

Title of Rule: Revision to the Medical Assistance Rules concerning Revision to the Medical Assistance Rules concerning Skilled Nursing Facility Enhanced Supplemental Payments, Section 8.443  
Rule Number: MSB 22-02-16-A  
Division / Contact / Phone: Special Financing / Jeff Wittreich / 2456

## STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

House Bill (H.B) 22-1247 authorizes the State to reimburse skilled nursing homes a one-time Medicaid enhanced payment, workforce enhanced payment, and hospital discharge payment. The Medicaid enhanced payment will pay nursing homes for serving a disproportionate share of Medicaid and high-needs populations. The workforce enhanced payment will pay nursing homes to support hiring new employees and increasing workforce retention. The hospital discharge payment will pay nursing homes to incentivize admitting new Medicaid members from hospitals. The proposed rule change establishes the reimbursement calculation methodology for the three payments. The proposed rule change also establishes the requirement for nursing homes to provide data and financial statements to evaluate the effectiveness of the different payments.

2. An emergency rule-making is imperatively necessary

to comply with state or federal law or federal regulation and/or  
 for the preservation of public health, safety and welfare.

Explain:

H.B. 22-1247 requires the payments to be made to nursing homes in SFY 2021-22, if possible. This is necessary to get funding to nursing homes now to help address identified staffing issues and other issues due to the COVID-19 pandemic.

3. Federal authority for the Rule, if any:

42 CFR 433.68 and 42 U.S.C. § 1396b(w)

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021);

25.5-4-402.4(4)(b), (g), C.R.S.

Initial Review  
Proposed Effective Date

**04/08/22**

Final Adoption  
Emergency Adoption

**04/08/22**  
**DOCUMENT #16**

Title of Rule: Revision to the Medical Assistance Rules concerning Revision to the Medical Assistance Rules concerning Skilled Nursing Facility Enhanced Supplemental Payments, Section 8.443

Rule Number: MSB 22-02-16-A

Division / Contact / Phone: Special Financing / Jeff Wittreich / 2456

## **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Nursing homes will benefit from the proposed rule change with additional payments made to address identified staffing and other COVID 19 pandemic driven issues. Approximately 190 nursing homes are eligible to receive a portion of the available payments. The state and federal governments will bear the cost of the proposed rule change by funding the payments made to nursing homes.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

An additional \$27 million will be paid to nursing homes with this proposed rule change. The Medicaid enhanced payment will equal \$7 million, the workforce enhanced payment will equal \$17.6 million, and the hospital discharge payment will equal \$2.4 million.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The state funding obligation is approximately \$14 million. Additional costs include increased administration burden on Department staff to make the payments and to collect employment data and financial statements from nursing homes to analyze the effectiveness of the payments.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The benefits of the proposed rule change include additional reimbursement to nursing homes to address staffing and other COVID-19 pandemic driven issues. The costs of the proposed rule change are a \$14 million state funding obligation and an increased state administrative burden required to make the payments without additional resources.

The costs of inaction include not being compliant with state statute and not reimbursing nursing homes additional funds necessary to address staffing issues currently experienced by nursing homes.

Title of Rule: Revision to the Medical Assistance Rules concerning Revision to the Medical Assistance Rules concerning Skilled Nursing Facility Enhanced Supplemental Payments, Section 8.443

Rule Number: MSB 22-02-16-A

Division / Contact / Phone: Special Financing / Jeff Wittreich / 2456

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

No other methods are available to achieve the purpose of the proposed rule.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

No other alternatives to rule making are available.

1 **8.443 NURSING FACILITY REIMBURSEMENT**

2  
3  
4  
5 **8.443.22 SKILLED NURSING FACILITY ENHANCED PAYMENTS**

6 **8.443.22.A** The Department will make one-time payments to eligible Class 1 nursing facility  
7 providers, pursuant to C.R.S. § 25.5-6-210. **The one-time payments will take effect only upon the**  
8 **passage and effective date of House Bill (H.B.) 22-1247.** The payments are separated into a  
9 Medicaid enhanced payment, a workforce enhanced payment, and a hospital discharge payment.

10 1. The Medicaid enhanced payment will pay nursing facility providers for serving a  
11 disproportionate share of Medicaid and high-need populations.

12 a. The payment will equal \$7,000,000, divided by the number of eligible nursing  
13 facility providers. Eligible nursing facility providers will meet all the following  
14 criteria:

15 i. Medicaid resident count is equal to or greater than 90% of total resident  
16 count. Medicaid resident count and total resident count determined using  
17 the most recently finalized quarterly case mix index (CMI) report.

18 ii. Preadmission Screening & Resident Review (PASRR) II Medicaid  
19 resident count is greater than the statewide average PASRR II Medicaid  
20 resident count, plus one standard deviation. PASRR II Medicaid resident  
21 count determined using the most recently completed comprehensive  
22 minimum data set (MDS) resident assessment for calendar year 2021.

23 2. The workforce enhanced payment will pay nursing facility providers to support hiring new  
24 employees and increase workforce retention.

25 a. The payment will equal \$17,588,000, multiplied by the percentage of Medicaid  
26 patient days to total statewide Medicaid patient days.

27 b. Medicaid patient days are determined using MMIS pulled data for calendar year  
28 2021.

29 c. The payment will be reported as revenue and offset against expenses on the  
30 cost report, for the cost reporting period in which the payment is received.

31 3. The hospital discharge payment will pay nursing facility providers to incentivize admitting  
32 Medicaid members from hospitals.

33 a. The payment will equal a per-Medicaid discharge rate, multiplied by hospital  
34 Medicaid residents discharged to a nursing home provider.

35 i. The per-Medicaid discharge rate will equal an amount such that the total  
36 hospital discharge payment made to all nursing facility providers will

- 1                                   equal \$2,413,000. The per-Medicaid discharge rate for complex  
2                                   discharges will be increased by a multiplier.
  
- 3                                   ii. Medicaid discharges are equal to Medicaid residents discharged from a  
4                                   hospital to a nursing facility provider during the period May 1, 2022  
5                                   through June 30, 2022 and remaining within the nursing facility provider  
6                                   for at least sixty (60) calendar days. Both Medicaid discharges and  
7                                   length-of-stay will be determined using MMIS pulled data.
  
- 8                                   iii. A complex discharge is a discharge for a Medicaid resident with a  
9                                   PASRR II designation and/or a Medicaid resident deemed too difficult to  
10                                   place.
  
- 11                                   iv. The PASRR II designation will be determined using the most recently  
12                                   completed comprehensive MDS resident assessment during the period  
13                                   July 1, 2021 through June 30, 2022.
  
- 14                                   4. The payments will only be made if there is available federal financial participation under  
15                                   the Upper Payment Limit after all other nursing facility provider MMIS and supplemental  
16                                   payments are considered.
  
- 17                                   5. Nursing facility providers will provide data necessary to administer and to evaluate the  
18                                   effectiveness of the payments.
  
- 19                                   a. Nursing facility providers will provide:
  
- 20                                    i. Employment and wage data within thirty (30) calendar days of request.
  
- 21                                    ii. Quarterly financial statements will be due within thirty (30) calendar days  
22                                    of quarter end. Financial statements are due beginning with the quarter  
23                                    following the most recent cost report submission.
  
- 24                                   b. Reporting instructions will be provided to nursing facility providers before any  
25                                   data or financial statements are due.
  
- 26                                   c. Management companies, or other corporate structures, operating a nursing  
27                                   facility provider will provide quarterly financial statements will be due within thirty  
28                                   (30) calendar days of quarter end. Financial statements are due beginning with  
29                                   the quarter following the most recent cost report submission.
  
- 30                                   d. Submissions will be certified by the nursing home provider's Chief Executive  
31                                   Officer, Chief Financial Officer, or an individual with delegated signatory  
32                                   authority.
  
- 33                                   e. A skilled nursing facility provider not providing employment/wage data or financial  
34                                   statements may have the entirety of their payments recovered.