

# HB 23-1228 Nursing Facility Rate Setting Implementation Progress Report

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November 1, 2024

Submitted to the Colorado Joint Budget Committee in compliance with C.R.S § 25.5-6-202 (D)(14)(c)



**COLORADO**  
Department of Health Care  
Policy & Financing



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## 1. Executive Summary

House Bill (HB) 23-1228 tasked the Department of Health Care Policy and Financing (HCPF) to implement short term and long term revisions to nursing facility reimbursement aimed at promoting sustainability, innovation, and improved health outcomes. The legislation also requires annual updates to the General Assembly as the revisions are underway. The report contained below offers the following updates and conclusions:

1. HCPF has implemented initial nursing facility reimbursement revisions which have produced positive results in nursing facility participation in quality and behavioral health programming.
2. In conjunction with legislative action promoting growth of Colorado's health care workforce, temporary staffing hourly costs decreased by over 25%. This resulted in nearly \$11 million in savings for Medicaid nursing facilities when compared to 2022.
3. Temporary staffing usage remains historically high but continued progress can realize even greater savings.
4. The Medical Services Board adopted financial oversight regulations. HCPF will begin collecting annual audited financial statements in the current state fiscal year.



## 2. Background

On May 30, 2023, HB 23-1228 was signed into law. This bill directs HCPF to:

1. Implement adjustments to existing nursing facility reimbursement policies between July 1, 2023, and June 30, 2026.
2. Implement additional payments for facilities with disproportionately high Medicaid utilization, geographically critical to ensuring access to care, and facilities admitting compassionate release individuals from the Department of Corrections (DOC).
3. Implement additional financial oversight requirements and promote transparency in ownership, including collection of audited financial statements for nursing facility and related parties.
4. Conduct broad stakeholder outreach in order to implement permanent changes to nursing facility reimbursement by State Fiscal Year (SFY) 2026-27.
5. Provide annual updates to the Joint Budget Committee regarding implementation of this legislation.

## 3. Department Updates

HCPF has made substantial progress implementing the requirements of the bill. During SFY 2023-24, HCPF primarily focused on drafting regulation, seeking federal authorization, and implementing initial reimbursement changes. These actions and initial results are summarized below:

### **Supports for Members with Behavioral, Cognitive, or Mental Health Needs**

HCPF gained federal approval on October 30, 2023, to modify payments for individuals needing behavioral, cognitive, and/or mental health supports. Following federal approval, HCPF doubled supplemental payments for these populations effective July 1, 2023. HCPF additionally issued payments to facilities that demonstrate a Supplemental Behavioral Services (SBS) program aimed at meeting these needs.



## **RESULT:**

In 2024, SBS program participation increased from 44 to 49 participating nursing facilities.

### **Compassionate Care Release from Department of Corrections**

On November 13, 2023, HCPF gained federal approval to implement payment incentives aimed at increasing access to care for individuals eligible for compassionate care release from the DOC. Following the end of the COVID-19 public health emergency, a subset of this population has experienced difficulties discharging from the DOC medical facility. HCPF designed payment incentives to better compensate for additional services this subset may need upon release.

## **RESULT:**

HCPF and DOC designed and finalized the payment structure and prior authorization process in early 2024. This benefit is considered implemented with funding currently being utilized as necessary.

### **Increases to Pay for Performance Incentives**

On July 18, 2024, HCPF gained federal approval to modify nursing facility Pay for Performance reimbursement, reflecting HB 23-1228's directive to increase dedicated funding from 6.5% of the provider fee supplemental cash fund to 12%. This change was made effective July 1, 2024, based on calendar year (CY) 2023 performance standards.

## **RESULT:**

Facility Pay for Performance reimbursement tiers will increase 65% in SFY 2024-25. Participation reached an all time high of 151 out of 181 facilities in CY 2024, an increase from 126 out of 181 in CY 2023.

### **Payments to High Medicaid Utilizers and Geographically Critical Facilities**

On November 20, 2023, HCPF gained federal approval to implement a new payment targeting facilities with disproportionately high Medicaid utilization and critical geographic facilities. Facilities are deemed geographically critical

if they are the only provider in the county. Facilities are determined to be disproportionately high Medicaid utilizers if Medicaid members make up 75% of their total days of care and additional funds are made available for facilities exceeding 85%. Qualifying facilities receive an additional \$5 or \$10 per patient day. The initial payment for SFY 2023-24 was made as an annual payment following federal approval. Starting in SFY 2024-25, this payment will be prorated and issued on a monthly basis.

## **RESULT:**

In total 110 of 181 facilities qualified for this payment.

- 50 facilities qualified for an extra \$10/patient day based on utilization with the remaining 70 qualifying for \$5/patient day.
- 21 facilities were deemed geographically critical based on being the only provider within their county.

## **Other Developments**

Consistent with HB 23-1228, HCPF removed duplicate expenses (that were previously required to be included by statute) from rate determinations effective July 1, 2024. Savings from removing these expenses were reinvested back into the nursing facility reimbursement. This will result in a fairer distribution of existing funds.

Additionally, work began on long term revisions to the nursing facility reimbursement revision mandated by HB 23-1228. A stakeholder group began regular meetings effective August 2024, with the goal of improving reimbursement for the future and converting the methodology from statute to regulation. This work is scheduled for implementation by July 1, 2026.

## **Financial Oversight Implementation**

Following the implementation of HB 22-1247 HCPF began collection of quarterly unaudited financial statements from Medicaid providers in order to have more current information to analyze the financial health of Medicaid nursing homes. In order to confirm these submissions and gain further insight into nursing home ownership and related party transactions, HB 23-1228 added

requirements for annual audited financial statements and ownership declarations to improve transparency.

In SFY 2023-24, HCPF discussed financial oversight guidelines with stakeholders and CPA firms to gain insight into feasible timelines and cost considerations in implementing the requirement for submission of audited financial statements. CPA firms raised concerns regarding the availability of auditing firms in the short term and their ability to opine reasonable confidence in a first year of implementation. In response, HCPF developed flexible paths to compliance that addressed these concerns. The Medical Services Board adopted regulations in September 2024 and HCPF will begin collecting audited financial statements this fiscal year. This data will validate financial monitoring implemented through quarterly submissions and allow better tracking of how Medicaid funds are used.



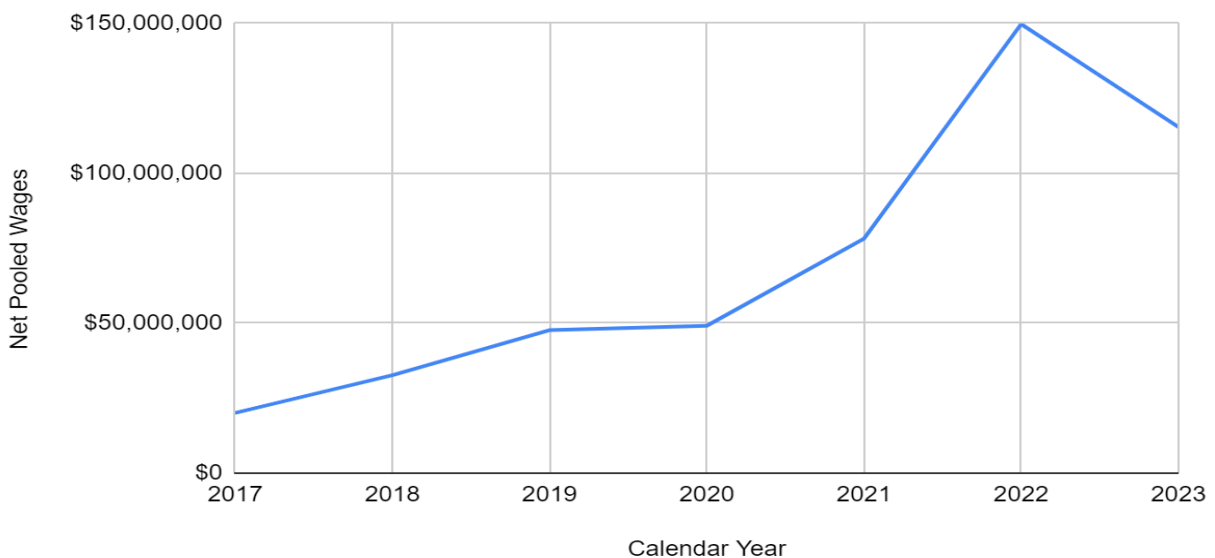
## 4. Conclusions

HCPF has collected and reviewed financial data from cost reports through calendar year 2023. This data is the first year that captures HB 23-1228 revisions, impacts from HB 22-1247 and HB 22-1333 funding targeting workforce retention and recruitment, and efforts made by the General Assembly to increase the size of the healthcare workforce (SB 22-120, SB 23-361, SB 22-226, HB 23-1246). HCPF notes the following:

1. Colorado made progress decreasing expenses attributed to temporary staffing dependence in nursing facilities. This resulted in nearly \$11 million in savings for Medicaid nursing facilities when compared to 2022.
2. Financial data reported by nursing facilities in 2023 reports total pooled staff expenses have increased by over \$90 million since 2017 (Table 1). A return to 2017 staffing patterns would save nursing facilities an additional estimated \$31 million annually when accounting for full time wages and benefits.

*TABLE 1- Net Temporary Staffing Costs (Medicaid Facilities Statewide)*

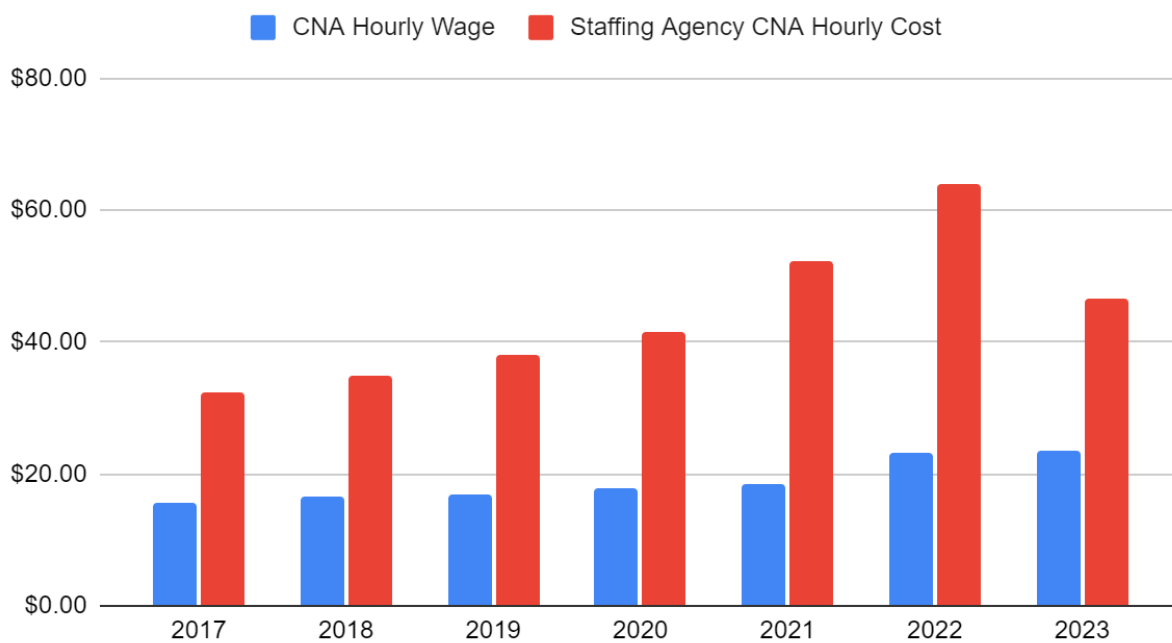
### Nursing Facility Pooled Staffing Expenses 2017-2023



3. Full time certified nursing aide (CNA) wages increased more than 25% year over year to \$23.29/hr in 2022 (Table 2) before stabilizing at \$23.55/hr in 2023. This does suggest that additional funding from HB 22-1247 was directed towards wages.
4. In 2023, pooled (temporary) staff rates for registered nurses (RNs) and CNAs declined by 34.41% and 27.32% respectively.

*TABLE 2- Full Time vs. Temporary CNA Costs Per Hour*

### Average Hourly Certified Nursing Assistant Wages/Costs

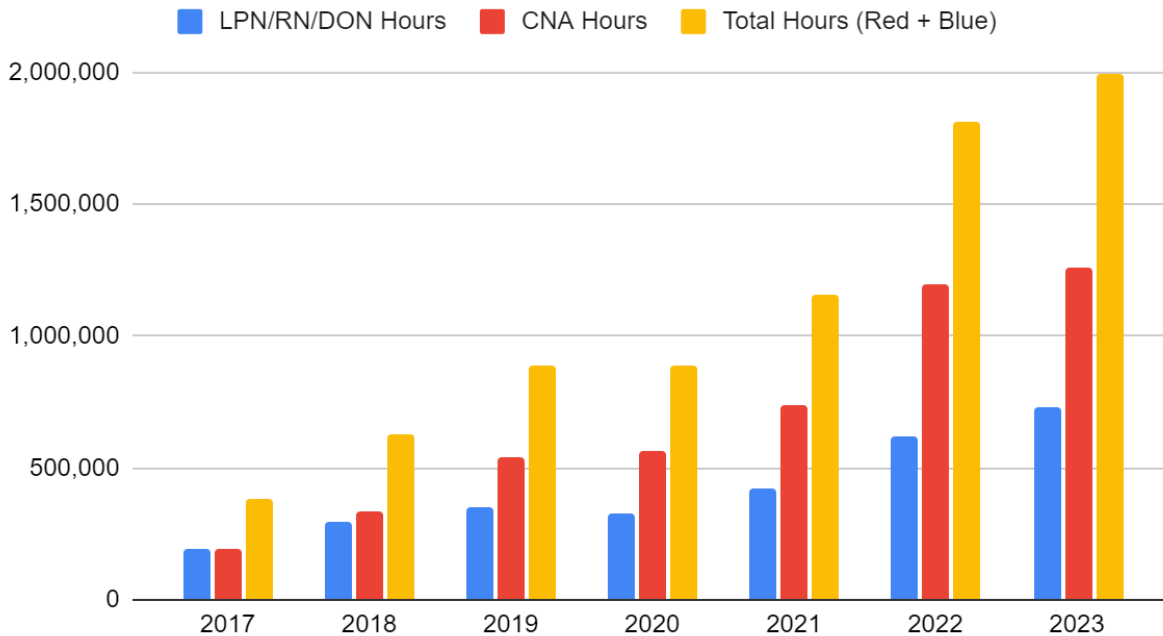




- Total pooled nursing hours remained high in 2023 (Table 3). HCPF believes this indicates ongoing labor shortages continue to be a challenge; however, as noted above, continued progress on reversing the trajectory of pooled staff usage would result in substantial savings for nursing facility providers.

*TABLE 3- Temporary Staffing Hours*

### Pooled Staffing Hours by Job Title (Statewide)



## 5. SFY 2025 Plans

HCPF has begun stakeholder workgroup sessions to identify long term improvements to nursing facility reimbursement policies. Implementation is scheduled for July 1, 2026. Continued data collection from cost reporting, financial statement collection, and utilizations trends will advise this group’s work in SFY 2025.