

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0917.01 Brita Darling x2241

SENATE BILL 21-214

SENATE SPONSORSHIP

Hansen, Moreno, Rankin

HOUSE SPONSORSHIP

McCluskie, Herod, Ransom

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING STATE PAYMENTS TO LICENSED HOSPICE FACILITIES FOR**
102 **RESIDENTIAL CARE PROVIDED TO CERTAIN PERSONS ENROLLED**
103 **IN THE MEDICAL ASSISTANCE PROGRAM, AND, IN CONNECTION**
104 **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 authorizes a state payment to qualified hospice providers, as defined in the bill, that provide hospice services in a licensed hospice facility to persons enrolled in the medical

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.

assistance program who are eligible for care in a nursing facility but who are unable to secure a bed in a nursing facility due to the presence of COVID-19 in the state or for other reasons described in the bill. The eligible patient, as defined in the bill, must have a hospice diagnosis. The state payment to a qualified hospice provider is limited to not more than 28 days for each eligible patient.

The qualified hospice provider must provide residential services to an eligible patient during the fourth quarter of the 2020-21 fiscal year or during the 2021-22 fiscal year.

The state payment is an amount equal to one-half of the statewide average per diem rate for nursing facilities. State payments are limited to appropriations for this purpose.

The department of health care policy and financing shall administer the state payment and shall seek input from qualified hospice providers concerning the administration of the payment and the allocation of available appropriations.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-4-424 as
3 follows:

4 **25.5-4-424. State payments to qualified hospice providers -**
5 **dually eligible persons - no federal financial participation - rules -**
6 **legislative declaration - definitions - repeal.** (1) THE GENERAL
7 ASSEMBLY FINDS AND DECLARES THAT AS A RESULT OF THE PRESENCE OF
8 THE COVID-19 VIRUS IN THE STATE AND OTHER CIRCUMSTANCES,
9 ELIGIBLE PATIENTS IN NEED OF A NURSING-FACILITY LEVEL OF CARE WHO
10 ARE IN THEIR FINAL WEEKS OF LIFE MAY NOT BE ABLE TO FIND AN
11 APPROPRIATE PLACEMENT IN A NURSING FACILITY WHERE THEY CAN
12 RECEIVE HOSPICE CARE. WITHOUT AN AVAILABLE OR APPROPRIATE
13 NURSING FACILITY BED, HOSPICE PROVIDERS HAVE MADE RESIDENTIAL
14 HOSPICE BEDS AVAILABLE TO THESE ELIGIBLE PATIENTS DESPITE
15 RECEIVING ONLY REIMBURSEMENT UNDER THE FEDERAL MEDICARE
16 PROGRAM FOR HOSPICE SERVICES BUT NOT FOR EXPENSES RELATED TO

1 ROOM AND BOARD. THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
2 IT IS APPROPRIATE TO MAKE AVAILABLE TO THESE QUALIFIED HOSPICE
3 PROVIDERS FOR A LIMITED PERIOD OF TIME A STATE PAYMENT THAT IS
4 EQUAL TO THE STATE SHARE OF FUNDING UNDER THE MEDICAL
5 ASSISTANCE PROGRAM THAT WOULD OTHERWISE BE PAID TO A NURSING
6 FACILITY IF THE NURSING FACILITY WERE ABLE TO PROVIDE A RESIDENTIAL
7 BED FOR AN ELIGIBLE PATIENT.

8 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "ELIGIBLE PATIENT" MEANS A PERSON WHO IS ENROLLED IN THE
11 MEDICAL ASSISTANCE PROGRAM AT THE TIME THE SERVICE IS PROVIDED
12 AND WHO:

13 (I) IS ELIGIBLE UNDER THE MEDICAL ASSISTANCE PROGRAM FOR
14 CARE IN A NURSING FACILITY AT THE TIME THE SERVICE IS PROVIDED;

15 (II) HAS A HOSPICE DIAGNOSIS; AND

16 (III) DESPITE ATTEMPTS TO SECURE A BED, IS UNABLE TO SECURE
17 A MEDICAID BED IN A NURSING FACILITY DUE TO COVID-19 IMPACTS,
18 COMPLEXITY OF MEDICAL CARE, BEHAVIORAL HEALTH ISSUES, OR OTHER
19 ISSUES AS DETERMINED BY THE STATE DEPARTMENT.

20 (b) "QUALIFIED HOSPICE PROVIDER" MEANS A HOSPICE PROVIDER
21 THAT:

22 (I) HAS BEEN CONTINUOUSLY ENROLLED WITH THE STATE
23 DEPARTMENT SINCE AT LEAST JANUARY 1, 2021;

24 (II) PROVIDED HOSPICE SERVICES TO THE ELIGIBLE PATIENT IN A
25 LICENSED HOSPICE FACILITY DURING THE PERIOD BEGINNING IN THE LAST
26 QUARTER OF THE 2020-21 STATE FISCAL YEAR THROUGH THE 2021-22
27 STATE FISCAL YEAR; AND

1 (III) COMPLIES WITH ANY BILLING OR ADMINISTRATIVE REQUESTS
2 OF THE STATE DEPARTMENT FOR PURPOSES OF DETERMINING ELIGIBILITY
3 FOR AND ADMINISTERING THE STATE PAYMENT.

4 (3) (a) WITHIN EXISTING APPROPRIATIONS FOR PURPOSES OF THIS
5 SECTION, THE STATE DEPARTMENT SHALL DISTRIBUTE A STATE PAYMENT
6 EQUAL TO ONE-HALF OF THE STATEWIDE AVERAGE PER DIEM RATE, AS
7 DEFINED IN SECTION 25.5-6-201, TO QUALIFIED HOSPICE PROVIDERS WHO
8 PROVIDE HOSPICE CARE IN A LICENSED HOSPICE FACILITY TO AN ELIGIBLE
9 PATIENT. THE STATE PAYMENT TO A QUALIFIED HOSPICE PROVIDER
10 PURSUANT TO THIS SECTION IS LIMITED TO NOT MORE THAN TWENTY-EIGHT
11 DAYS PER ELIGIBLE PATIENT. A QUALIFIED HOSPICE PROVIDER IS NOT
12 ENTITLED TO A STATE PAYMENT FOR AN ELIGIBLE PATIENT, AND THE STATE
13 DEPARTMENT SHALL NOT MAKE ANY STATE PAYMENTS AFTER
14 APPROPRIATIONS ARE EXHAUSTED.

15 (b) THE STATE DEPARTMENT SHALL SEEK INPUT FROM QUALIFIED
16 HOSPICE PROVIDERS CONCERNING THE IMPLEMENTATION OF THIS SECTION,
17 INCLUDING HOW TO CONFIRM ELIGIBILITY FOR THE STATE PAYMENT, HOW
18 TO BILL FOR AND DISTRIBUTE THE STATE PAYMENT, HOW TO NOTIFY
19 QUALIFIED HOSPICE PROVIDERS WHEN STATE APPROPRIATIONS ARE
20 EXHAUSTED, AND WHETHER TO ALLOCATE OR APPORTION STATE
21 APPROPRIATIONS OVER A GEOGRAPHIC AREA OR OVER THE DURATION OF
22 THE STATE PAYMENT PERIOD TO ENSURE THAT RESIDENTIAL BEDS ARE
23 AVAILABLE FOR ELIGIBLE PATIENTS WHERE NEEDED OR FOR THE DURATION
24 OF THE STATE PAYMENT PERIOD.

25 (4) THE STATE BOARD MAY ADOPT ANY RULES NECESSARY TO
26 IMPLEMENT THIS SECTION.

27 (5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2022.

1 **SECTION 2. Appropriation.** For the 2020-21 state fiscal year,
2 \$684,000 is appropriated to the department of health care policy and
3 financing. This appropriation is from the general fund. To implement this
4 act, the department may use this appropriation for payments to qualified
5 providers pursuant to section 25.5-4-424 (3), C.R.S. Any money
6 appropriated in this section that is not expended prior to July 1, 2021, is
7 further appropriated to the department for the 2021-22 state fiscal year for
8 the same purpose.

9 **SECTION 3. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety.