# HB 23-1228

Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# Revised Fiscal Note

(replaces fiscal note dated March 16, 2023)

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|---|---|---|---|
| **Drafting Number:** | LLS 23-0700 | **Date:** | March 30, 2023 |
| **Prime Sponsors:** | Rep. McCluskie; Willford<br>Sen. Zenzinger | **Bill Status:** | House Finance |
| | | **Fiscal Analyst:** | Kristine McLaughlin \| 303-866-4776<br>kristine.mclaughlin@coleg.gov |

**Bill Topic:** **NURSING FACILITY REIMBURSEMENT RATE SETTING**

**Summary of Fiscal Impact:**

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

The bill makes several changes to the Medicaid nursing facility reimbursement rate setting process. The bill increases state revenue and expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2023-24, the bill requires an appropriation of $62,264,197 to the Department of Health Care Policy and Financing

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1**
**State Fiscal Impacts Under HB 23-1228**

| | | Budget Year FY 2023-24 | Out Year FY 2024-25 | Out Year FY 2025-26 |
|---|---|---|---|---|
| **Revenue** | Cash Funds | $555,831 | $572,506 | $454,733 |
| | **Total Revenue** | **$555,831** | **$572,506** | **$454,733** |
| **Expenditures** | General Fund | $30,509,457 | $34,475,152 | $29,866,943 |
| | Federal Funds | $31,754,740 | $34,475,152 | $29,866,942 |
| | **Total Expenditures** | **$62,264,197** | **$68,950,304** | **$59,733,885** |
| **Transfer** | | - | - | - |
| **Other Budget Impacts** | General Fund Reserve | $4,576,419 | $5,171,273 | $4,480,041 |

## Summary of Legislation

The bill makes several changes to the Medicaid nursing facility core per diem reimbursement rates and the Medicaid nursing facility supplemental payments. It also requires an independent accountant to annually audit facilities' financial statements. It repeals the requirement that HCPF exempt certain facilities from the provider fee effective July 1, 2026.

**Core per diem reimbursement rates.** Under current law, the reimbursement rate increases by 3 percent annually. The bill repeals this requirement, and instead requires the rate to increase as follows:

- 10 percent in FY 2023-24;
- 3 percent in FY 2024-25;
- 1.5 percent in FY 2025-26; and
- by a rate determined by HCPF in subsequent years.

HCPF must report annually to the Joint Budget Committee on its plan for further rate increases, and it must remove Medicare costs from the provider rate setting by July 1, 2026.

**Supplemental payments.** The bill establishes a minimum nursing facility supplemental payment rate and requires HCPF to adjust the rate annually. The bill creates a new supplemental payment for facilities with disproportionately high Medicaid utilization, that are geographically critical to ensuring access to care, and that admit individuals who have been compassionately released from the Department of Corrections.

## State Revenue

Raising the reimbursement rate increases state revenue to the Central Fund for Veterans Community Living Centers (VCLCs), which are operated by the Department of Human Services, by the amounts shown in Table 2. Allowing HCPF to collect a provider fee from more facilities may increase state revenue to HCPF. These impacts are detailed further below.

**Table 2**
**Revenue Under HB 23-1228**

| VCLC Facility | FY 2023-24 | FY 2024-25 | FY 2025-26 |
|---|---|---|---|
| Fitzsimons | $47,722 | $49,153 | $39,042 |
| Florence | $239,968 | $247,167 | $196,322 |
| Homelake | $119,026 | $122,597 | $97,377 |
| Rifle | $149,114 | $153,588 | $121,993 |
| **Total** | **$555,831** | **$572,506** | **$454,733** |

**Department of Human Services.** The Department of Human Services owns and operates four Veterans Community Living Centers that receive reimbursement payments from HCPF. Based on the current rates for the four facilities, and the currently mandated 3 percent annual rate increase, the new requirements are expected to have the revenue impact detailed in Table 2. Revenue may vary from this estimate due to varying payment timelines. This revenue is not subject to TABOR.

**Department of Health Care Policy and Financing.** HCPF may collect more revenue in nursing facility provider fees starting July 1, 2026. Any changes will be accounted for through the annual budget process.

## State Expenditures

The bill increases state expenditures in HCPF by $62.3 million in FY 2023-24, $69.0 million in FY 2024-25, and $59.7 million in FY 2025-26. Costs are shared, roughly equally, between the General Fund and federal funds. Expenditures are shown in Table 3 and detailed below.

**Table 3**
**Expenditures Under HB 23-1228**

| | FY 2023-24 | FY 2024-25 | FY 2025-26 |
|---|---|---|---|
| **Department of Health Care Policy and Financing** | | | |
| Core Per Diem Rate Increase Impact | $42,941,017 | $48,901,099 | $39,684,680 |
| New Supplemental Payment Cost | $19,323,180 | $20,049,205 | $20,049,205 |
| **Total** | **$62,264,197** | **$68,950,304** | **$59,733,885** |

### Changes to Core Per Diem Rate

**Core per diem rate increase.** Under current law, the nursing facility core per diem rate increases by 3 percent annually. Under the new requirements, accounting for annual compounding and timing of payments, the net increase is about 6 percent in FY 2023-24, 7 percent in FY 2024-25, and 5 percent in FY 2025-26.

**Medicare cost adjustment**. Currently, nursing facilities can report costs that have already been reimbursed by Medicare for Medicaid reimbursement. The bill requires HCPF to remove these costs from the rate calculation by July 1, 2026. However, due to complications from funding sources, nursing facilities are not currently being reimbursed for their full costs. Thus, this reduction in reimbursement eligible costs is not expected to result in a lower total payment.

**Rate growth plan.** HCPF can absorb the costs of engaging with stakeholders to develop a rate growth plan and produce the corresponding reports. Any appropriations necessary for further development or plan implementation will be requested through the annual budget process.

### Changes to Supplemental Payments

**New supplemental payment cost.** Approximately 9,000 Medicaid clients reside in nursing facilities with 85 percent or more Medicaid clients. Under the new supplemental payment, it is assumed that these facilities will be eligible for an additional $10 per client per day. Approximately 4,000 Medicaid clients reside in nursing facilities with between 75 percent and 85 percent Medicaid clients. Under the new supplemental payment, it is assumed that these facilities will be eligible for an additional $5 per client per day.

It is assumed that facilities will only be eligible for one additional payment regardless of how many criteria for the supplemental payment they meet. It is further assumed that most of the facilities that are geographically critical or admit individuals who have been compassionately released, have a disproportionately high Medicaid utilization. The state share of this new supplemental payment will be funded through the General Fund instead of through provider fees.

**Current supplemental payment minimum rate and annual adjustment.** Workload in HCPF will minimally increase to recalculate the current supplemental payment in accordance with the new requirements. This will not impact the total amount paid because HCPF is required to fund this payment from an established nursing facility provider fee (and the corresponding federal match) and this fund is at capacity. Payments may shift between providers are a result of the new requirement.

**Wage-based supplemental payment repeal.** The bill repeals the wage based supplemental payment effective July 1, 2026. It is assumed that HCPF still has the authority to make the payment through the Long Bill appropriation.

### Other Changes

**Facility audit.** It is assumed that the nursing facilities will incur the costs of an independent accountant to annually audit their financial statements.

**Provider fee exemption repeal.** This provider fee exemption repeal may result in increased revenue as discussed in the revenue section. If it does, the will result in increased payments to nursing facilities as the current revenue is not sufficient to cover nursing facility costs.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

For FY 2023-24, the bill requires an appropriation of $62,264,197 to the Department of Health Care Policy and Financing. Of this amount, $30,509,457 is from the General Fund and $31,754,740 is from federal funds.

## State and Local Government Contacts

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|---|---|---|
| Health Care Policy and Financing | Human Services | Information Technology |
| Public Health and Environment | Law | |