

# Regulatory UPDATE



Welcome to the June 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, June's **CHA Regulatory Briefing Call is scheduled from 10-11 a.m. on June 8**. 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 Michelle Comerford, CHA administrative assistance, at [Michelle.Comerford@cha.com](mailto:Michelle.Comerford@cha.com) or 720.330.6031. This month, Joshua Ewing, CHA vice president of legislative affairs, will provide an update on [HB 22-1401](#), Hospital Nurse Staffing Standards.

### June's Regulatory Update includes information on the following issues:

- [Colorado Board of Health Emergency Rules to Mandate Vaccination Among Health Care Facility Staff effective until July 14](#)
- [CDPHE Updates on COVID-19 Data](#)
- [CMS Risk Adjustment Telehealth and Telephone Services During COVID-19 FAQs](#)
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- [CMS Updated Guidance on COVID-19 Vaccination Coverage and Reimbursement](#)
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- [Federal Report Finds Medicare Advantage Plans Deny Medically Necessary Care](#)
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- [HRSA Extends Deadline for Applying to Become NHSC Site](#)
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- [Calendar of Key Upcoming Dates](#)

## COVID-19 Updates

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### Colorado Board of Health Emergency Rules to Mandate Vaccination Among Health Care Facility Staff effective until July 14

As a reminder, the Colorado Board of Health adopted emergency rules to mandate vaccination among health care facility staff on March 16, which are in effect until July 14. The rules did not change substantially from the rules that were adopted in December and continue to align with the federal Centers for Medicare and Medicaid Services (CMS) mandate. Neither set of rules include a testing requirement for individuals who have a valid exemption. [Read the most recent rule here.](#)

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### CDPHE Updates on COVID-19 Data

- On April 27, CDPHE [announced](#) a change in case data reporting to make it easier for third parties to accurately calculate and display Colorado’s COVID-19 case rates. Some third party outlets source their reporting from CDPHE’s case data, but report cases with prior infection dates on the date they were added to CDPHE’s data dashboard, not the date the cases occurred.
- CDPHE announced it will update its [hospital data](#) to improve COVID-19 reporting among hospitalizations as part of the regular 4 p.m. data update moving forward. In order to improve data transparency and provide the public with better hospitalization information, CDPHE requested and began receiving additional data about COVID-19 hospitalizations from hospitals and health systems.
- On May 12, CDPHE and Colorado School of Public Health released an updated [statewide modeling report](#), which indicates COVID-19 transmission is on a relatively slow upward trend as indicated by percent positivity, wastewater concentration, and hospitalizations. Omicron

subvariant BA.2.12.1 is increasing in predominance and likely driving the rise with higher transmissibility than BA.2.

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## CMS Risk Adjustment Telehealth and Telephone Services During COVID-19 FAQs

On April 27, CMS [announced](#) that it will continue to include certain telehealth and telephone-only services in its risk adjustment program for qualified health plans in plan year 2022, in response to the ongoing pandemic and need to use telehealth and virtual care options.

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## FDA Actions on Vaccines, Tests, Treatments

- **Website:** Food and Drug Administration (FDA) launched a [website](#) listing counterfeit over-the-counter COVID-19 diagnostic tests, which currently lists two unauthorized tests made to look like authorized iHealth and Flowflex tests. FDA plans to update the page as needed to alert health care providers, distributors and the public to counterfeit tests.
- **Class 1 Recall of Celltrion Diatrust COVID-19 Ag Rapid Test:** The FDA [announced](#) a Class 1 recall of the Point of Care Celltrion DiaTrust COVID-19 Ag Rapid Test because it may have been distributed to unauthorized laboratories, which could increase the risk of false results.
- **Self-Life Extension for Bamlanivimab:** On May 4, the FDA [extended](#) to 24 months the shelf life for certain lots of refrigerated bamlanivimab. The combination monoclonal antibody therapy bamlanivimab and etesevimab is currently not authorized to treat or prevent COVID-19 in any U.S. region because it is not effective against the omicron variant. However, the Department of Health and Human Services (HHS) and FDA recommend retaining both products in case future COVID-19 variants are susceptible to them and are evaluating whether to extend the shelf life for etesevimab in the future.
- **Janssen COVID-19 Vaccine:** On May 5, the FDA [announced](#) that it has limited the authorized use of the Janssen COVID-19 vaccine to individuals 18 years of age and older for whom other authorized or approved COVID-19 vaccines are not accessible or clinically appropriate, and to individuals 18 years of age and older who elect to receive the Janssen COVID-19 Vaccine because they would otherwise not receive a COVID-19 vaccine.
- **Paxlovid:** The FDA [released](#) a screening checklist and drug interaction tool to help prescribers identify patients eligible for the Pfizer COVID-19 antiviral pill Paxlovid.

- **Wastewater Samples:** The FDA [released](#) a dashboard summarizing data from its project to track SARS-CoV-2 variants from wastewater samples.
  - **New Indication for Oluminant (baricitinib):** On May 10, the FDA [approved](#) using Oluminant (baricitinib) to treat COVID-19 in hospitalized adults requiring supplemental oxygen, mechanical ventilation or extracorporeal membrane oxygenation (ECMO). The COVID-19 treatment was previously given emergency use authorization (EUA) in hospitalized children and adults and remains under EUA for hospitalized children.
  - **Skipack Medical Lab SARS CoV-2 Antigen Rapid Test:** On May 10, the FDA [alerted](#) health care providers and the public not to use the Skipack Medical Lab SARS-CoV-2 Antigen Rapid Test (Colloidal Gold) because the agency has not authorized or approved the test and it may produce false results.
  - **Pfizer Booster Dose and Third Dose for Children Aged 5-11:** On May 17, the FDA [authorized](#) a single Pfizer COVID-19 booster dose for children aged 5-11 who completed the Pfizer vaccine primary series at least five months before. On May 20, the CDC [approved](#) a third dose of the Pfizer COVID-19 vaccine for children aged 5 through 11 years. The announcement came after CDC's Advisory Committee on Immunization Practices voted to recommend a third dose of the Pfizer vaccine in this younger population.
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## HHS Reports on the Health Care Workforce and COVID-19 Vaccinations

- On May 3, HHS [released](#) a report stating that the COVID-19 pandemic has put extreme stress on the health care workforce in the United States, contributing to growing worker shortages, burnout, and mental health concerns.
  - On May 4, HHS [released](#) a report stating that COVID-19 vaccinations prevented an estimated 107,000 Medicare hospitalizations between January and May 2021, resulting in \$2.6 billion in savings for Medicare and Medicare Advantage plans.
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## CDPHE Webinars for COVID-19 Vaccine Providers

- On May 6, CDPHE held a webinar for COVID-19 vaccine providers with details on vaccines for pediatric populations, changes to the shelf life for certain medications, and changes to other vaccine recommendations. Watch the recording [here](#).

- On May 20, CDPHE held a webinar for vaccine providers in the state. For those unable to participate, CDPHE has made a recording of the webinar available online [here](#).
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## **CMS Updated Guidance on COVID-19 Vaccination Coverage and Reimbursement**

On May 6, CMS released [updated guidance](#) on COVID-19 vaccination coverage and reimbursement to help Medicaid, Children's Health Insurance Program and Basic Health Program policymakers identify and address related issues during and after the public health emergency.

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## **HHS Distributing More Than \$450 Million in ARP Rural Payments**

On May 10, HHS, through the Health Resources and Services Administration (HRSA), [released](#) over \$450 million in American Rescue Plan (ARP) Rural payments to 2,200 providers and suppliers who served rural Medicaid, Children's Health Insurance Program (CHIP), and Medicare beneficiaries from Jan. 1, 2019 through Sept. 30, 2020.

With the announcement, a total of \$7.9 billion in ARP rural payments have now been distributed to more than 46,000 providers in all 50 states, Washington D.C., and five territories. This is in addition to HRSA's distribution of Provider Relief Fund Phase 4 payments totaling nearly \$13.5 billion in funding to approximately 86,000 providers since November 2021. In Colorado, a total of \$99 million has been distributed to nearly 800 providers. HRSA continues to process the remaining Phase 4 applications, which require additional review as part of the risk mitigation and cost containment safeguards outlined in the Phase 4 methodology.

Please note that HRSA has processed 99 percent of ARP rural applications. Providers who have not received any communication regarding their ARP Rural payment determination will be notified as soon as HRSA completes the review and processing of their application.

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## **Changes to the Crisis Standards of Care Plan**

On May 12, the Governor's Expert Emergency Epidemic Response Committee approved [changes](#) to the crisis standards of care plan that, among other things, allow the state to partially activate the crisis standards for hospital care.

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## **CDPHE Extended Public Health Order for Another Month**

On May 19, CDPHE released the [17th Amended Public Health Order \(PHO\) 20-38](#), extending the order another month. PHO 20-38 is extended to June 18 and has been amended in Section I.A.1, 2, and 3 to clarify the entities that must comply with masking requirements as well as the CDC standards that apply to those requirements, as follows:

- Section I.A.2: Health care settings, including hospitals, ambulatory surgical centers, freestanding emergency departments, urgent care centers, clinics, doctors' offices, and non-urgent medical care structures, must require masking of patients, visitors, and staff when community transmission levels are substantial or high in accordance with the Centers for Disease Control and Prevention's (CDC) [COVID Data Tracker](#). Patients and visitors must wear face coverings and staff must wear medical grade masks or respirators. Additionally, any staff who are not up to date with all COVID-19 recommended vaccinations and boosters must wear medical grade masks or respirators at all times.
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## **Biden Administration Expected to Renew COVID-19 PHE**

In December, HHS Secretary Xavier Becerra pledged to provide a 60-day notice of the end of the COVID-19 public health emergency (PHE), which is currently scheduled to end on July 15. The 60-day threshold passed on Monday, May 16, appearing to signal that an extension beyond July 15 will occur. While the secretary is not required to extend the public health emergency (PHE) for a full 90 days, if they proceed as they have then the next deadline would fall mid-October.

On May 10, the American Hospital Association and other national health care organizations [urged](#) HHS Secretary Becerra to maintain the PHE until it's clear that the global pandemic has receded and the capabilities authorized by the PHE are no longer necessary.

On May 25, HCPF announced that it is expecting HHS to extend the current PHE because HHS did not give the 60-day notice that it has committed to providing in advance of the PHE expiring. The state did receive a letter indicating that an end date is still unknown and encouraging Colorado to

prepare and then utilize 12 months to renew Medicaid eligibility once the PHE end is formally announced.

- HCPF has been hosting webinars to share its plans for the end of the PHE – recordings of those webinars and other materials are available on its [PFE Planning webpage](#).

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## **Executive Order Signed on Access to Funding for Rapid COVID-19 Response**

On May 22, Gov. Polis signed an [Executive Order](#) to extend directives to continue agencies' access to state and federal funding for rapid response to changes in the public health environment due to COVID-19 and to focus on improving the state's economic recovery. CHA does not expect this EO to change hospital operations.

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## **Data Released on Pfizer COVID-19 Vaccine Booster for Children Aged 0-4**

On May 23, Pfizer [announced](#) that its COVID-19 vaccine booster for children under age five was 80.3 percent effective and well tolerated in a clinical trial involving 1,678 children who received the 3-microgram dose at least two months after the primary vaccine series at a time when the omicron variant was predominating. The FDA is expected to consider Pfizer's vaccine for children under five years of age for emergency use authorization at the Vaccines and Related Biological Products Advisory Committee meeting on June 15.

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## **Provider Requests for COVID-19 Therapeutics**

CDPHE is reminding providers that requests for COVID-19 therapeutics must be submitted by midnight on Monday each week. All providers can now request therapies directly through HHS' [Partner Ordering Portal](#). There is no longer any other ordering process.

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## Updated CDC Guidance Relating to COVID-19

- On May 20, the CDC [released](#) new guidance for use of a Pfizer-BioNTech COVID-19 vaccine third (booster) dose in children aged 5 through 11 years. All people aged 5 years and older should receive at least a third (booster) dose of an age-appropriate COVID-19 vaccine.
  - On May 24, the CDC released [updated guidance](#) for clinicians treating COVID-19 in patients who receive the Pfizer COVID-19 antiviral pill Paxlovid. “There is currently no evidence that additional treatment is needed with Paxlovid or other anti-SARS-CoV-2 therapies in cases where COVID-19 rebound is suspected,” the CDC said, noting that a brief return of symptoms may be part of the natural history of SARS-CoV-2 infection in some individuals, “Independent of treatment with Paxlovid and regardless of vaccination status.”
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## CDPHE Webpage on Telehealth Resources for COVID-19 Treatments

CDPHE [released](#) a webpage to direct Coloradans to telehealth resources for COVID-19 treatments. Some of the identified providers offer same- or next-day appointments and rapid access to COVID-19 therapeutics. Patients should be encouraged to check with their health insurance companies to identify which providers and services are covered.

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## State (Non-COVID-19) Updates:

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## DOI Stakeholder Meetings on Colorado Option

The DOI held the first in a series of public stakeholder meetings on May 25 to discuss implementation of the rate-setting component of [House Bill \(HB\) 21-1232](#), legislation to establish the Colorado Option, a standardized health benefit plan. As a reminder, starting in March 2023, if carriers notify the DOI that they are not able to meet the 10 percent premium reduction target, the DOI has the authority to set provider rates for the 2024 plan year based on five metrics established by the law.

The DOI will be holding a series of meetings – one introductory, three industry specific, and one concluding – learn more about the sessions below:

- Wednesday, June 8: DOI carrier meeting
- **Wednesday, June 15**, 3:00 p.m.: DOI provider meeting
- Wednesday, June 22: DOI consumer meeting
- **Wednesday, July 13**, 1:30 p.m.: DOI recap and next steps

CHA will continue to advocate that all rates create payment adequacy to provide care and for plans to submit formal financial policy principles to the DOI in advance of the June 15 provider meeting.

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## **Join CHA for Health Care Under the Gold Dome: A Recap of the 2022 Legislative Session**

Join CHA to learn more about the 2022 legislative session and new laws that will impact hospitals during the coming months and years. During this post-session webinar, the Association's legislative team will provide a comprehensive update of key issues addressed by the Colorado General Assembly during this session, with a particular focus on matters related to:

- Strengthening the health care workforce
- Aligning state and federal out-of-network laws
- Reimagining the behavioral health care system
- Ongoing COVID-19 response
- Allocating the state budget

The session will be held from 11 a.m.-noon on Thursday, June 9, and is available to CHA members at no cost. Registration is not required in advance, [just join the meeting here](#). For questions, contact Valerie Siebert-Thomas, CHA education manager, at [valerie.siebertthomas@cha.com](mailto:valerie.siebertthomas@cha.com).

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## **CHA Releases Implementation Briefs**

Recognizing that some of the legislation that passed this year requires immediate implementation steps by hospitals and health systems, CHA has compiled a first tranche of issue briefs to assist members. Three of these bills have not yet been signed into law, but are expected to be soon. Below are links to issue briefs for:

- [House Bill \(HB\) 22-1284](#) – Alignment of out-of-network laws (*not yet signed into law*)
  - [HB 22-1285](#) – Hospital price transparency compliance (*not yet signed into law*)
  - [HB 22-1401](#) – Hospital nurse staffing standards/hospital readiness (signed into law)
  - [Senate Bill 22-053](#) – Hospital visitation (*not yet signed into law*)
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## CHA Secures Colorado Indigent Care Program Application Update

HCPF released an updated version (Version 0.2) of the Uniform Application strictly for Colorado Indigent Care Program (CICP) providers, **which is available on the [CICP website](#)**. This version removes all references to Hospital Discounted Care to ensure there is no confusion for hospitals or patients. An updated version of the Uniform Application with Hospital Discounted Care information will be released for all hospitals closer to the Sept. 1 implementation date. As a reminder, patients' liquid resources are no longer included in the CICP eligibility calculation beginning on June 1.

For additional questions, reach out to Megan Axelrod, CHA manager of regulatory policy, [megan.axelrod@cha.com](mailto:megan.axelrod@cha.com). For further updates, click [here](#) to sign up for HCPF's CICP newsletters. To sign up, under email list select "CICP Program Updates" and "CICP Provider Trainings."

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## HCPF Holds HB 22-1198 Trainings and Finalizes Rules

This month, CHA secured a three-month delay for implementation of HB 21-1198. Originally, the legislation was set to go into effect Jun. 1, 2022 and it will now go into effect Sept. 1, 2022. During their May 13 meeting, the Medical Services Board finalized the [HB 21-1198 implementation rules](#) and held a series of [five trainings](#). The final rules clarified at CHA's request that patient outreach must align with federal privacy laws and that hospitals only need to contact patients using one method (previously listed as six). CHA plans to release additional implementation information as guidance from HCPF continues.

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## CDPHE Announces First Human Case of Avian Flu in Colorado

On April 28, CDPHE [reported](#) detection of avian influenza A(H5) virus in an adult male in Colorado, which was confirmed by the CDC on April 27. The patient was involved in the culling of poultry

infected with highly pathogenic avian influenza (HPAI) H5N1 and developed fatigue while engaged in these activities. He was isolated, treated with oseltamivir per CDC guidance, and has now returned to baseline health. CDPHE also released a [Health Alert Network broadcast](#) on the situation.

According to the CDC, detection of A(H5N1) virus in one person who was involved in culling of poultry does not change the human health risk assessment, which remains low for the general public. This detection does not signal the start of a human influenza pandemic. More information on the virus is available from the CDC [online here](#).

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## **CDPHE Identifies First Presumptive Case of Monkeypox**

On May 26, CDPHE [confirmed](#) a presumptive monkeypox case in the Denver metro area and is awaiting confirmation from the CDC. The risk to the public continues to be low. While anyone who has been in close contact with a confirmed or suspected monkeypox case can acquire monkeypox, people who have recently traveled to a country where monkeypox has been reported, or men who have sex with other men, are currently at a higher risk for monkeypox exposure.

Two vaccines are available for the prevention of monkeypox, and Colorado is requesting vaccines from the federal government. The vaccines can be used to prevent infection or decrease the severity of infection among those who have had a high-risk exposure.

For more information, see CDPHE's [Health Alert Network \(HAN\)](#) broadcast highlighting the recent diagnosis of monkeypox cases in the United States. If clinicians identify patients with a rash that could be consistent with monkeypox, especially those with a recent travel history to a country where monkeypox has been reported, monkeypox should be considered as a possible diagnosis. If monkeypox is suspected, clinicians should immediately call CDPHE at 303.692.2700 or 303.370.9395 after hours. Monkeypox could be clinically confused with a sexually transmitted infection like syphilis or herpes, or with varicella zoster virus infection. Specimens should be sent to the CDPHE laboratory for orthopoxvirus testing in consultation with CDPHE epidemiologists. Commercial testing for monkeypox is not available. Information on infection prevention and control in health care settings is available on the [CDC website](#).

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## **CDPHE Merges Newborn Hearing and Metabolic Screening Invoices**

Starting last month, hospitals will receive one invoice that includes newborn hearing billing and newborn screening billing. Previously, newborn screening was consolidated with the fee for any

corrections to the birth registration and any supplies ordered- this will continue to be billed separately.

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## **BHA Advisory Council Currently Accepting Applications**

The Behavioral Health Administration (BHA) is forming a [BHA Advisory Council \(BHAAC\)](#) and inviting Coloradans with lived behavioral health experience to join. The BHAAC is currently [accepting applications](#) from Coloradans until Saturday, June 11. BHAAC member responsibilities will include the following but not limited to:

- Providing diverse community input on challenges, gaps, and potential solutions to inform the BHA's vision and strategic plan
- Providing expertise, on-the-ground perspective, and insights on implementation challenges as part of working groups to support the BHA in problem-solving and developing solutions
- Ensuring there is public accountability and transparency through reviewing the BHA's public-facing transparency activities, including the BHA's data dashboards

The BHA Commissioner will appoint 15 to 20 members from the applications received, while maintaining a majority of members who represent individuals with lived behavioral health experience or families of individuals with lived behavioral health experience. BHAAC members will be paid an annual stipend for their participation and all associated costs pertaining to BHAAC will be covered. For more information or questions about the BHAAC, please contact René González at [rene.gonzalez@state.co.us](mailto:rene.gonzalez@state.co.us) or 720.471.6912.

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## **CHA Opioid Litigation Funds Webinar Recap**

Last week, CHA hosted a webinar on “Access to Opioid Litigation Funds for Colorado Hospitals.” Colorado hospitals may be able to access critical funding to initiate or expand on opportunities to support those in their community with substance use disorder through the state’s settlement dollars, and CHA was joined by Heidi Williams, director of opioid response at the Colorado Attorney General's Office (COAG), during the webinar. The recording of the webinar is now [available here](#), and the slides from the presentation are [available here](#).

In addition, COAG has many other [resources available](#), including a fentanyl and opioid awareness toolkit, press and materials, social media content, the Colorado Department of Law Opioid Crisis

Response Plan, and the Colorado Opioid Joint Framework. Find more resources on the [COAG website](#).

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## **Office of Public Guardianship Requests Feedback for the Annual OPG Director Review**

The Office of Public Guardianship (OPG) Commission is requesting feedback for its Annual OPG Director Review. All stakeholders who have worked with OPG and Director Sophia Alvarez are invited to complete a 15 minute survey to help OPG understand what Director Alvarez is doing well and where she can improve. The [survey](#) is due Friday, June 10.

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## **HCPF Updates HTP Scoring Framework and Releases Quarterly Reporting Guidebook**

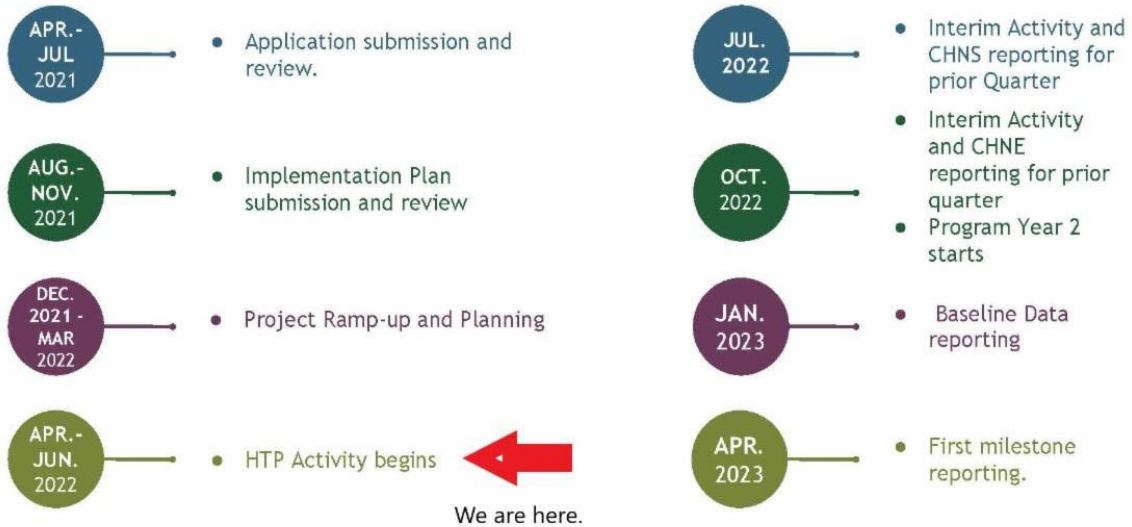
The Hospital Transformation Program (HTP) Scoring Framework has been updated as of May 19, and is posted on the HCPF [website](#) under the Hospital Transformation Program Overview and Framework section. Contact HCPF's [HTP inbox](#) with questions.

HCPF published a quarterly reporting guide to assist hospitals with required HTP quarterly reporting activities. The guide includes important information such as:

- Overview of the various types of quarterly reporting (Community and Health Neighborhood Engagement [CHNE], interim, milestone, performance measures)
- Quarterly reporting schedule
- Deep dive into interim and CHNE reporting including the requirements, submission, scoring and achievement review criteria, scoring review and reconsideration period, etc.
- Deep dive into milestone reporting including the requirements, submission, scoring and achievement review criteria, scoring review and reconsideration period, milestone amendments, course corrections, etc.
- Qualtrics survey prompts that will be used for interim and CHNE reporting
- The Qualtrics survey prompts for milestone reporting and more details on performance measure reporting will be added to the guide at a later date.

The HTP Quarterly Reporting Guide has been added to the [Hospital Transformation Program \(HTP\)](#) page under Tools and Resources.

## Updated HTP Timeline



## HCPF Releases Notification of FY 2022-23 Hospital Base Rates

On Jun. 1, HCPF released a notification of Fiscal Year (FY) 2022-23 Hospital Base Rates for all hospitals participating in Health First Colorado. Once Centers for Medicare and Medicaid Services (CMS) approval is received, all inpatient hospital claims with last service dates from July 1 will be adjusted to reflect the new Hospital Base Rate - all others in this rates posting will be adjusted based on first service date.

- [Inpatient Hospital Base Rates 30-day Posting](#)
- [Outpatient Hospital Base Rates 30-day Posting](#)
- [Per Diem Hospital Base Rates 30-day Posting](#)

Hospital Base Rate Increase FY 2022-23: All hospital base rates reflect the 2.0 percent provider rate increase effective July 1, as detailed in House Bill HB 22-1329. This rate posting reflects a 2.0 percent increase from FY 21-22 base rates. Contact:

- [Diana Lambe](#) for Inpatient Base Rates.
- [Andrew Abalos](#) and [Tyler Samora](#) for Outpatient Base Rates

- [Andrew Abalos](#)\_for Per Diem Base Rates
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## Federal (Non-COVID-19) Update:

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### HHS Finalizes 2023 Notice of Benefit and Payment Parameters

On May 2, HHS issued a final rule entitled, [Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2023](#). This final rule includes payment parameters and provisions related to the risk adjustment and risk adjustment data validation programs, as well as 2023 user fee rates for issuers offering qualified health plans (QHPs) through Federally-facilitated Exchanges (FEEs) and State-based Exchanges on the Federal platform (SBE-FPs). This final rule also includes requirements related to guaranteed availability; the offering of QHP standardized plan options through Exchanges on the Federal platform; requirements for agents, brokers, and web-brokers; verification standards related to employer sponsored coverage; Exchange eligibility determinations during a benefit year; special enrollment period verification; cost-sharing requirements; Essential Health Benefits (EHBs); Actuarial Value (AV); QHP issuer quality improvement strategies; accounting for quality improvement activity (QIA) expenses and provider incentives for medical loss ratio (MLR) reporting and rebate calculation purposes; and re-enrollment.

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### HHS Posts Resources for Locating Infant Formula

HHS has launched a [website](#) to help health care providers and families locate infant formula during the current national shortage, prompted by an Abbott Nutrition recall of certain powdered infant formulas. The page includes ways to connect those in need to community resources like United Way's 211 hotline, ways to find local, accredited milk banks, resources for WIC-eligible families, manufacturer hotlines, and more. The website also provides details on steps the Biden administration and federal agencies have taken to alleviate the shortage.

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## Federal Report Finds Medicare Advantage Plans Deny Medically Necessary Care

On April 27, the HHS Office of Inspector General (OIG) published a new [report](#) finding that Medicare Advantage (MA) plans have exhibited a pattern of denying prior authorization and payment requests that met Medicare coverage and billing rules. The report describes the avoidable delays, extra steps, and administrative burden caused by these practices and affirms the findings of CMS' annual audits of MA plans, which have previously highlighted "widespread and persistent problems related to inappropriate denials of services and payment." Specifically, the OIG report identifies that inappropriate denials of prior authorization and payment requests have resulted from MA plans:

- Using MA clinical criteria that are inconsistent with and often more restrictive than the coverage rules for fee-for-service (FFS) Medicare;
- Requesting unnecessary documentation; and
- Making manual review errors and system errors.

The report also reflects the negative impact of MA plan practices on patients, providing a detailed appendix with dozens of patient case examples that describe denials for requests that adhered to Medicare coverage rules — often resulting in harm and increasing costs.

In response to the report, the AHA said "These findings confirm — and provide data and real-life examples — of the harm that certain commercial insurer policies have on patients and the providers that care for them. The AHA continues to push back forcefully against MA plan policies that restrict or delay patient access to care, and add cost and burden to the health care system, while also contributing to health care worker burnout. We'll continue to make the case that these commercial health plan abuses must be addressed to protect patients' health and ensure that medical professionals — not the insurance industry — are making the key clinical decisions in patient care."

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## CMS Issues New Policies to Provide Greater Transparency for Medicare Advantage and Part D Plans

On May 9, CMS issued a [final rule](#) for the Medicare Advantage (MA) and Part D prescription drug programs intended to improve experiences for dually eligible beneficiaries and provide greater transparency for the MA and Part D programs.

According to CMS, the final rule will help close health disparities by delivering person-centered integrated care that can lead to better health outcomes for enrollees and improve the operational

functions of these programs. The rule also requires all MA special needs plans to annually assess certain social risk factors for their enrollees because identifying social needs is a key step to delivering person-centered care. A factsheet about the final rule is available online [here](#).

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## **HRSA Extends Deadline for Applying to Become NHSC Site**

HRSA has extended through June 7 the deadline for eligible facilities — including eligible critical access hospitals, hospital-affiliated outpatient facilities, and rural health clinics — to apply to become [National Health Service Corps \(NHSC\)-approved sites](#). NHSC-approved sites can recruit and retain qualified providers through NHSC scholarship and loan repayment programs. NHSC-approved sites provide outpatient, primary health care services to people in Health Professional Shortage Areas (HPSAs). Sites must contact CDPHE when applying for, or inquiring about, an HPSA designation.

HRSA requires behavioral and mental health providers to practice in a community-based setting that provides access to comprehensive mental and behavioral health services. Sites that do not offer all required services must demonstrate referral agreements with facilities that provides these services.

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## **CMS to Host Call on Medicaid, CHIP “Unwinding”**

In March 2020, CMS temporarily waived certain Medicaid and CHIP requirements and conditions in order to prevent people from losing their health coverage during the pandemic. However, states will soon be required to restart Medicaid and CHIP eligibility reviews, which could cause up to 15 million people to lose their current coverage through a process called “unwinding.”

In an effort to minimize the number of people that lose Medicaid or CHIP coverage, CMS is working with states and other stakeholders to inform people about renewing their coverage and exploring other available health insurance options if they no longer qualify for Medicaid or CHIP. CMS is hosting a monthly call provide background information on the Medicaid continuous enrollment requirements, efforts underway to connect people to coverage, discuss strategies to engage people with Medicaid and CHIP, and review resources currently available for partners. The next call will be held from 2-3 p.m. MT on Wednesday, June 22 – [register here](#).

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## **HHS Resources for Telehealth Providers and Patients**

HHS has developed a website with robust resources on telehealth for both providers and patients: [www.Telehealth.HHS.gov](http://www.Telehealth.HHS.gov), which provides information about the latest federal efforts to support and promote virtual health care. For [providers](#), the website has details on how to get started, health equity, COVID-19 resources, policy and legal considerations, and much more. For [patients](#), the site provides details on what telehealth is, how to find providers, and privacy considerations among other topics. The website also includes funding opportunities for telehealth providers and a list of educational offerings.

[CHA Broadband Services](#) is also a resource available to CHA members. Broadband Services is the state consortium leader in administering federal dollars to aid hospitals and other health care providers, especially in underserved regions of the state, to gain access to broadband connectivity and provide health care services in their communities.

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### Calendar of Key Upcoming Dates

- **June 9** – Health Care Under the Gold Dome: A Recap of the 2022 Legislative Session – Join [here](#)
- **June 15** – DOI Provider Stakeholder meeting on implementation of the Colorado Option – Register [here](#)
- **July 13** – DOI Stakeholder meeting to recap previous meetings and talk about next steps – Register [here](#)

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 Michelle Comerford, CHA administrative assistant, at [michelle.comerford@cha.com](mailto:michelle.comerford@cha.com).



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