



**TESTIMONY BEFORE THE
HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE**

February 1, 2024

House Bill 462: Funding for Wages and Benefits for Nursing Home Workers
(Nursing Home Staffing Crisis Funding Act of 2024)

Written Testimony Only

POSITION: FAVORABLE WITH AMENDMENTS

On behalf of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support with amendments for House Bill 462.

HFAM is the oldest long-term and post-acute care provider association in Maryland and is affiliated with the American Health Care Association/National Center for Assisted Living (AHCA/NCAL), the largest association of its kind in the United States. HFAM skilled nursing members provide nearly three million days of care across all payer sources annually, including approximately two million days of Medicaid care to Marylanders most in need.

We support HB 462 with amendments because consistent funding of the Medicaid rate is critical to quality care and support for the healthcare workforce. Skilled nursing and rehabilitation centers are a vital component of the Maryland healthcare continuum and our members want to pay employees as much as possible supported by Medicaid rates.

There are good, well-intentioned people and organizations requesting favorable and unfavorable referrals of this legislation. HFAM is supporting it with essential amendments.

House Bill 462 intends to increase wages and benefits for certain workers in skilled nursing and rehabilitation centers. As currently drafted, this legislation calls for an 8% increase in the Medicaid rate for FY26, FY27, and FY28 and requires that 75% of each fiscal year funding increase shall be used to fund wages and benefits for all directly employed workers providing direct care (the nursing cost center of the reimbursement system), all directly employed workers providing indirect care (the other patient care cost center) and all directly employed workers providing various other care to residents in a nursing home. The bill is well intended, but operationally not feasible in its current form.

There are three important requirements for this legislation to be feasible and supported by HFAM:

1. This legislation must be fully funded with new Medicaid dollars at the 8% annual level for FY26, FY27, and FY28. We estimate in total state and federal dollars, under current parameters, an 8% increase is \$134.8 million annually in Medicaid rates to skilled nursing and rehabilitation centers.
2. As currently drafted, HB 462 allows the Maryland Department of Health to suspend or terminate a nursing home's participation in the Medicaid program for failure to comply with the parameters of the legislation—that is a disproportionate penalty. The other enforcement actions in the legislation suffice. This language threatening termination must be removed from the bill. Nursing homes in Maryland provide more than five million days of Medicaid care annually, providing a

safety net for Marylanders most in need. Nursing homes cannot risk losing their Medicaid status, and thus the ability to provide care to our most vulnerable Marylanders, over potential failure to meet the requirements outlined in this legislation.

3. When directing the percentage of each fiscal year increase towards wages and benefits, the percentage calculation must include wages and benefits for all directly employed workers providing direct care (nursing cost center), all directly employed workers providing indirect care (other patient care cost center) and all directly employed workers providing various other care to residents in a nursing home.

In addition, here are seven very important points for context about our support with amendments to this legislation:

1. HFAM worked long and hard until the last moments of last year's session on the precursor of HB 462, and the core issue of it— ensuring proper wages and benefits to healthcare workers in Maryland skilled nursing and rehabilitation centers.
2. Most skilled nursing and rehabilitation operators in Maryland want to pay staff as much as possible supported by the Medicaid rate, and most providers are operating above minimum staffing levels as required by Maryland regulation.
3. Within Maryland's Medicaid reimbursement system for skilled nursing and rehabilitation centers, the largest cost center is direct nursing care and labor is the largest cost among direct nursing care costs.
4. The other patient care, routine, and administrative cost centers of Maryland's Medicaid reimbursement system also include wages and benefits that are critical to quality care, such as activity coordinators and social workers.
5. We have long-faced workforce challenges in healthcare, however, the shortage we now face was drastically exacerbated by the COVID-19 pandemic. The current shortage is impacting all healthcare settings and it will take years with a wide variety of public policy changes and market conditions to resolve it.
6. There are advantages and disadvantages to fee-for-service which is the norm in healthcare settings in Maryland and across the country, including in skilled nursing and rehabilitation centers. From a workforce perspective, Maryland hospitals benefit from our unique Total Cost of Care Contract. However, unlike in hospitals, revenue and occupancy are linked in nursing homes. Regardless of the system of payment and regardless of setting, underfunding is always an issue.
7. The full funding of HB 462 is critically linked to our payment system and policies – they cannot be separated and one does not work without the other. HFAM genuinely wants to help advance this legislation, but only if it is operationally achievable, fully funded, and sustainable.

Given the context and background, we propose the following amendments:

- All references to wages should be amended to **“Wages and benefits.”**
- Page 4, line 19 shall be amended to **“60%” rather than “75%”**. For each of fiscal years 2026, 2027, and 2028 **in any of these three years in which Medicaid funding is increased by at least 8% for the purposes of funding an increase in wages and benefits** [75%] **60%** of the funding increase provided in the legislative appropriation for Program M00Q01.03 Medical Care Provider Reimbursements – Medical Care Programs Administration in § 16–201.4(b)(5) through (7) of the health – General Article, as enacted by Section 1 of this Act, shall be used to fund all directly employed workers providing direct care (nursing cost center), all directly employed workers providing indirect care (other patient care cost center) and all directly employed workers providing various other care to residents in a nursing home.
- Relative to enforcement language, strike line 17 on page 4: **“(III) SUSPENSION OR TERMINATION FROM THE PROGRAM.”**
- Relative to enforcement language, this line should be added for clarity: **“ENFORCEMENT ACTIONS ARE SUBJECT TO PROVIDER RIGHT TO ADMINISTRATIVE AND JUDICIAL APPEAL UNDER THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURES ACT UNDER THE STATE GOVERNMENT ARTICLE.”**

Again, we want to pay workers as much as possible as supported by the Medicaid rates. Given that providers are reliant on non-negotiable Medicare and Medicaid rates for the majority of their revenue, any wage and benefit pass-through measure must be funded with new Medicaid dollars.

We appreciate the opportunity to provide this testimony, and with the above outlined amendments, we request a favorable report from the Committee on House Bill 462.

Submitted by:

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