

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0850.01 Jane Ritter x4342

HOUSE BILL 22-1247

HOUSE SPONSORSHIP

Herod and McCluskie, Ransom

SENATE SPONSORSHIP

Hansen and Rankin, Moreno

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING REQUIREMENTS FOR ADDITIONAL SUPPLEMENTAL
102 PAYMENTS FOR NURSING FACILITY PROVIDERS, AND, IN
103 CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. The bill directs the department of health care policy and financing (department) to do the following, with respect to nursing facility providers (nursing facilities):

- Issue additional supplemental payments as directed for the 2021-22 state fiscal year;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- Establish reporting and result tracking requirements necessary to administer additional supplemental funding;
- Pursue federal matching funds to reduce the state share of costs to the maximum amount possible; and
- Engage with stakeholders to produce a report including ways to improve methodology, practices regarding care and services to compassionate release individuals from the department of corrections, and funding for nursing facilities. The department shall submit the report to the joint budget committee and committees of the general assembly on or before November 1, 2022.

The bill grants the department authority to promulgate rules as necessary for implementation of the payments and their supporting requirements.

The supplemental payments and their supporting requirements are repealed, effective July 1, 2023.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-6-210 as
 3 follows:

4 **25.5-6-210. Additional supplemental payments - nursing**
 5 **facilities - funding methodology - reporting requirement - rules -**
 6 **repeal.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
 7 CONTRARY AND SUBJECT TO AVAILABLE APPROPRIATIONS, FOR THE
 8 PURPOSES OF REIMBURSING A MEDICAID-CERTIFIED CLASS I NURSING
 9 FACILITY PROVIDER, THE STATE DEPARTMENT MAY ISSUE ADDITIONAL
 10 SUPPLEMENTAL PAYMENTS AS FOLLOWS:

11 (a) FOR THE 2021-22 STATE FISCAL YEAR, FUNDS APPROPRIATED
 12 BY THE GENERAL ASSEMBLY ARE FOR THE PURPOSES OF SUPPORTING
 13 NURSING FACILITY PROVIDERS EXPERIENCING INCREASED STAFFING COSTS
 14 RESULTING FROM THE COVID-19 PANDEMIC, NURSING FACILITY
 15 PROVIDERS WITH HIGH MEDICAID UTILIZATION RATES, OR NURSING
 16 FACILITY PROVIDERS CURRENTLY SERVING INDIVIDUALS WITH COMPLEX

1 NEEDS.

2 (b) PAYMENTS MADE IN ADDITION TO THOSE SPECIFIED IN
3 SUBSECTION (1)(a) OF THIS SECTION MAY ALSO BE MADE TO NURSING
4 FACILITY PROVIDERS THAT ACCEPT NEW ADMISSIONS OF
5 MEDICAID-ENROLLMENT INDIVIDUALS WITH COMPLEX NEEDS.

6 (2) THE STATE DEPARTMENT SHALL ESTABLISH REPORTING AND
7 RESULT TRACKING REQUIREMENTS NECESSARY TO ADMINISTER THE
8 FUNDING OUTLINED IN THIS SECTION. THE STATE DEPARTMENT MAY DENY
9 OR RECOUP FUNDING FROM NURSING FACILITY PROVIDERS THAT ARE
10 NONCOMPLIANT WITH REPORTING REQUIREMENTS OR IF FUNDING IS USED
11 FOR PURPOSES OUTSIDE THE INTENT OF SUPPORTING AND STABILIZING
12 NURSING FACILITY PROVIDERS THAT ARE MEDICAID PROVIDERS.

13 (3) THE STATE DEPARTMENT SHALL EVALUATE PROVIDER
14 OUTCOMES, INCLUDING CHANGES IN CAPACITY, ASSOCIATED WITH THE
15 PAYMENT OF SUPPLEMENTAL MONEY TO NURSING FACILITY PROVIDERS.
16 THE STATE DEPARTMENT SHALL UTILIZE NURSING FACILITY PROVIDERS'
17 FINANCIAL STATEMENTS AND LABOR AND WAGE RECORDS TO EVALUATE
18 THE RESULTS OF PAYMENTS.

19 (4) (a) THE STATE DEPARTMENT SHALL PURSUE FEDERAL
20 MATCHING FUNDS. IF FEDERAL MATCHING FUNDS ARE UNAVAILABLE FOR
21 ANY REASON, PAYMENTS OUTLINED IN THIS SECTION MAY BE REDUCED OR
22 RESTRICTED, SUBJECT TO AVAILABLE FUNDING.

23 (b) FOR THE PURPOSES OF FEDERAL UPPER PAYMENT LIMIT
24 CALCULATIONS, THE STATE DEPARTMENT SHALL PURSUE FEDERAL
25 MATCHING FUNDS FOR PAYMENTS MADE PURSUANT TO THIS SECTION BUT
26 ONLY AFTER SECURING FEDERAL MATCHING FUNDS FOR PAYMENTS
27 OUTLINED IN SECTIONS 25.5-6-203 (2) AND 25.5-6-208.

1 (5) (a) SUPPLEMENTAL PAYMENTS MADE TO NURSING FACILITY
2 PROVIDERS PURSUANT TO THIS SECTION MUST BE DETERMINED BASED ON
3 THE MOST RECENT AVAILABLE DATA.

4 (b) PURSUANT TO RULES PROMULGATED BY THE STATE
5 DEPARTMENT, PAYMENTS RECEIVED PURSUANT TO THIS SECTION MUST
6 OFFSET COSTS REPORTED ON THE ANNUAL COST REPORT WHEN
7 CALCULATING NURSING FACILITY PROVIDER PER DIEM REIMBURSEMENT.

8 (6) TO RECEIVE AN ADDITIONAL PAYMENT PURSUANT TO
9 SUBSECTION (1)(b) OF THIS SECTION, A NURSING FACILITY PROVIDER
10 SHALL COMMIT TO ADDITIONAL RESPONSIBILITY BY WORKING TO
11 DISCHARGE MEDICAID MEMBERS FROM A HOSPITAL INTO THE NURSING
12 FACILITY, SERVE MEDICAID MEMBERS WITH BEHAVIORAL HEALTH NEEDS,
13 OR ACCEPT COMPASSIONATE RELEASE INDIVIDUALS FROM THE
14 DEPARTMENT OF CORRECTIONS.

15 (7) ON OR BEFORE NOVEMBER 1, 2022, THE STATE DEPARTMENT
16 SHALL ENGAGE WITH STAKEHOLDERS AND SUBMIT A REPORT AND
17 RECOMMENDATIONS TO THE JOINT BUDGET COMMITTEE, THE HEALTH AND
18 HUMAN SERVICES COMMITTEE OF THE SENATE, AND THE PUBLIC AND
19 BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
20 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, CONCERNING
21 SUGGESTED CHANGES FOR PERMANENTLY CHANGING MEDICAID NURSING
22 FACILITY PROVIDER REIMBURSEMENT POLICY IN COLORADO TO PRIORITIZE
23 QUALITY, SUSTAINABILITY, AND SOUND FISCAL STEWARDSHIP TO AVOID
24 FURTHER ONE-TIME CASH INFUSIONS. THE REPORT MUST INCLUDE
25 CHANGES THAT CAN BE MADE TO AFFIRM A NURSING FACILITY PROVIDER'S
26 COMMITMENT TO ACCOUNTABILITY AND MUST INCLUDE, AT A MINIMUM:

27 (a) INFECTION CONTROL AND CULTURE CHANGE PRACTICES,

1 INCLUDING:

2 (I) SINGLE OCCUPANCY ROOMS;

3 (II) SMALLER FACILITY MODELS; AND

4 (III) INNOVATIVE FACILITY MODELS;

5 (b) BEHAVIORAL HEALTH NEEDS;

6 (c) PRACTICES REGARDING INDIVIDUALS WHO HAVE COMPLEX

7 NEEDS REQUIRING HOSPITAL DISCHARGE;

8 (d) PRACTICES REGARDING CARE AND SERVICES TO

9 COMPASSIONATE RELEASE INDIVIDUALS FROM THE DEPARTMENT OF

10 CORRECTIONS;

11 (e) OPTIONS FOR DIVERSIFIED FUNDING STREAMS TO ENSURE

12 CONTINUITY OF SERVICES;

13 (f) COMPETITIVE STAFFING PRACTICES;

14 (g) THE TIMELINE AND COSTS ASSOCIATED WITH IMPLEMENTING

15 THE RECOMMENDED CHANGES, INCLUDING THE IMPACT ON NURSING

16 FACILITY PROVIDER RATES; AND

17 (h) IDENTIFICATION OF THE AMOUNT OF SUPPLEMENTAL PAYMENTS

18 TO EACH NURSING FACILITY PROVIDER AND THE OUTCOME EVALUATION

19 REQUIRED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

20 (8) THE STATE DEPARTMENT SHALL MEET WITH THE FOLLOWING

21 STAKEHOLDERS, AT A MINIMUM, TO SEEK INPUT ON ANY PROPOSED

22 REIMBURSEMENT METHODOLOGY CHANGES AND REPORT AS REQUIRED BY

23 THIS SECTION:

24 (a) A REPRESENTATIVE FROM AN URBAN NURSING FACILITY

25 PROVIDER;

26 (b) A REPRESENTATIVE FROM A RURAL NURSING FACILITY

27 PROVIDER;

1 (c) A REPRESENTATIVE FROM A NURSING FACILITY TRADE
2 ORGANIZATION;

3 (d) A REPRESENTATIVE FROM A NURSING FACILITY WITH A HIGH
4 MEDICAID UTILIZATION RATE; AND

5 (e) A REPRESENTATIVE FROM A NURSING FACILITY THAT SERVES
6 INDIVIDUALS WITH COMPLEX NEEDS.

7 (9) THE STATE BOARD SHALL PROMULGATE ANY RULES NECESSARY
8 TO IMPLEMENT THIS SECTION.

9 (10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

10 **SECTION 2. Appropriation.** (1) For the 2021-22 state fiscal
11 year, \$17,000,500 is appropriated to the department of health care policy
12 and financing for use by medical services premiums. This appropriation
13 is from the general fund and is subject to the "(M)" notation as defined in
14 the annual general appropriation act for the same fiscal year. To
15 implement this act, the department may use this appropriation for medical
16 and long-term care services for Medicaid-eligible individuals.

17 (2) For the 2021-22 state fiscal year, the general assembly
18 anticipates that the department of health care policy and financing will
19 receive \$10,000,500 in federal funds to implement this act. The
20 appropriation in subsection (1) of this section is based on the assumption
21 that the department will receive this amount of federal funds to be used
22 for medical and long-term care services for Medicaid-eligible individuals.

23 (3) Any money appropriated in subsection (1) of this section not
24 expended prior to July 1, 2022, is further appropriated to the department
25 for the 2022-23 state fiscal year for the same purpose.

26 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.