SENATE BILL 21-214

A BILL FOR AN ACT

CONCERNING STATE PAYMENTS TO LICENSED HOSPICE FACILITIES FOR
RESIDENTIAL CARE PROVIDED TO CERTAIN PERSONS ENROLLED
IN THE MEDICAL ASSISTANCE PROGRAM, AND, IN CONNECTION
THEREWITH, MAKING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Joint Budget Committee. The bill authorizes a state payment to qualified hospice providers, as defined in the bill, that provide hospice services in a licensed hospice facility to persons enrolled in the medical

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment. Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
assistance program who are eligible for care in a nursing facility but who
are unable to secure a bed in a nursing facility due to the presence of
COVID-19 in the state or for other reasons described in the bill. The
eligible patient, as defined in the bill, must have a hospice diagnosis. The
state payment to a qualified hospice provider is limited to not more than
28 days for each eligible patient.

The qualified hospice provider must provide residential services
to an eligible patient during the fourth quarter of the 2020-21 fiscal year
or during the 2021-22 fiscal year.

The state payment is an amount equal to one-half of the statewide
average per diem rate for nursing facilities. State payments are limited to
appropriations for this purpose.

The department of health care policy and financing shall
administer the state payment and shall seek input from qualified hospice
providers concerning the administration of the payment and the allocation
of available appropriations.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add 25.5-4-424 as
follows:

25.5-4-424. State payments to qualified hospice providers -
dually eligible persons - no federal financial participation - rules -
legislative declaration - definitions - repeal. (1) The general
assembly finds and declares that as a result of the presence of
the COVID-19 virus in the state and other circumstances,
eligible patients in need of a nursing-facility level of care who
are in their final weeks of life may not be able to find an
appropriate placement in a nursing facility where they can
receive hospice care. Without an available or appropriate
nursing facility bed, hospice providers have made residential
hospice beds available to these eligible patients despite
receiving only reimbursement under the federal Medicare
program for hospice services but not for expenses related to
ROOM AND BOARD. THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
IT IS APPROPRIATE TO MAKE AVAILABLE TO THESE QUALIFIED HOSPICE
PROVIDERS FOR A LIMITED PERIOD OF TIME A STATE PAYMENT THAT IS
EQUAL TO THE STATE SHARE OF FUNDING UNDER THE MEDICAL
ASSISTANCE PROGRAM THAT WOULD OTHERWISE BE PAID TO A NURSING
FACILITY IF THE NURSING FACILITY WERE ABLE TO PROVIDE A RESIDENTIAL
BED FOR AN ELIGIBLE PATIENT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
REQUIRES:
(a) "ELIGIBLE PATIENT" MEANS A PERSON WHO IS ENROLLED IN THE
MEDICAL ASSISTANCE PROGRAM AT THE TIME THE SERVICE IS PROVIDED
AND WHO:
   (I) IS ELIGIBLE UNDER THE MEDICAL ASSISTANCE PROGRAM FOR
   CARE IN A NURSING FACILITY AT THE TIME THE SERVICE IS PROVIDED;
   (II) HAS A HOSPICE DIAGNOSIS; AND
   (III) DESPITE ATTEMPTS TO SECURE A BED, IS UNABLE TO SECURE
       A MEDICAID BED IN A NURSING FACILITY DUE TO COVID-19 IMPACTS,
       COMPLEXITY OF MEDICAL CARE, BEHAVIORAL HEALTH ISSUES, OR OTHER
       ISSUES AS DETERMINED BY THE STATE DEPARTMENT.
(b) "QUALIFIED HOSPICE PROVIDER" MEANS A HOSPICE PROVIDER
    THAT:
       (I) HAS BEEN CONTINUOUSLY ENROLLED WITH THE STATE
       DEPARTMENT SINCE AT LEAST JANUARY 1, 2021;
       (II) PROVIDED HOSPICE SERVICES TO THE ELIGIBLE PATIENT IN A
       LICENSED HOSPICE FACILITY DURING THE PERIOD BEGINNING IN THE LAST
       QUARTER OF THE 2020-21 STATE FISCAL YEAR THROUGH THE 2021-22
       STATE FISCAL YEAR; AND
(III) COMPLIES WITH ANY BILLING OR ADMINISTRATIVE REQUESTS
OF THE STATE DEPARTMENT FOR PURPOSES OF DETERMINING ELIGIBILITY
FOR AND ADMINISTERING THE STATE PAYMENT.

(3) (a) WITHIN EXISTING APPROPRIATIONS FOR PURPOSES OF THIS
SECTION, THE STATE DEPARTMENT SHALL DISTRIBUTE A STATE PAYMENT
EQUAL TO ONE-HALF OF THE STATEWIDE AVERAGE PER DIEM RATE, AS
DEFINED IN SECTION 25.5-6-201, TO QUALIFIED HOSPICE PROVIDERS WHO
PROVIDE HOSPICE CARE IN A LICENSED HOSPICE FACILITY TO AN ELIGIBLE
PATIENT. THE STATE PAYMENT TO A QUALIFIED HOSPICE PROVIDER
PURSUANT TO THIS SECTION IS LIMITED TO NOT MORE THAN TWENTY-EIGHT
DAYS PER ELIGIBLE PATIENT. A QUALIFIED HOSPICE PROVIDER IS NOT
ENTITLED TO A STATE PAYMENT FOR AN ELIGIBLE PATIENT, AND THE STATE
DEPARTMENT SHALL NOT MAKE ANY STATE PAYMENTS AFTER
APPROPRIATIONS ARE EXHAUSTED.

(b) THE STATE DEPARTMENT SHALL SEEK INPUT FROM QUALIFIED
HOSPICE PROVIDERS CONCERNING THE IMPLEMENTATION OF THIS SECTION,
INCLUDING HOW TO CONFIRM ELIGIBILITY FOR THE STATE PAYMENT, HOW
TO BILL FOR AND DISTRIBUTE THE STATE PAYMENT, HOW TO NOTIFY
QUALIFIED HOSPICE PROVIDERS WHEN STATE APPROPRIATIONS ARE
EXHAUSTED, AND WHETHER TO ALLOCATE OR APPORTION STATE
APPROPRIATIONS OVER A GEOGRAPHIC AREA OR OVER THE DURATION OF
THE STATE PAYMENT PERIOD TO ENSURE THAT RESIDENTIAL BEDS ARE
AVAILABLE FOR ELIGIBLE PATIENTS WHERE NEEDED OR FOR THE DURATION
OF THE STATE PAYMENT PERIOD.

(4) THE STATE BOARD MAY ADOPT ANY RULES NECESSARY TO
IMPLEMENT THIS SECTION.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2022.
SECTION 2. Appropriation. For the 2020-21 state fiscal year, $684,000 is appropriated to the department of health care policy and financing. This appropriation is from the general fund. To implement this act, the department may use this appropriation for payments to qualified providers pursuant to section 25.5-4-424 (3), C.R.S. Any money appropriated in this section that is not expended prior to July 1, 2021, is further appropriated to the department for the 2021-22 state fiscal year for the same purpose.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.