

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 22-0850.01 Jane Ritter x4342

HOUSE BILL 22-1247

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Public & Behavioral Health & Human Services
Appropriations

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/>.)

HOUSE
3rd Reading Unamended
March 17, 2022

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;

HOUSE
Amended 2nd Reading
March 16, 2022

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The supplemental payments and their supporting requirements are repealed, effective July 1, 2023.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 **SHALL** ISSUE ADDITIONAL
10 SUPPLEMENTAL PAYMENTS **TO NURSING FACILITY PROVIDERS THAT MEET**
11 **THE REQUIREMENTS OUTLINED IN THIS SECTION AND THE STATE**
12 **DEPARTMENT'S SUBSEQUENT REGULATION AS FOLLOWS:**

13 (a) FOR THE 2021-22 STATE FISCAL YEAR, FUNDS APPROPRIATED
14 BY THE GENERAL ASSEMBLY ARE FOR THE PURPOSES OF SUPPORTING
15 NURSING FACILITY PROVIDERS EXPERIENCING INCREASED STAFFING COSTS
16 RESULTING FROM THE COVID-19 PANDEMIC, NURSING FACILITY

1 PROVIDERS WITH HIGH MEDICAID UTILIZATION RATES, OR NURSING
2 FACILITY PROVIDERS CURRENTLY SERVING INDIVIDUALS WITH COMPLEX
3 NEEDS.

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

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

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

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

25 (b) FOR THE PURPOSES OF FEDERAL UPPER PAYMENT LIMIT
26 CALCULATIONS, THE STATE DEPARTMENT SHALL PURSUE FEDERAL
27 MATCHING FUNDS FOR PAYMENTS MADE PURSUANT TO THIS SECTION BUT

1 ONLY AFTER SECURING FEDERAL MATCHING FUNDS FOR PAYMENTS
2 OUTLINED IN SECTIONS 25.5-6-203 (2) AND 25.5-6-208.

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

6 (b) PURSUANT TO RULES PROMULGATED BY THE STATE
7 DEPARTMENT, PAYMENTS RECEIVED PURSUANT TO THIS SECTION MUST ~~BE~~
8 ~~REPORTED AS REVENUE ON THE ANNUAL COST REPORT WHEN~~
9 ~~CALCULATING NURSING FACILITY PROVIDER PER DIEM REIMBURSEMENT AS~~
10 ~~DIRECTED BY THE STATE DEPARTMENT.~~

11 (6) TO RECEIVE AN ADDITIONAL PAYMENT PURSUANT TO
12 SUBSECTION (1)(b) OF THIS SECTION, A NURSING FACILITY PROVIDER
13 ~~SHALL WORK WITH A HOSPITAL TO FACILITATE THE TIMELY DISCHARGE OF~~
14 ~~MEDICAID MEMBERS FROM THE HOSPITAL INTO THE NURSING FACILITY,~~
15 ~~SERVE MEDICAID MEMBERS WITH COMPLEX NEEDS, OR ACCEPT~~
16 ~~COMPASSIONATE RELEASE INDIVIDUALS FROM THE DEPARTMENT OF~~
17 ~~CORRECTIONS.~~

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

1 CHANGES THAT CAN BE MADE TO AFFIRM A NURSING FACILITY PROVIDER'S
2 COMMITMENT TO ACCOUNTABILITY AND MUST INCLUDE, AT A MINIMUM:

3 (a) INFECTION CONTROL AND CULTURE CHANGE PRACTICES,
4 INCLUDING:

5 (I) SINGLE OCCUPANCY ROOMS;
6 (II) SMALLER FACILITY MODELS; AND
7 (III) INNOVATIVE FACILITY MODELS;

8 (b) BEHAVIORAL HEALTH NEEDS;
9 (c) PRACTICES REGARDING INDIVIDUALS WHO HAVE COMPLEX
10 NEEDS REQUIRING HOSPITAL DISCHARGE;

11 (d) PRACTICES REGARDING CARE AND SERVICES TO
12 COMPASSIONATE RELEASE INDIVIDUALS FROM THE DEPARTMENT OF
13 CORRECTIONS;

14 (e) OPTIONS FOR DIVERSIFIED FUNDING STREAMS TO ENSURE
15 CONTINUITY OF SERVICES;

16 (f) COMPETITIVE STAFFING PRACTICES;

17 (g) THE TIMELINE AND COSTS ASSOCIATED WITH IMPLEMENTING
18 THE RECOMMENDED CHANGES, INCLUDING THE IMPACT ON NURSING
19 FACILITY PROVIDER RATES; AND

20 (h) IDENTIFICATION OF THE AMOUNT OF SUPPLEMENTAL PAYMENTS
21 TO EACH NURSING FACILITY PROVIDER AND THE OUTCOME EVALUATION
22 REQUIRED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

23 (8) THE STATE DEPARTMENT SHALL MEET WITH THE FOLLOWING
24 STAKEHOLDERS, AT A MINIMUM, TO SEEK INPUT ON ANY PROPOSED
25 REIMBURSEMENT METHODOLOGY CHANGES AND REPORT AS REQUIRED BY
26 THIS SECTION:

27 (a) A REPRESENTATIVE FROM AN URBAN NURSING FACILITY

1 PROVIDER;

2 (b) A REPRESENTATIVE FROM A RURAL NURSING FACILITY

3 PROVIDER;

4 (c) A REPRESENTATIVE FROM A NURSING FACILITY TRADE

5 ORGANIZATION;

6 (d) A REPRESENTATIVE FROM A NURSING FACILITY WITH A HIGH

7 MEDICAID UTILIZATION RATE; AND

8 (e) A REPRESENTATIVE FROM A NURSING FACILITY THAT SERVES

9 INDIVIDUALS WITH COMPLEX NEEDS.

10 (9) THE STATE BOARD SHALL PROMULGATE ANY RULES NECESSARY

11 TO IMPLEMENT THIS SECTION.

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

13 **SECTION 2. Appropriation.** (1) For the 2021-22 state fiscal

14 year, \$17,000,500 is appropriated to the department of health care policy

15 and financing for use by medical services premiums. This appropriation

16 is from the general fund and is subject to the "(M)" notation as defined in

17 the annual general appropriation act for the same fiscal year. To

18 implement this act, the department may use this appropriation for medical

19 and long-term care services for Medicaid-eligible individuals.

20 (2) For the 2021-22 state fiscal year, the general assembly

21 anticipates that the department of health care policy and financing will

22 receive \$10,000,500 in federal funds to implement this act. The

23 appropriation in subsection (1) of this section is based on the assumption

24 that the department will receive this amount of federal funds to be used

25 for medical and long-term care services for Medicaid-eligible individuals.

26 (3) Any money appropriated in subsection (1) of this section not

27 expended prior to July 1, 2022, is further appropriated to the department

1 for the 2022-23 state fiscal year for the same purpose.

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