

8.443 NURSING FACILITY REIMBURSEMENT

8.443.20 CLASS II AND CLASS IV NURSING FACILITY PROVIDER FEE

8.443.20.A. The Department shall charge and collect provider fees on services provided by all class II and class IV nursing facility providers for the purpose of obtaining federal financial participation under the state's medical assistance program. The provider fees and federal matching funds shall be used to sustain reimbursement for providing medical care under the state's medical assistance program for class II and class IV nursing facility providers.

1. Each class II and class IV nursing facility that is licensed in Colorado shall pay a fee assessed by the Department.
2. To determine the amount of the fee to assess pursuant to this section, the Department shall establish a fee rate on a per patient day basis.
 - a. The total annual fees due for class II and class IV nursing facilities will be calculated such that they do not exceed the federal limits as established in 42 C.F.R. section 433.68(f)(3)(i)(A), or five percent of the total costs for all class II and class IV nursing facilities, whichever is lower. 42 C.F.R. section 433.68(f)(3)(i)(A) (2013) is hereby incorporated by reference. The incorporation of 42 C.F.R. section 433.68(f)(3)(i)(A) excludes later amendments to, or editions of, the referenced material. The Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at: Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Certified copies of incorporated materials are provided at cost upon request.
 - b. The total annual fees will be divided by annual patient days for class II and class IV facilities from the most recently available MED-13 cost reports to establish the per patient day fee.
 - c. The Department may use estimated patient days in the per patient day fee calculation to adjust for expected changes in utilization.
 - d. When final audited MED-13 cost reports are available, the Department will review the fees charged during each state fiscal year to ensure that the fee amount was less than five percent of the total costs for all class II and class IV nursing facilities five percent statutory limit. If the fees were greater than five percent of the total costs for all class II and class IV nursing facilities, the Department will retroactively adjust the fees.
3. The Department shall calculate the fee to collect from each class II and class IV nursing facility by August 1 for the state fiscal year.
 - a. The Department shall notify the providers of their fee obligation in writing at least 30 days prior to due date of the fee.
 - b. The Department shall assess the provider fee on a monthly basis.
 - i. Each facility's annual provider fee amount will be divided by twelve to determine the facility's monthly amount owed to the Department.

- ii. The monthly fee is due by last day of the month for which the fee was assessed
- iii. Fees may be paid through intragovernmental transfer, Automated Clearing House, or check.

8.443.21 MINIMUM WAGE ENHANCEMENT PAYMENT

The Department shall pay an enhancement payment to eligible Class I nursing facility providers for the increase in hourly wages due to a local government increasing their minimum hourly wage above the statewide minimum hourly wage pursuant to C.R.S 25.5-6-208 (2019).

1. Biannually, the Department shall calculate the enhancement payment for an eligible Class 1 nursing facility provider by multiplying the minimum hourly wage gap for each eligible employee by the number of each eligible employee's hours. The sum of this calculation is multiplied by an eligible Class 1 nursing facility provider's Medicaid utilization percentage.
 - a. An eligible Class 1 nursing facility provider resides within a local government that increases its minimum hourly wage above the statewide minimum hourly wage or resides within fifteen (15) driving miles of a Class 1 nursing facility provider required to increase its minimum hourly wage above the statewide minimum hourly wage.
 - i. A local government means any city, home rule city, town, territorial charter city, city and county, county, or home rule county.
 - b. An eligible employee is an employee whose hourly wage increases to or above the enacted local government minimum hourly wage.
2. The minimum hourly wage gap is calculated as the difference between the enacted local government minimum hourly wage and the hourly wage for an eligible employee immediately before the local government minimum hourly wage is enacted.
 - a. The hourly wages for an eligible employee include the base hourly wage and the overtime hourly wage, excluding any shift differential adjustments.
 - b. The overtime local government minimum hourly wage is limited to one and one-half times (1.5x) the local government minimum hourly wage, excluding any shift differential adjustments.
3. The number of eligible employee hours include base, overtime, and shift differential hours.
4. The Medicaid utilization percentage is a Class 1 nursing facility provider's Medicaid patient days divided by total patient days.
 - a. Medicaid patient days are determined using Medicaid paid claims for the most recent calendar year. The Department shall annualize or estimate Medicaid patient days for Class 1 nursing facility providers with less than a full year of paid claims.
 - b. Total patient days are reported by a Class 1 nursing facility provider to the Department for the most recent calendar year. The Department shall annualize or estimate total patient days for Class 1 nursing facility providers reporting less than a full year.

5. A Class I nursing facility provider that resides within a local government that increases its minimum hourly wage above the statewide minimum hourly wage shall provide the Department with data necessary to calculate the enhancement payment. Class 1 nursing facility providers not providing the department with data necessary to calculate the enhancement payment may not receive the enhancement payment.
6. A Class I nursing facility provider that resides within 15 driving miles of a Class I nursing facility provider required to increase its minimum hourly wage above the statewide minimum hourly wage shall apply to the Department for the enhancement payment to prove that hourly wages have been increased in line with the adjacent local government minimum hourly wage. Class 1 nursing facility providers not providing the department with data necessary to calculate the enhancement payment may not receive the enhancement payment.
- 4-7. The enhancement payment shall be limited by available appropriations. If the total enhancement payment for all eligible Class 1 nursing facility providers is greater than available appropriations, the Department shall reduce all enhancement payments by a designated percent so that the total enhancement payment for all eligible Class 1 nursing facility providers is less than or equal to available appropriations.

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