

Regulatory UPDATE



Welcome to the April 2022 edition of the Colorado Hospital Association (CHA) Regulatory Update. Monthly updates cover important information on regulatory issues in the health care field, specifically those associated with the federal government, as well as Colorado state agencies involved in health care issues – including the Colorado Department of Human Services (CDHS), Colorado Department of Public Health and Environment (CDPHE), the Department of Regulatory Agencies (DORA), the Department of Health Care Policy and Financing (HCPF), and the Colorado Department of Labor and Employment (CDLE).

As a reminder, April's CHA Regulatory Briefing Call is scheduled from 10-11 a.m. on April 6. To join, please click on this [link](#). This call allows for informal discussion regarding priority regulatory issues. To receive calendar invites for future calls, please contact Whitney Dolbeer, CHA administrative assistant, at Whitney.Dolbeer@cha.com or 720.330.6031.

April's Regulatory Briefing will include a deep-dive presentation from CHA's project manager for quality data, Ali Rosenberg, and director of quality improvement and patient safety, Richard Bottner, on the status of the [Colorado Hospital Transformation Program](#). Please feel free to share this invitation with any members of your team working on this program. This is an opportunity to ask questions on implementation and voice any concerns.

March's Regulatory Update includes information on the following issues:

- [Disaster Recovery Executive Order Amended and Extended](#)
- [Public Health Order 20-38 Update](#)
- [CHA Provides Hospitals COVID De-Escalation Resources](#)
- [OSHA Opens a Comment Period on a COVID-19 Occupation Exposure Interim Final Rule](#)
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- [HRSA Provider Relief Fund Reporting Deadline Occurs](#)
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- [Update on Colorado Hospital Transformation Program \(HTP\)](#)
- [Training Opportunities for HTP Measure BH1 – SBIRT](#)
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- [2022 NHSC New Site Application Cycle Now Open](#)
- [CMS to Host Webinar on Rural Health Quality](#)
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COVID-19 Updates:

Disaster Recovery Executive Order Amended and Extended

On Friday, March 25, Gov. Polis signed an [Executive Order](#) (EO) amending and extending directives in the Colorado COVID-19 Disaster Recovery Order that will help ensure that agencies have continued access to state and federal funding to respond quickly to protect public health and allocate state resources responsibly to focus on recovery. This EO ends the suspension of statutes for out of state emergency medical service personnel, which is no longer necessary.

Public Health Order 20-38 Update

Last month, the Colorado Department of Public Health and Environment (CDPHE) [extended and amended](#) Public Health Order (PHO) 20-38 regarding masking. CDPHE has confirmed that PHO 20-38 requires face coverings for all patients, residents, and visitors, and medical-grade masks for all staff in emergency medical and other health care settings, including hospitals, when COVID-19 transmission is medium or high according to the Centers for Disease Control and Prevention (CDC) COVID-19 Community Levels. Furthermore, PHO 20-38 requires face coverings at all times, regardless of CDC [COVID-19 Community Levels](#), for unvaccinated or not fully vaccinated staff in emergency medical and other health care settings, including hospitals.

CHA Provides Hospitals COVID-19 De-Escalation Resources

On March 23, CHA hosted a members-only webinar to review changes to COVID-related regulations and requirements of hospitals and health care facilities amid continued de-escalation of the pandemic response by the state and federal governments. [View the recording](#) of the COVID-19 De-Escalation Changes for Hospitals or [download the slides](#) for information on data reporting, testing and masking, employee and patient/visitor screening, and more. Additional details about the COVID-19 de-escalation process will be [posted here](#).

OSHA Opens Comment Period on a COVID-19 Occupation Exposure Interim Final Rule

The Occupational Safety and Health Administration (OSHA) [announced](#) on Tuesday a 30-day comment period, ending Friday, April 22, for certain topics in its interim final rule, which established an emergency temporary standard for occupational exposure to COVID-19. The agency also announced an informal virtual public hearing it is planning for Wednesday, April 27, to gather additional information from health care stakeholders. On Wednesday, the American Hospital Association (AHA) released a [Special Bulletin](#) detailing its opposition to “an inconsistent and overly strict OSHA standard.”

HRSA Releases Additional PRF Funding

The Health Resources and Services Administration (HRSA) released another [\\$413 million](#) in Provider Relief Fund (PRF) “Phase 4” payments on Tuesday to providers who experienced revenue losses and expenses related to the COVID-19 pandemic based on changes in operating revenues and expenses from July 1, 2020 – March 31, 2021. HRSA began releasing the [\\$17 billion](#) in PRF Phase 4 payments in December.

HRSA Provider Relief Fund Reporting Deadline Occurs

Providers who received “period 2” PRF payments exceeding \$10,000 total between July 1 – Dec. 31, 2020, must have [reported](#) on how funds were used to HRSA by Thursday, March 31, or face enforcement actions such as repayment or exclusion from receiving or retaining future PRF payments. The original deadline to use these “period 2” funds was Dec. 31, 2021. More information about the reporting requirements is available [here](#).

HRSA Stops Accepting Claims for Testing and Treatment

HRSA [announced](#) last week that the COVID-19 Uninsured Program will stop accepting claims for testing and treatment at 9:59 p.m. MT on March 22, and claims for vaccination at 9:59 p.m. MT on Tuesday, April 5, due to lack of sufficient funds. HRSA's Coverage Assistance Fund also will stop accepting claims for vaccination at 9:59 p.m. MT on Tuesday, April 5, the agency [said](#). Eligible claims submitted by these deadlines "will be paid subject to the availability of funds."

State (Non-COVID-19) Updates:

Follow Along: 2022 Legislative Session

More than halfway through the 2022 legislation session, CHA continues ahead advocating for Colorado's hospitals, health systems, and the patients we serve. CHA member hospitals and health systems are encouraged to follow along with the key issues. CHA has identified three areas of proactive focus for this year, including supporting the health care workforce, seeking regulatory relief, and investing in what works. CHA continues to coordinate with stakeholders, legislators, and the administration to advocate for policies that will meet hospitals' needs. Follow along with the [bills tracked by CHA](#) throughout the 2022 legislative session. Questions? Please contact Joshua Ewing, CHA vice president of legislative affairs, at Joshua.ewing@cha.com.

CHA Responds to CIVHC Affordability Dashboard Announcement

The Center for Improving Value in Health Care (CIVHC) recently launched its [Colorado Health Care Affordability Dashboard](#), which the organization describes as a tool to help understand health care affordability in Colorado. On Wednesday, CHA sent a [letter](#) to CIVHC expressing concern with dashboard's design and urging the creation of more comprehensive reporting when designing and developing dashboards. Upon review of the dashboard and source data, CHA determined that the dashboard provides only limited information on health care spending categories for the data obtained by CIVHC, and it does not provide a useful context of health care affordability for consumers or other stakeholders.

In the letter, CHA noted Colorado hospitals and health systems' continued commitment to advancing affordability and the value of health care for Coloradans. Additionally, CHA noted that the [Commonwealth Fund 2020 Scorecard on State Health System Performance](#) ranked Colorado as sixth best in the United States based on measures including access and affordability; prevention and treatment; avoidable use and cost; healthy lives; and income disparity.

HB 21-1198: New Dates for Public Rule Review and Final Rule

The Colorado Department of Health Care Policy and Financing (HCPF) has corrected a previous miscommunication about scheduled dates related to [House Bill \(HB\) 21-1198: Health Care Billing Requirements for Indigent Patients](#), otherwise known as Hospital Discounted Care. The Public Rule Review Meeting is scheduled for Monday, April 18, and the final reading of the rules at the Medical Services Board (MSB) meeting on Friday, May 13.

The Public Rule Review is currently being conducted via email only. To submit comments on the rule, email hcpf_HospDiscountCare@state.co.us with “Public Rule Review Meeting” in the subject line or body of the email. Comments can be submitted at any time; there is no need to wait until the meeting to submit comments to the inbox.

On March 18, CHA submitted [comments](#) to HCPF on the bill. The comments offer feedback and recommendations from the Association and its member hospitals and health systems on the implementation of HB 21-1198.

Colorado Medicaid Executes Its First Pharmaceutical Value-Based Contracts

On March 22, HCPF announced that it had entered into two value-based contracts Novartis Pharmaceuticals Corporation for its Entresto drug therapy used to treat heart failure, and with Novartis Gene Therapies for its Zolgensma drug therapy used to treat spinal muscular atrophy (SMA). Both contracts have an effective date of Jan. 1, 2022.

Update on Colorado Hospital Transformation Program (HTP)

HTP is a Colorado-based quality incentive payment program that ties the hospital provider fee to hospital performance on quality initiatives. This five-year program is currently in Program Year (PY) 1, which runs from October 2021 through September 2022. In PY1 hospitals have thus far finalized their implementation plans and completed the project ramp-up and planning period. Beginning on April 1, hospitals move into the next phase of PY1- the start of HTP activity. In this new phase, hospitals will be focused on implementation activities from establishing measure-specific forums and project teams to developing data reports and new processes, as laid out in their implementation plans. Hospitals will also begin, if they have not done so already, ramping up community

engagement including meeting quarterly with stakeholders and engaging their broader communities in an HTP-focused forum annually. At the end of this third quarter hospitals will be responsible for submitting their first interim activity report and their first Community and Health Neighborhood Engagement (CHNE) report. More information on reporting requirements can be found on the Colorado HTP website [here](#) and in the quarterly reporting guide [here](#).

Training Opportunities for HTP Measure BH1 – SBIRT

The HTP measure BH1 concerns Screening, Brief Intervention, and Referral to Treatment (SBIRT) in the emergency department. Nurses, pharmacists, social workers, and physicians have the opportunity earn continuing education credits by participating in a two-hour virtual training on SBIRT at no cost.

Trainings are hosted by Peer Assistance Services, Inc., and will be presented by SBIRT Lead Trainer Kevin Hughes. Participants will learn evidence-based approaches to prevent, identify, and reduce misuse of alcohol, marijuana, prescription, and illicit drugs in both adults and adolescents. The trainings will be offered four times in April:

- 9-11 a.m. on Tuesday, April 5
- 1-3 p.m. on Monday, April 11
- 8-10 a.m. on Wednesday, April 20
- 11 a.m. - 1 p.m. on Thursday, April 21

Additional HTP-related trainings are hosted by CHA, including an upcoming learning session covering implementation and challenges regarding HTP measure SW-BH3, concerning Emergency Department Alternatives to Opiates (ED ALTO) programs. The session is scheduled for 1-2 p.m. on Wednesday, April 20, and is intended for all hospitals working on the SW-BH3 ED ALTO measure. [Register here](#).

CHA Submits Comments on DOI DRAFT Proposed Amended Regulation 4-2-42 – Concerning Essential Health Benefits

On March 16, CHA submitted [comments](#) to the Colorado Division of Insurance (DOI) regarding the [DRAFT Proposed Amended Regulation 4-2-42 – Concerning Essential Health Benefits](#). The regulation aims to establish rules for the required inclusion of certain essential health benefits in individual and small group health benefit plans. CHA has asked for additional clarification regarding a proposed de minimis value change in the drafted regulations. De minimis value helps consumers

understand the actuarial value of a health care plan and serves as an important component of consumer protection.

State Budget Package, known as the Long Bill, Passes the House and Heads to the Senate

Last month, Legislative Council Staff (LCS) and the Governor's Office of State Planning and Budgeting (OSPB) presented the March revenue forecasts to the Joint Budget Committee (JBC). The forecasts are presented quarterly and serve as the basis for the state budget in the coming fiscal year. This year, the JBC voted to use the LCS forecast as the basis for budget balancing.

The state budget – known as the “Long Bill” – was introduced in the state House of Representatives on Monday, March 28. The bill was debated at length on the House floor on March 30, where 57 amendments were presented on Second Reading, resulting in the passage of only one amendment, and 12 additional amendments approved during the Committee of the Whole. The state budget package passed Third Reading in the House on March 31 and now heads to the Senate. It is expected that many of the amendments added in the House may be removed in the Senate or in Conference Committee.

Key Takeaways from the March Forecasts:

- **LCS forecast** expects General Fund revenues to be \$15.96 billion in fiscal year (FY) 2021-22 and \$16.05 billion in FY 2022-23 – a \$59 million increase and \$344.5 million decrease compared to December's forecasts, respectively.
 - **OSPB forecast** expects General Fund revenues to be \$16.2 billion for FY 2021-22 and \$16.6 billion for FY 2022-23 – respective increases of \$205.9 million and \$344.7 million over December's forecasts.
 - While spending is consistent with the December forecasts, the legislature has \$1.22 – 1.4 billion to spend in 2022-23, in addition to what has been tentatively committed to in the Long Bill and capital construction.
 - Both forecasts foresee the state exceeding the Taxpayer's Bill of Rights, or TABOR, limit in the upcoming fiscal years due to higher than anticipated income tax collections.
 - Both forecasts found continued strong economic recovery, but highlighted concerns such as the invasion of Ukraine, rising inflation, uncertainty of the pandemic, evolving fiscal policy, continued supply chain disruptions, and other factors as potential impacts to the state budget.
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Federal (Non-COVID-19) Updates:

Dr. Lorna Breen Health Care Provider Protection Act Signed into Law

On Friday, President Biden signed [House of Representatives \(H.R.\) 1667](#) – the Dr. Lorna Breen Health Care Provider Protection Act – into law. The CHA-supported legislation will authorize grants for programs that offer behavioral health services for frontline health care workers. Named for a doctor who led the emergency department at New York-Presbyterian Allen Hospital, the bill also will require the Department of Health and Human Services to recommend strategies to facilitate health care provider well-being and launch a campaign encouraging health care workers to seek assistance when needed. The Senate passed the bill last month and the House in December.

Related materials are available from the [AHA Physician Alliance](#), which offers a wide array of resilience resources, including podcasts, case studies, and a [Clinician Well-being Playbook](#).

Biden Urges Immediate Hardening of Cyber Defenses Due to Potential Russian Strike

President Biden urged an immediate hardening of private-sector cyber defenses Monday “based on evolving intelligence that the Russian government is exploring options for potential cyberattacks.” In tandem with the president’s [statement](#), the White House issued a [fact sheet](#) detailing steps organizations can take to protect against potential cyberattacks. Foremost among those steps are the implementation and mandated use of multi-factor authentication.

The American Hospital Association (AHA) released a [Cybersecurity Advisory](#) on Monday with additional details on the implication for hospitals and health systems.

The Federal Bureau of Investigation (FBI) and the Cybersecurity and Infrastructure Security Agency (CISA) recommended all organizations [take action](#) to prevent Russian state-sponsored actors from exploiting vulnerabilities in multifactor authentication (MFA) protocols and Windows print spooler.

According to John Riggi, national advisory for cybersecurity and risk at the American Hospital Association, “Russian state-sponsored cyber criminals and spies are conducting ‘vulnerability chaining’ — linking multiple known vulnerabilities together to gain access to networks and data. This pattern highlights the need to ensure MFA is properly configured to detect and prohibit unknown devices from enrolling in the service, and prioritizing patching of all vulnerabilities that allow unauthorized remote access and code execution. Reports of the Russian military deploying

destructive malware in the Ukraine continue to add urgency to acting on all alerts related to cyber threats posed by the Russian government."

Additionally, the Colorado Information Analysis Center (CIAC) Infrastructure Protection (IP) Team has released a [Critical Infrastructure Reporting Form](#) that can be used to report suspicious activity or incidents regarding critical infrastructure facilities, including hospitals. Reported data will be used to track activity and incidents as they occur and provide better insight into the types of critical infrastructure being targeted and trends occurring. Through analysis of the data, the CIAC IP Team will be able to provide focused, proactive support and intelligence to Colorado infrastructure partners. Request a follow up from the CIAC IP Team by emailing Trooper Jason McCall at jason.mccall@state.co.us, or Intelligence Analyst Marcus Bagley at marcus.bagley@state.co.us.

2022 NHSC New Site Application Cycle Now Open

HRSA has opened the 2022 National Health Service Corps (NHSC) New Site Application Cycle through 9:59 p.m. MT on Tuesday, May 10. Sites and treatment facilities that have never been approved for NHSC, including those that have applied and had their application denied or cancelled, or that are currently an inactive NHSC site due to expiration or past compliance issues, can apply and get help with the application [here](#).

NHSC-approved sites can recruit and retain qualified providers using NHSC loan repayment programs, post vacancies to the [Health Workforce Connector](#), participate in [HRSA Virtual Job Fairs](#), and more. For questions about applying and site-specific information, contact the [State Primary Care Office](#) or email Ashante Butcher, NHSC state lead for Colorado, at abutcher@hrsa.gov.

CMS to Host Webinar on Rural Health Quality

The Centers for Medicare and Medicaid Services (CMS) is hosting a public webinar titled "Rural Health Quality: How CMS Initiatives Improve How We Measure and Address Gaps in Care" in April. The presentation will highlight the unique challenges surrounding quality measurement in rural settings, and how CMS is working to address those issues to ensure equitable care is provided to all Americans regardless of where they reside. The webinar is available on two days:

- 1-2 p.m. MT on Wednesday, April 20 – [Register here](#)
- 10-11 a.m. MT on Thursday, April 21 – [Register here](#)

Advance registration is recommended as space will be limited. To submit questions for discussion during the presentation, email MMSSupport@battelle.org.

Calendar of Key Upcoming Dates

- April 6: CHA/HCPF/Hospital Leadership Quarterly Meeting
- April 8: Medical Services Board- HB21-1198 final rulemaking
- April 8: SPARC Meeting
- April 18: MSB Public Rule Review Meeting
- April 20: Accountable Care Collaborative Program Improvement Advisory Committee
- April 22: Mental Health Advisory Board for Service Standards and Regulations
- April 25: Colorado Indigent Care Program Stakeholder Advisory Council
- April 26: Colorado Health Affordability and Sustainability Enterprise (CHASE) Board
- April 29: Suicide Prevention Commission
- May 6: Hospital Stakeholder Engagement Meeting

***Member hospitals can access additional information about upcoming rulemaking hearings on the Secretary of State's [website](#).**

If you are not currently receiving the CHA Monthly Regulatory Update email and would like to be added to the list or for more information, contact Whitney Dolbeer, CHA administrative assistant, at whitney.dolbeer@cha.com.



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