

Amendment - 1st Reading-white - Requested by: Mary Caferro - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Sue O'Connell, 406-444-3597

HB0649.002.001

1 HOUSE BILL NO. 649
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7
8 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING REIMBURSEMENT RATES FOR PROVIDERS
9 COVERED BY THE RATE STUDY AUTHORIZED UNDER CHAPTER 401, LAWS OF 2021; REQUIRING
10 IMPLEMENTATION OF RECOMMENDED RATE INCREASES; ~~PROVIDING FOR INFLATIONARY~~
11 ~~INCREASES; PROVIDING REPORTING REQUIREMENTS;~~ AMENDING SECTIONS 53-6-113 AND 53-6-402,
12 MCA; AND PROVIDING AN EFFECTIVE DATE."
13

14 WHEREAS, the 2021 Legislature appropriated \$2.75 million in House Bill 632 for a study of the
15 reimbursement rates paid by the Department of Public Health and Human Services to providers of health care,
16 behavioral health care, developmental disabilities, and senior and long-term care services, including nursing
17 homes; and

18 WHEREAS, the Governor and the Department of Public Health and Human Services used the
19 appropriation to contract with the consulting firm of Guidehouse; and

20 WHEREAS, Guidehouse produced two reports in 2022 identifying the rates necessary to cover the
21 costs of providing services and detailing the extent to which the state's rates fall short of the benchmarks; and

22 WHEREAS, the rate levels identified in the rate study reports specify how the state can improve its
23 provider rates to account for the true costs of operating as a health care provider in this state; and

24 WHEREAS, the insufficiency of reimbursement rates has resulted in the closure of 11 nursing homes
25 and the loss of 857 skilled nursing facility beds in the state, with more nursing homes on the brink of closure;
26 and

27 WHEREAS, the insufficiency of reimbursement rates has contributed, and continues to contribute, to
28 extensive and serious shortages of health care and behavioral health care providers; and

1 WHEREAS, the rate shortfalls and workforce shortages have forced the closure of many providers of
2 services to Montanans with physical and developmental disabilities, including the closure of group homes; and

3 WHEREAS, the Legislature recognizes the urgent need to fully reimburse providers at the rates
4 identified in the provider rate studies.

5

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7

8 NEW SECTION. Section 1. Establishment of certain provider reimbursement rates

9 inflationary increase -- outcome measurement. (1) The department shall reimburse providers of services
10 reviewed as part of the 2021-2022 provider rate studies authorized under Chapter 401, Laws of 2021, and
11 completed in 2022 in accordance with this section in order to:

12 (a) ~~implement the rate increase recommendations resulting from the studies; and~~

13 (b) ~~provide inflationary adjustments in subsequent years.~~

14 (2) For the fiscal year beginning July 1, 2023, the department shall:

15 (a) set the base daily rate for nursing homes at the ~~base daily gross single rate determined~~
16 recommended by the nursing facility rate study prior to applying ~~the occupancy adjustment quality and acuity~~
17 add-ons; and

18 (b) ~~except as provided in subsection (2)(c) and~~ except for physician services reimbursed as
19 provided in 53-6-125, set reimbursement rates for other provider types that were included in the rate studies at
20 the benchmark rate identified for each service or provider type ~~plus an inflationary factor equal to the increase~~
21 ~~in the consumer price index, U.S. city average, all urban consumers, for all items, as published by the bureau of~~
22 ~~labor statistics of the U.S. department of labor; and~~

23 (c) ~~for any service or provider type for which the study identified a rate decrease, provide the~~
24 ~~increase appropriated for provider types not covered by the provider rate studies.~~

25 (3) ~~In subsequent fiscal years, the~~ The department ~~shall increase may not decrease~~ the rates for
26 the providers and services covered under this section ~~by an inflationary factor equal to the greater of 3% or the~~
27 ~~increase in the consumer price index, U.S. city average, all urban consumers, for all items, as published by the~~
28 ~~bureau of labor statistics of the U.S. department of labor~~ in subsequent fiscal years.

1 (4) The department shall continue to supplement the base daily rate for nursing facility services
2 with add-on payments based on the quality of services provided and acuity of resident needs.

3 (5) The department shall, in accordance with 5-11-210, report the following information, as
4 measured on July 1 each year, to the children, families, health, and human services interim committee, the
5 health and human services interim budget committee, and the legislative finance committee no later than
6 September 15 of each even-numbered year:

- 7 (a) the number of providers participating in the medicaid program;
- 8 (b) the number of individuals on waiting lists for medicaid waiver services;
- 9 (c) the number of children receiving treatment in out-of-state psychiatric residential facilities and
10 therapeutic group homes; and
- 11 (d) the number of vacant direct-care worker staff positions and the rate of direct-care staff turnover,
12 as reported to the department by providers included in the rate studies.

13
14 **Section 2.** Section 53-6-113, MCA, is amended to read:

15 **"53-6-113. Department to adopt rules.** (1) The department shall adopt appropriate rules necessary
16 for the administration of the Montana medicaid program as provided for in this part and that may be required by
17 federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act,
18 42 U.S.C. 1396, et seq., as amended.

19 (2) The department shall adopt rules that are necessary to further define for the purposes of this
20 part the services provided under 53-6-101 and to provide that services being used are medically necessary and
21 that the services are the most efficient and cost-effective available. The rules may establish the amount, scope,
22 and duration of services provided under the Montana medicaid program, including the items and components
23 constituting the services.

24 (3) (a) The department shall establish by rule the rates for reimbursement of services provided
25 under this part. ~~The~~ Except as provided in subsection (3)(b), the department may in its discretion set rates of
26 reimbursement that it determines necessary for the purposes of the program. In establishing rates of
27 reimbursement, the department may consider but is not limited to considering:

- 28 (a)(i) the availability of appropriated funds;

1 (15) The department shall adopt rules for the provision of the fraud prevention training required
2 under 53-6-405, including but not limited to establishing the elements that must be contained in fraud
3 prevention education materials and the models that may be used for the training.

4 (16) The department shall adopt rules to carry out the cost reporting provisions of 53-6-406,
5 including but not limited to the costs that a provider is required to report to the department, the format of the
6 report, and the deadline for filing the report."

7

8 **NEW SECTION. SECTION 4. LEGISLATIVE INTENT AND DIRECTION TO DEPARTMENT OF PUBLIC HEALTH AND**
9 **HUMAN SERVICES. THE LEGISLATURE INTENDS THAT:**

10 (1) NOTHING IN [THIS ACT] MAY BE CONSTRUED AS REQUIRING REIMBURSEMENT RATES FOR MEDICAID AND
11 NONMEDICAID SERVICES TO BE HIGHER THAN THE LEVELS PROVIDED FOR IN [THIS ACT]; AND

12 (2) THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES APPLIES TOWARD THE COST OF
13 IMPLEMENTING [THIS ACT] ANY GENERAL FUND, STATE SPECIAL REVENUE, AND FEDERAL SPECIAL REVENUE
14 APPROPRIATED IN HOUSE BILL NO. 2 FOR THE PURPOSES OF INCREASING REIMBURSEMENT RATES FOR MEDICAID AND
15 NONMEDICAID SERVICES REVIEWED BY THE PROVIDER RATE STUDIES AUTHORIZED UNDER CHAPTER 401, LAWS OF
16 2021, SO THAT THE TOTAL COSTS OF THE PROVIDER RATE INCREASES DO NOT EXCEED THE COSTS REFLECTED IN [THIS
17 ACT].

18

19 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
20 integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

21

22 **COORDINATION SECTION. Section 6. Coordination instruction.** (1) If both House Bill No. 2 and
23 [this act] are passed and approved and House Bill No. 2 contains appropriations that fully fund or exceed the
24 benchmark rates for services and providers included in the Montana Rate Studies report published July 22,
25 2022, and funds the daily base rate for nursing facilities at or above the gross single rate recommended in the
26 Montana Nursing Facility Rate Study report published November 30, 2022, then [this act] is void.

27 (2) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains
28 appropriations that fully fund or exceed the benchmark rates for services and providers included in the Montana

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1 Rate Studies report but funds the daily base rate for nursing facilities at less than the gross single rate
2 recommended in the Montana Nursing Facility Rate Study, then [section 1(2)(b) of this act] is void.
3 (3) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains
4 appropriations that fully fund the daily base rate for nursing facilities at or above the gross single rate
5 recommended in the Montana Nursing Facility Rate Study but funds the rates for services and providers
6 included in the Montana Rate Studies report at less than the benchmark rate recommended for those providers
7 and services, then [section 1(2)(a) of this act] is void.

8

9 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2023.

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- END -