LEGISLATIVE RESEARCH & GENERAL COUNSEL

Medicaid Upper Payment Limit Program – Skilled Nursing Facilities

Seth Anderson

Policy Analyst

6/17/26

Agenda

- Background on Utah's Medicaid Upper Payment Limit Program – Skilled Nursing Facilities
- Program parameters and trends
- Policy considerations

Terminology

Nursing Facility Non-State Government-Owned Upper Payment Limit Program (SNF UPL) (R414-505)

Non-state governmental entity (NSGE): a hospital authority, hospital district, healthcare district, special services district, county, or city.

- E.g., Beaver Valley Hospital, Millard County Care and Rehabilitation, etc.

Non-state government owned nursing care facility (NSGO): a nursing care facility where an NSGE holds the license and is party to the facility's Medicaid provider contract.

- E.g., Mt. Ogden Health & Rehabilitation Center, Rocky Mountain Care – Riverton, Stonehenge of American Fork, etc.

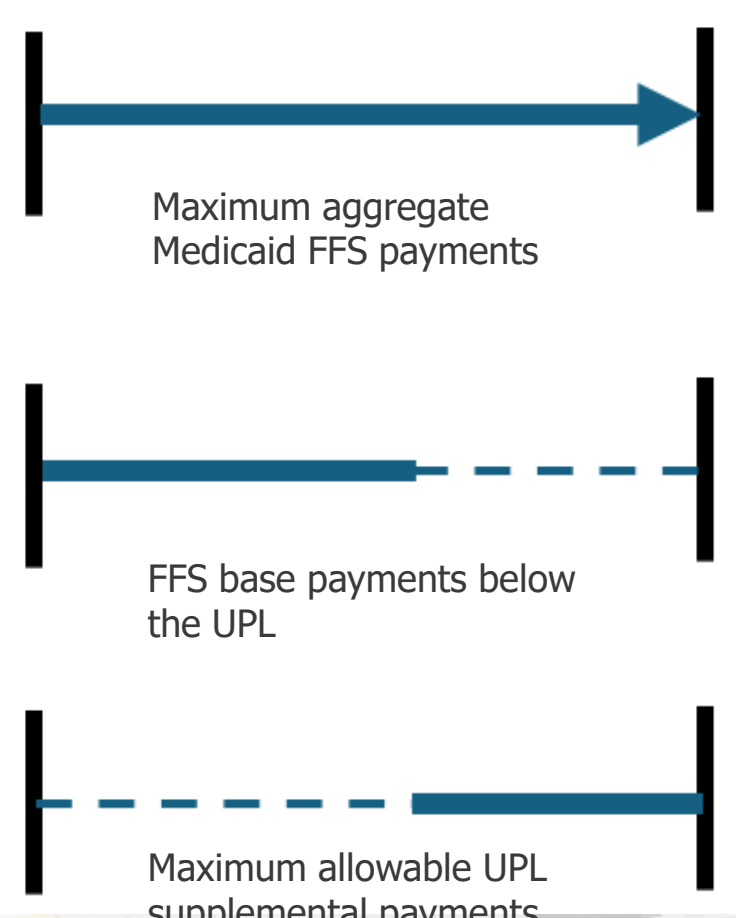
Intergovernmental Transfer (IGT): The transfer of public funds from a local government entity to another nonfederal government entity, OR from a nonfederal, government owned health care facility regulated under Chapter 2, Part 2, Health Care Facility Licensing and Inspection, to another nonfederal governmental entity.

What is the UPL program?

- In the 1980s, Medicaid payments were delinked from Medicare payments and states were granted flexibility in designing payment methodologies.
- CMS established an 'upper limit' on aggregate fee-for-service payments to institutional providers based on estimates of if the same services were paid for by Medicare*.
- UPL payments are used by states for **hospitals** (inpatient and outpatient), **nursing facilities**, and **physicians** – methods for distributing UPL payments vary widely by state.
- 2013 – DOH submitted state plan amendment to CMS proposing SNF UPL program. CMS approved plan later that year.
- Utah operates UPL programs for **hospitals** (Outpatient – 26B-3-511) and **nursing facilities** (Non-state Government Owned – 26B-3-130)

*42 CFR 447.272 and 42 CFR 447.321

Closing the gap



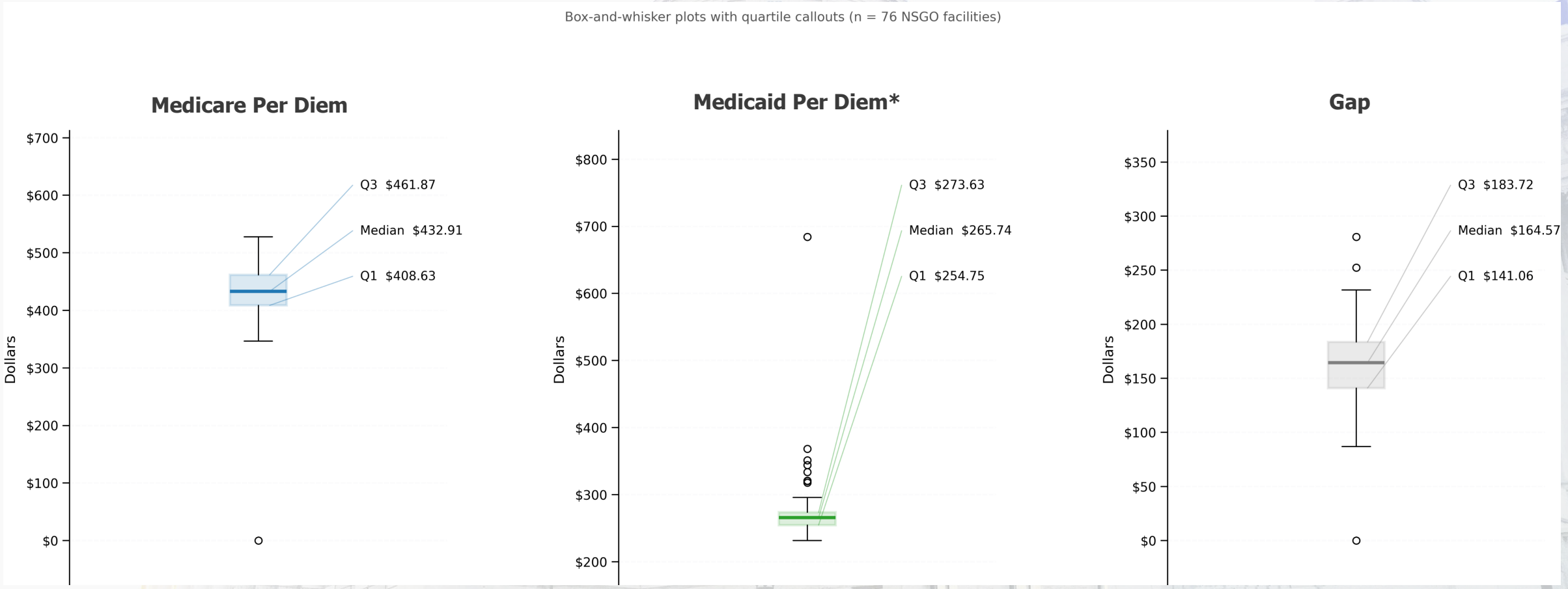
The upper payment limit (UPL) establishes a maximum limit on aggregate fee-for-service payments to a class of providers

Base Medicaid payments are often below the UPL

States can make UPL supplemental payments up to the difference between base payments and the UPL

Source: MACPAC, Upper Payment Limit Supplemental Payments (2021)

Non-State Government Owned UPL SNF Daily Rate Calculations



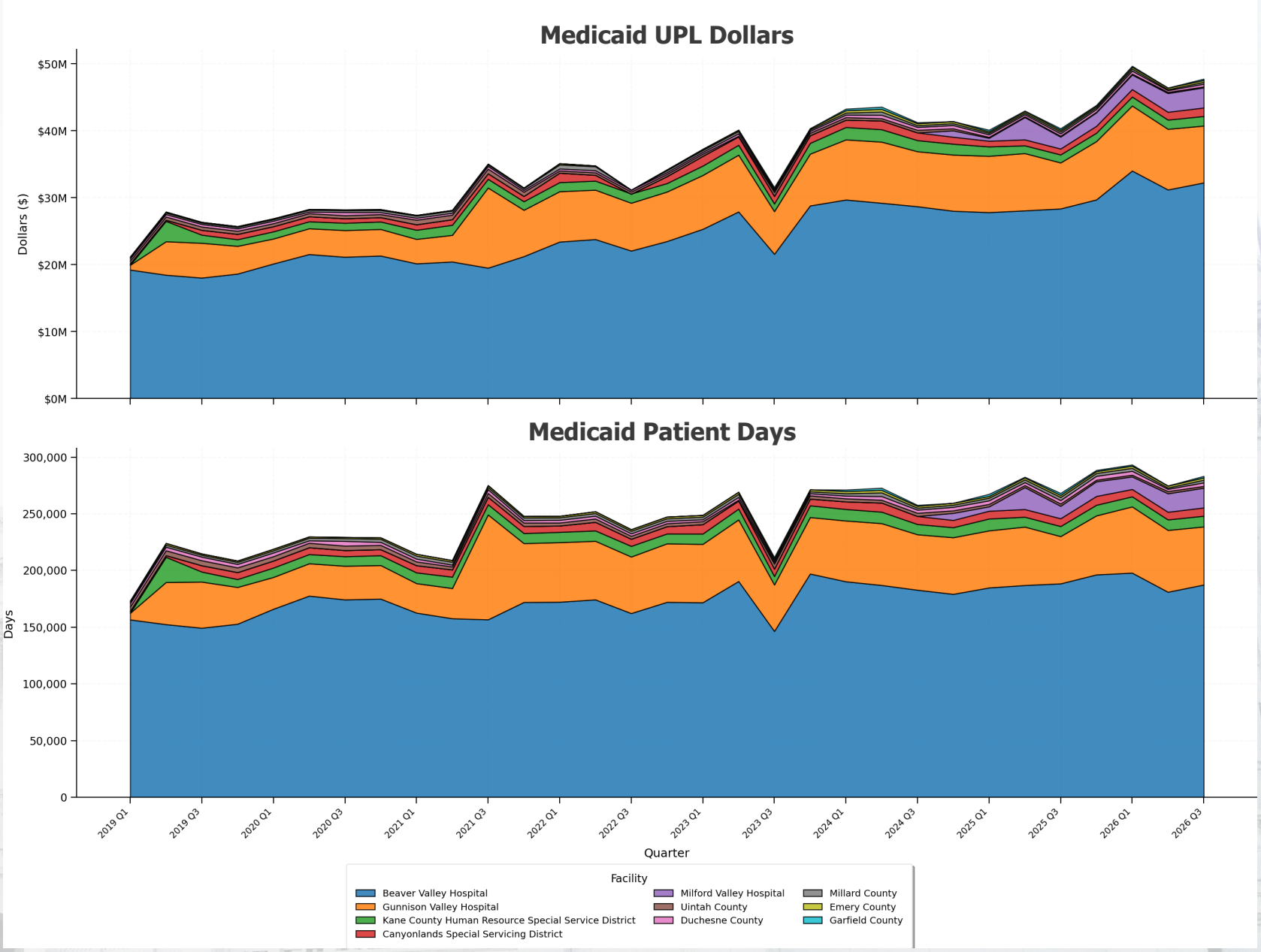
**Includes Medicaid rate add-ons*

Source: DHHS, Annual NF NSGO UPL Gap Calculation for State Fiscal Year 2026

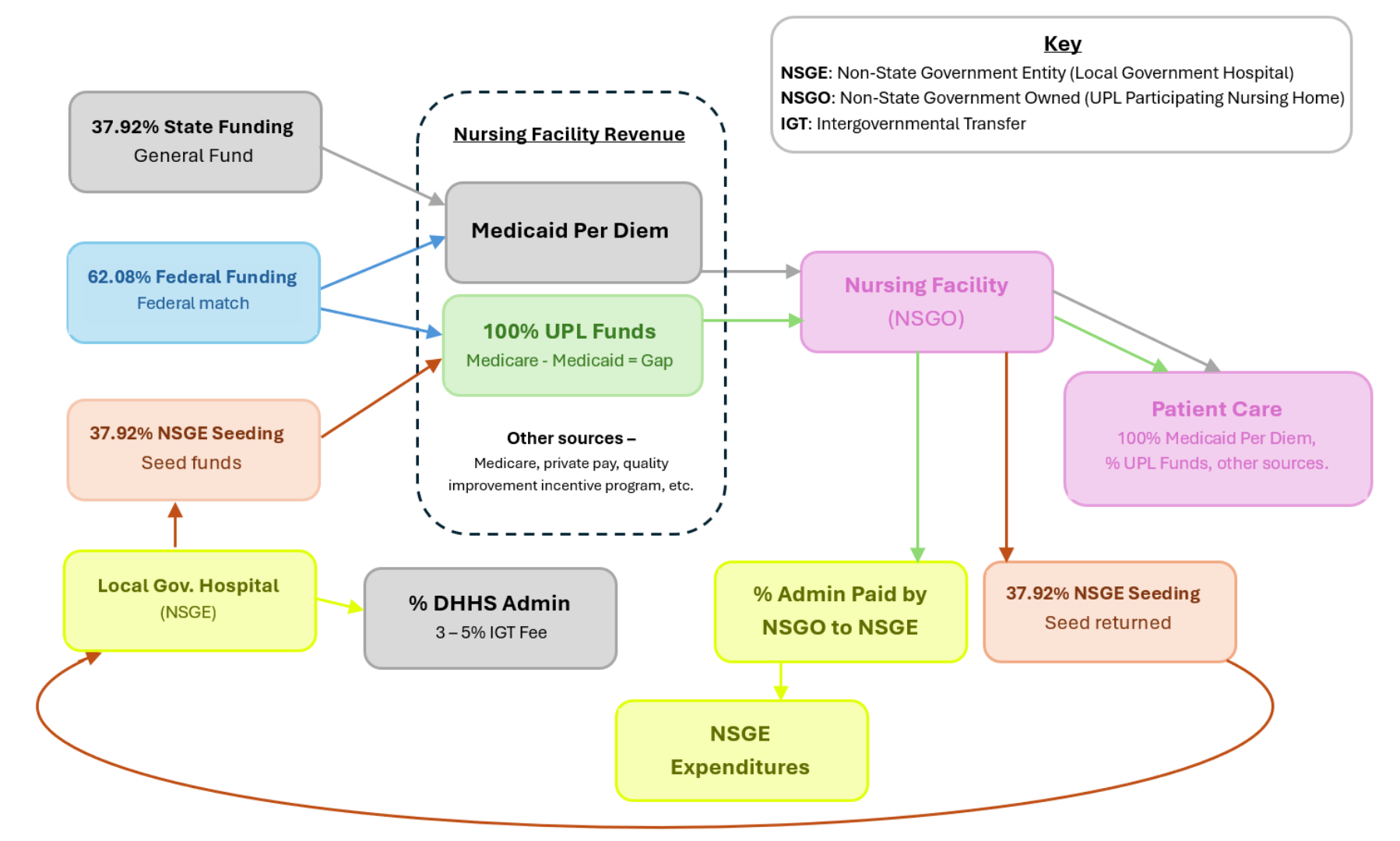
Utah SNF UPL Program snapshot

- 10 Local Hospitals Participating – own 76 out of 84 SNFs in state
- 8 private SNF
- For SFY '25 –
  - $66,583,136 in NSGE Seed Money
  - $167,201,239.41 in UPL payments
  - $3,075,504 in IGT Admin. to DHHS
  - 1,106,231 Medicaid days (UPL SNFs)
- For FY '26 UPL Gap Calculation (UPL SNFs) –
  - Median Medicare Daily Rate = $432.91
  - Median Medicaid Daily Rate = $265.74
  - Median Gap = $164.57

NSGE quarterly totals by Facility: 2019 - 2026



Flow of funds



26B-3-130. Medicaid intergovernmental transfer report – Approval requirements.

…

(4)(d) Each non-state government entity that participates in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program shall certify to the department that:

(i) the non-state government entity is a local government entity that is able to make an intergovernmental transfer under applicable state and federal law;

(ii) the non-state government entity has sufficient public funds or other permissible sources of seed funding that comply with the requirements in 42 C.F.R. Part 433, Subpart B;

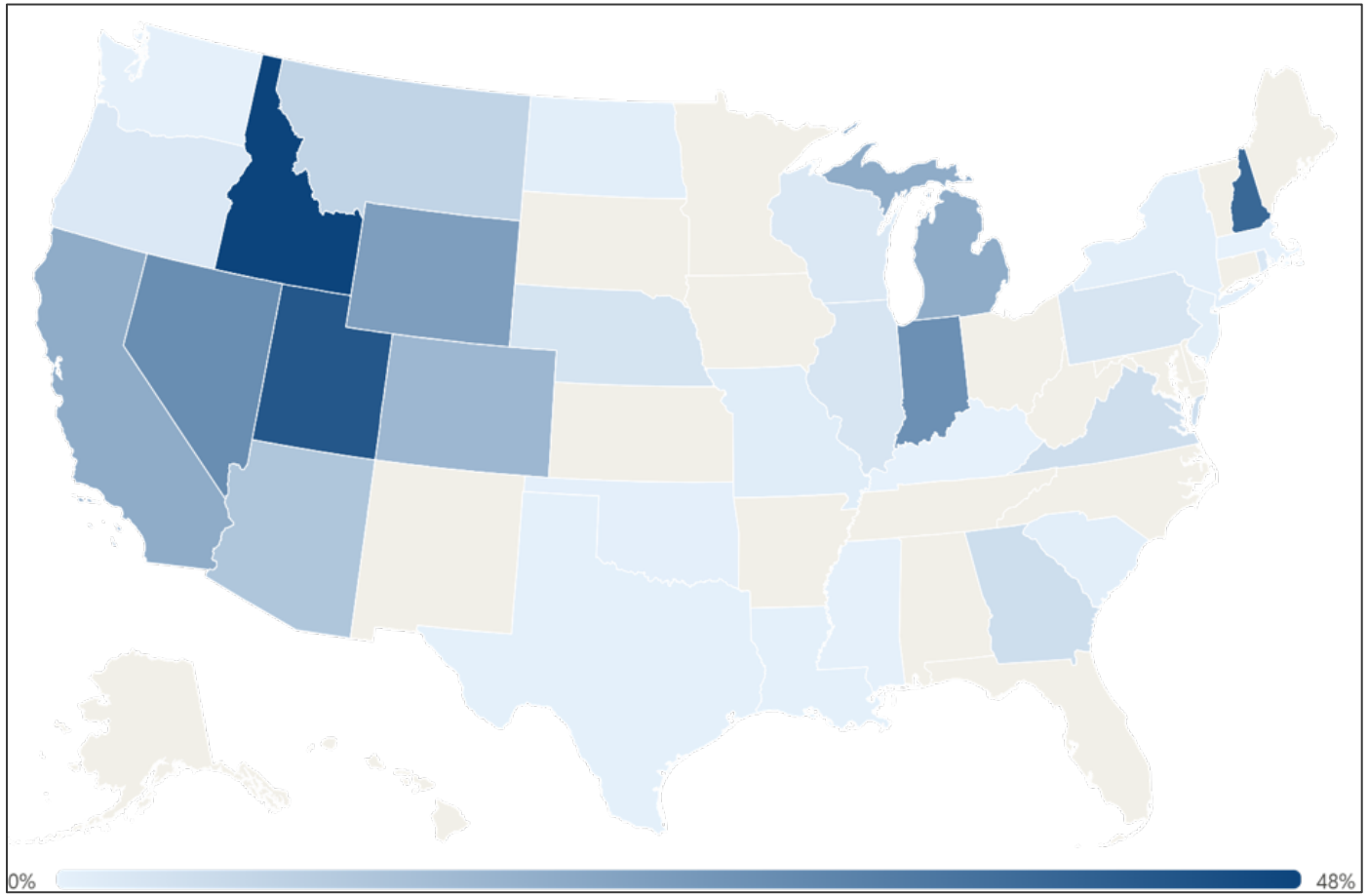
(iii) the funds received from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program are:

(A) for each nursing care facility, available for patient care until the end of the non-state government entity's fiscal year; and

(B) used exclusively for operating expenses for nursing care facility operations, patient care, capital expenses, rent, royalties, and other operating expenses; and

(iv) the non-state government entity has completed all licensing, enrollment, and other forms and documents required by federal and state law to register a change of ownership with the department and with CMS.

Supplemental payments as a % of total Medicaid payments – Nursing facilities & ICF/IDs, FY 2024



Idaho – 47.9%

Utah – 42.8%

New Hampshire – 38.1%

Nevada – 27.5%

Indiana – 26.9%

National average – 5%

Source: MACPAC Exhibit 25. Medicaid Supplemental Payments to Non-Hospital Providers by State (2026)

Policy Considerations

- **Utah**
  - Appropriated an additional $3 million ongoing to increase nursing home rates in 2026 (SB 288)
  - 2 Nursing Facility Quality Programs – (Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program; Nursing Home Quality Improvement Incentives Program)
- **Texas** (1 Tx. Admin Code § 353.1302, 1 Tx. Admin Code § 353.608)
  - Geographic proximity between the owner NSGE and provider NSGO nursing facility.
  - Notification of changes of ownership affecting eligibility, length of ownership requirements.
  - Prohibited uses of the UPL payment for contingent, legal or consulting fees.
- **Iowa** (IAC 441-81.6(249A))
  - The NSGE owner must –
    - hold the facility's license;
    - be a party to the nursing facility's Medicaid contract; and
    - have "complete operational responsibility" for the NSGO nursing facility.

Questions?