider the opportunity to contest the determination, demonstrate mitigating circumstances, or submit a plan of correction under paragraph (4) of this subsection.

(6) (i) The Department shall recoup funds from a community provider that have not been expended as required under paragraph (2) of this subsection through a reconciliation process if:

1. A community provider fails to respond to a determination of the Department within the time provided under paragraph (4) of this subsection;

2. The Department does not find mitigating circumstances; or

3. The Department does not accept a plan of correction submitted by the community provider.

(ii) The amount of funds recouped by the Department under this paragraph shall be the difference between the actual funds spent by the community provider on direct support employee salaries, wages, and fringe benefits during the fiscal year at issue and the amount of funds that the community provider was required to spend on direct support employee salaries, wages, and fringe benefits

under paragraph (2) of this subsection.

(7) The Department may contract with an independent consultant to implement this subsection.

(c) (1) On or before December 1, 2015, the Department shall submit, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the House Health and Government Operations Committee a report summarizing the range of total funding spent by community providers on direct support employee salaries, wages, and fringe benefits as a percentage of total reported operating expenses, excluding interest on capital and other expenses, for fiscal year 2014.

(2) The report required under this subsection shall include an analysis of data to explain any significant outliers in spending patterns among community providers.

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