



May 22, 2025

VIA E-MAIL

Colorado Department of Health Care Policy & Financing
303 East 17th Avenue, 11th Floor
Denver, CO 80203

Medical Services Board
Colorado Department of Health Care Policy & Financing
303 East 17th Avenue, 11th Floor
Denver, CO 80203

Colorado Healthcare Affordability and Sustainability Enterprise Board
303 E. 17th Avenue
Denver, CO 80203

RE: CHASE Program Categorization

Dear HCPF and Members of the CHASE and Medical Services Boards:

Last year, University of Colorado Health (“UCHealth”) notified both the Colorado Healthcare Affordability and Sustainability Enterprise (“CHASE”) Board and the Medical Services Board (“MSB”) about its efforts and discussions with the Colorado Department of Health Care Policy & Financing (“HCPF”) to address the incorrect categorizations of Memorial Hospital (“Memorial”) and Poudre Valley Hospital (“PVH”) within the CHASE program model. UCHealth submitted letters expressing its concerns on this topic to the CHASE Board and the MSB on May 31, 2024, and June 11, 2024, respectively, and a representative of UCHealth testified before the CHASE Board on June 3, 2024, and the MSB on June 14, 2024.

Through these written submissions and testimony, UCHHealth alerted HCPF, the CHASE Board, and MSB that Memorial and PVH were incorrectly categorized as “Non-State government-owned or operated” under the proposed CHASE program for the fiscal year then under review, and should instead have been categorized as “Privately-owned and operated,” consistent with applicable federal regulations, *see* 42 CFR §§ 447.272(a), 447.321(a), as well as related Colorado statutes and regulations, *see* C.R.S. 25.5-4-402.4; 10 CCR § 2505-10 8.3000.

Despite being notified of these concerns several times throughout last year's rulemaking process, the MSB approved a final rule in August 2024 adopting HCPF's erroneous categorizations. Therefore, Memorial and PVH were required to seek judicial review of that final rule in Denver District Court, Case No. 2024CV32363, to preserve the right to be correctly categorized for purposes of last year's rule and future CHASE models and related rulemaking.

On May 16, 2025, after receiving extensive briefing and conducting a half-day hearing, the district court issued the attached Order. The Order concludes, as UCHealth previously explained

in its written submissions and testimony during last year’s rulemaking, that Memorial and PVH have been incorrectly categorized. The court therefore ordered that this mis-categorization be corrected.

Specifically, the Order contains the following key conclusions:

- In assessing ownership of a “facility” under the federal regulations, the determinative question is “who owns the institution providing medical care.” “[W]ho owns the physical land and buildings” is not relevant because “CMS does not view a facility as a parcel of land or a building, but instead an ‘institution’ which provides health care services.”
- The lease agreements for PVH and Memorial show that the Hospitals are privately owned because they “retain ownership of Memorial and PVH’s business of providing medical services and assumed the ultimate liability for their operations.”
- Because ultimate liability for the operations of the facilities lies with Memorial and PVH, and not local government entities, this further demonstrates that they are private.
- Because private entities “are the sole owners and operators of Memorial and PVH,” this means “Memorial and PVH were incorrectly categorized as ‘non-state government owned or operated’ and should have instead been properly categorized as ‘privately owned and operated.’”
- The court’s conclusions are “dispositive of the dispute in this matter.”
- The court “REVERSE[D] the implementation of MSB’s Final Rule”—namely, last year’s CHASE model and the rule that implements it—and ordered HCPF and MSB to recategorize the two hospitals to comply with the law.

We write to ensure your awareness of the court’s ruling so that appropriate steps can be taken to correct last year’s CHASE model and ensure that the FY 2024-25 CHASE model complies with the relevant laws and regulations. We raise this year’s model specifically because the version currently under consideration and on the agenda for the MSB’s upcoming June 13 meeting adopts the erroneous prior categorizations of PVH and Memorial that the court recently ruled were legally incorrect. As the court’s order makes clear, those erroneous categorizations must be corrected in the CHASE model under consideration for the current fiscal year and retroactively for last year’s model.

UCHealth’s goal throughout the discussions and submissions on this topic, as well as the litigation, has been to protect the integrity of Colorado’s CHASE program and to promote complete transparency in the process of public review, discussion, and ultimate adoption of the CHASE model for each fiscal year. Complying with federal law is key to protecting the program’s integrity and ensuring Colorado’s continued ability to receive federal Medicaid funds. UCHealth looks forward to your compliance with the court’s ruling and federal law and encourages public transparency in doing so.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jacki Cooper Melmed", followed by a long horizontal flourish line.

Jacki Cooper Melmed
Chief Legal Officer