



**TESTIMONY BEFORE THE
HEALTH AND HUMAN SERVICES SUBCOMMITTEE (BUDGET AND TAXATION)**

March 4, 2022

Senate Bill 290: Budget Bill (FY 2023)

M00Q01 - MDH Medical Care Programs Administration

POSITION: FAVORABLE

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to testify on Senate Bill 290 - Budget Bill (FY 2023). HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction of the state.

Today, we estimate that there are about 22,000 Marylanders in need receiving quality care in nursing homes and about 30,000 healthcare professionals providing that care.

Generally, the vast majority of the people receiving care in Maryland nursing homes enter our setting after a hospital stay. In addition to the health issue that triggered their hospital stay, most people in nursing homes suffer from multiple chronic conditions such as congestive heart failure, diabetes, hypertension, morbid obesity, and some form of dementia.

About 25 to 30 percent of those patients go home stronger after their hospital visit and two or three weeks of rehabilitation in a nursing home. So, similarly to hospitals, about 30 percent of the beds in the average nursing home have a high turnover and the majority of people who enter nursing homes in Maryland go home stronger.

Given that approximately 60 to 70 percent of people in nursing homes have multiple comorbidities and a high level of acuity, they require round-the-clock care and are unable to safely receive care at home. If not cared for in a nursing home, they would likely otherwise be cared for in and out of the hospital, at a much higher cost to the State and other payors – putting at risk Maryland's Total Cost of Care contract.

All this is to say that there are approximately 22,000 Marylanders who call nursing homes "home." Nursing homes are the safest place for these Marylanders to receive the high level of care that they need each and every day. This quality care is supported by the Medicaid rate, the Medicaid State budget, and all the work that you and your colleagues do here.

We are at a momentous crossroads in terms of critically needed Medicaid funding to provide quality care to Marylanders in our skilled nursing and rehabilitation centers, and in settings across the continuum of care.

Looking back on the historic challenges of the last two years, there is no doubt that Maryland's prioritization of testing and vaccination in nursing homes, PPE distribution, staffing augmentation, and financial support saved countless lives of residents, patients, and staff in our sector.

However, today skilled nursing and rehabilitation centers remain challenged. Historically high labor costs and skyrocketing operational expenses have left Maryland nursing homes severely underfunded. Occupancy levels in skilled nursing and rehabilitation centers are at historic lows. Direct and agency labor costs are at an all-time high and labor shortages are more severe than ever.

A recent report commissioned by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL) and produced by independent firm Clifton Larson Allen shows that nursing home finances are much worse than previously realized. The cost of care and operations is far exceeding reimbursement rates, resulting in a 4.8 percent negative margin.

Key findings of this report include:

- **Increasing costs due to labor and inflation.** The average increase in wages for nurses at all levels doubled from 2020 to 2021. Rates for contracted agency nurses are also two to three times higher than pre-pandemic rates.
- **Negative margins.** The median 2022 year-end operating margins are projected to be negative 4.8 percent, with a median occupancy of 77.3 percent. Any reduction in reimbursement could deepen existing financial issues.
- **Increased risk for closures.** The report found that 32 percent to 40 percent of residents are currently living in nursing homes that are considered financially “at risk,” including buildings with Five-Star quality ratings.
- **Challenges with access to capital.** Medicare margins and public health emergency related funding provided much-needed support throughout 2020 and in to early 2021. However, potential cuts pose a risk to nursing homes that face challenges such as occupancy decline, staffing shortages, and increased labor costs.

Note: Please see the full detailed report attached to this testimony.

Workforce recruitment and retention were a challenge before the pandemic and these issues have only grown worse over the last two years. Healthcare professionals are scarce and all settings are competing for employees from the same labor pool. Amid these challenges, staffing agencies are charging exorbitant rates for temporary staff.

In nursing homes, hospitals, and all healthcare settings in Maryland and across the nation, the use of agency staffing has increased dramatically throughout the pandemic and hourly rates for agency staff are set at unprecedented levels. Before COVID, a staffing agency would charge a nursing home around \$60 per hour for a registered nurse; now, the cost is around \$180 to \$200 per hour.

To combat this issue on the national level, AHCA/NCAL sent a letter in October 2021 to Federal Trade Commission (FTC) Chairwoman Lina Khan requesting assistance with an anticompetitive practice with direct care staffing agencies.

Note: Please see the AHCA/NCAL letter attached to this testimony.

In reviewing federal Medicare cost data, direct labor hourly wages are up in a range from eight to nine percent among nursing assistants, licensed practical nurses, and registered nurses. The federal data

indicates that the average geriatric nursing assistant (GNA) hourly wage rate in our sector was \$16.68 an hour in 2019 pre-COVID and \$18.19 in 2020.

Given current and future workforce and operational challenges, skilled nursing and rehabilitation centers urgently need a base Medicaid rate increase. Therefore, we respectfully propose a base increase of **six percent** to the Medicaid rate for nursing homes and other Medicaid providers, in addition to the annual four percent increases as part of the previously enacted minimum wage increase legislation. I request that we continue to advance with Governor Hogan and the administration on this critical and timely issue.

Here are some important facts to consider:

- The State of Maryland paid skilled nursing and rehabilitation centers less in Medicaid reimbursement rates during the pandemic than they otherwise would have absent the pandemic.
- This is due to lower nursing home utilization; fewer people in hospitals resulted in fewer referrals to nursing homes. The other primary factor in the State paying less to nursing homes was due to the enhanced federal match.
- In 2020, utilization was down in nursing homes by 491,224 days of care and thus lower than budgeted by \$144 million in total funds.
- In 2021, utilization was down in nursing homes by 759,606 days of care and thus lower than budgeted by \$214 million in total funds.
- Throughout many periods of the pandemic, Maryland skilled nursing and rehabilitation centers provided at or around four direct care hours per day, which is above the three-hour requirement.
- This was possible because of direct federal payments made to the sector in 2020 and greatly reduced utilization.
- The cost to provide 4.0 hours of direct care per day in 2020 with normal utilization would have added \$26M to state costs. Because of reduced occupancy, many facilities were providing higher hours of care per day. The cost to staff at 4.0 hours would normally be much higher – closer to \$170M
- Direct federal payments in 2020 kept nursing homes in Maryland and throughout the country open during the first year of the pandemic. There were two much smaller federal payments to some Maryland nursing homes in 2021.
- Maryland's skilled nursing and rehabilitation centers did not receive a base Medicaid rate increase to fight the COVID-19 pandemic.
- Maryland did issue a one-time \$26 million payment to nursing homes in 2021, which was paid quarterly and funded by the American Rescue Plan Act (ARPA).
- In December 2021, Governor Hogan announced \$25 million in grant funds to help nursing homes with staffing, testing, vaccination, and COVID therapies. These funds are currently being distributed by the Maryland Department of Health. Again, this has been funded by the American Rescue Plan Act.

We are incredibly grateful for the quality long-term and post-acute care provided by Maryland nursing homes. Thanks to the healthcare heroes working in these centers, there are 22,000 Marylanders who call nursing homes “home.”

The pandemic has exacerbated funding and staffing issues that have long existed in our sector and we are now at an extremely critical time as we shape healthcare policy going forward. Together, we must ensure that Marylanders in need continue to have access to quality long-term care in nursing homes. It is absolutely critical to their health, safety, and wellbeing and to the entire Maryland healthcare continuum.

Again, given the current and future challenges our sector faces, we respectfully request a base increase of six percent to the Medicaid rate for nursing homes and other Medicaid providers. Adequate Medicaid funding is now more important than ever in order to maintain care capacity, support wage increases, pay inflated agency costs, and cover increased operational expenses driven by inflation.

We appreciate the opportunity to share this critical information and look forward to our continued work together to protect quality care for our most vulnerable Marylanders.

Submitted by:

Joseph DeMattos, Jr.
President and CEO
(410) 290-5132