

CHAPTER 89

HEALTH CARE POLICY AND FINANCING

SENATE BILL 21-214

BY SENATOR(S) Hansen, Moreno, Rankin, Buckner, Ginal, Kolker, Liston, Priola, Woodward;
also REPRESENTATIVE(S) McCluskie, Herod, Ransom, Bacon, Burnett, Bird, Bockenfeld, Caraveo, Cutter, Duran, Esgar, Exum,
Froelich, Gonzales-Gutierrez, Hooton, Jackson, Jodeh, Kipp, Lontine, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz,
Rich, Ricks, Snyder, Soper, Tipper, Titone, Valdez A., Valdez D., Young.

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.

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:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(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.

Approved: May 4, 2021