

**State of Utah**  
**Administrative Rule Analysis**  
 Revised December 2019

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> Amendment		
	<b>Title No. - Rule No. - Section No.</b>	
<b>Utah Admin. Code Ref (R no.):</b>	R414-401-3	<b>Filing No. (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b>		

**Agency Information**

<b>1. Department:</b>	Department of Health	
<b>Agency:</b>	Division of Medicaid and Health Financing	
<b>Room no.:</b>		
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 North 1460 West	
<b>City, state:</b>		
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT, 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	(801) 538-6641	cdevashrayee@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
Assessment
<b>3. Purpose of the new rule or reason for the change</b> (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The purpose of this change is to update the annual assessment amounts for nursing care facilities and intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) for State Fiscal Year (SFY) 2021.
<b>4. Summary of the new rule or change:</b>
Every nursing facility is assessed at the uniform rate of \$27.56 per patient day, which is an increase from the previous \$24.61 per patient day assessment based upon projected days. Additionally, ICFs/IID are assessed at the uniform rate of \$8.28 per patient day, which is the same rate as the previous assessment based upon projected days. These updates are based on estimates of patient days for SFY 2021 and the appropriation amounts.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The update to the assessment rates is anticipated to be budget neutral as it does not impact the General Fund.
<b>B) Local governments:</b>
Local governments that own nursing care facilities or have swing-bed facilities would see an increase in the assessment cost, but would also see increased revenues as a result of the higher rates that will be paid. Therefore, it is estimated that local governments will see approximately an additional \$3,083,200 in costs, but also see approximately \$8,728,700 in additional revenues.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):

About 20 small businesses that own nursing care facilities would see an increase in the assessment cost, but also see increased revenues as a result of the higher rates that will be paid. These businesses, therefore, will see approximately an additional \$996,100 in costs and approximately \$2,820,000 in additional revenues. ICFs/IID will see similar historical costs based upon no change in the assessment rate.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

About 85 businesses that own nursing care facilities or have swing-bed facilities would see an increase in the assessment cost, but also see increased revenues as a result of the higher rates that will be paid. These businesses, therefore, will see an additional \$3,059,475 in costs, but also see about \$8,661,525 in additional revenues. ICFs/IID will see similar historical costs based upon no change in the assessment rate.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

About 58 private and public health providers would see an increase in the assessment cost, but would also realize increased revenues as a result of the higher rates that will be paid. Therefore, it is estimated that these other providers will realize an additional \$1,019,825 in costs; however, would realize approximately \$2,887,175 in additional revenues.

**F) Compliance costs for affected persons:**

Compliance costs include an increased collection of \$2.95 per non-Medicare patient day from each nursing facility.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$3,083,200	\$0	\$0
Small Businesses	\$996,100	\$0	\$0
Non-Small Businesses	\$3,059,475	\$0	\$0
Other Persons	\$1,019,825	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$8,158,600</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$8,728,700	\$0	\$0
Small Businesses	\$2,820,000	\$0	\$0
Non-Small Businesses	\$8,661,525	\$0	\$0
Other Persons	\$2,887,175	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$23,097,400</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$14,938,800</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Health, Joseph K. Miner, M.D., has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see initial assessment costs, but will also see a higher increase in additional revenues.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, M.D., Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5

Section 26-18-3

Title 26, Chapter 36a

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**B) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	Second Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until** (mm/dd/yyyy): 06/15/2020

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**10. This rule change MAY become effective on** (mm/dd/yyyy): 07/01/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

<b>Agency head or designee, and title:</b>	Joseph K. Miner, M.D., Executive Director	<b>Date</b> (mm/dd/yyyy):	04/30/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-401. Nursing Care Facility Assessment.**

**R414-401-3. Assessment.**

(1) The collection agent for the nursing care facility assessment shall be the Department, which is vested with the administration and enforcement of the assessment.

(2) The uniform rate of assessment for every facility is \$~~[24.61]~~27.56 per non-Medicare patient day provided by the facility, except that intermediate care facilities for people with intellectual disabilities shall be assessed at the uniform rate of \$8.28 per patient day. Swing bed facilities shall be assessed the uniform rate for nursing facilities.

(3) Each nursing care facility must pay its assessment monthly on or before the last day of the succeeding month, and ~~[shall]~~may not combine payments of assessments with other nursing care facilities owned or controlled by a single entity.

**KEY: Medicaid, nursing facility**

**Date of Enactment or Last Substantive Amendment: July 1, 2019**

**Notice of Continuation: November 15, 2018**

**Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-35a; 26-18-3**