

DIH Rules Matrix 4-23-26

Rule Summary	Bulletin Publication	Effective
R414-15 Residents Personal Needs Fund (Rule Repeal); This rule outlines requirements for long-term care facilities regarding resident personal needs funds, but upon review of this rule, the department has determined that most of the requirements in this rule already exist within federal regulations. This rule, therefore, is repealed in its entirety.	5-15-26	6-23-26
R414-303-10 Refugee Medicaid; In accordance with the mandate set forth by the Office of Refugee Resettlement, this amendment reduces eight months of medical assistance to refugees to four months upon entry into the United States.	5-15-26	6-23-26
R414-510 Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program and Education; This amendment clarifies existing requirements for program eligibility, responsibilities to inform individuals housed in intermediate care facilities regarding home and community-based services (HCBS), and provisions for program capacity based on individual interest in receiving HCBS.	5-15-26	6-23-26

The public may access proposed rules published in the State Bulletin at <https://rules.utah.gov/publications/utah-state-bull/>

State of Utah
Administrative Rule Analysis
Revised May 2025

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or section number:

R414-15

Filing ID: OFFICE USE ONLY

Date of previous publication (only for CPRs):

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:	
R414-15. Residents Personal Needs Fund.	
3. Are any changes in this filing because of state legislative action?	Changes are not because of legislative action.
If yes, any bill number and session:	
4. Purpose of the new rule or reason for the change:	
<p>This rule outlines requirements for long-term care facilities regarding resident personal needs funds, but upon review of this rule, the state Medicaid agency has determined that most of the requirements in this rule already exist within federal regulations, primarily in 42 CFR 483, and any remaining provisions in this rule which are not already within federal regulations are unnecessary to include in rules promulgated by the Division of Integrated Health, including requirements previously in Subsections R414-15-3(2), R414-15-3(3), R414-15-3(4), R414-15-3(5), R414-15-3(6)(a), R414-15-3(6)(c), R414-15-3(7), and R414-15-3(10). The Department of Health and Human Services further reviewed those remaining provisions in coordination with the Office of Licensing and determined it is not necessary to continue to include those provisions in rule. Therefore, it is appropriate to repeal this rule.</p>	
5. Summary of the new rule or change:	
This rule is repealed in its entirety.	

Fiscal Information

6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:	
A. State budget:	
<p>Repealing this rule is not anticipated to have a fiscal impact on the state budget because even though this repeal will decrease the regulatory burden on long-term care facilities, the state is not required by the Centers for Medicare and Medicaid to audit long-term care facilities for these specific requirements and, on this basis, no longer includes these requirements as part of a state audit of long-term care facilities. Further, this rule duplicated existing provisions that will remain in place through federal regulations once this rule is repealed. There is no anticipated change to current or future appropriations as a result of this repeal.</p>	
B. Local governments:	
<p>There is no impact on local governments as they do not administer personal member funds nor provide services under the Medicaid program.</p>	
C. Small businesses ("small business" means a business employing 1-49 persons):	

While there is no anticipated fiscal impact to small businesses that are long-term care facilities as a result of the repeal of requirements from this rule that already exist in federal regulations, the repeal of requirements that are not in federal regulations may result in a small fiscal benefit to small businesses as they will no longer be subject to these state requirements. However, it is impossible to estimate what that benefit will be because the internal practices and number of residents served in each long-term care facility vary, and some facilities may choose to continue to align internal practices with the repealed provisions. Additionally, there is no anticipated cost as a result of this repeal because no additional requirements will be imposed.

As the anticipated benefit is inestimable, no benefit is recorded in the regulatory impact summary table.

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

While there is no anticipated fiscal impact to non-small businesses that are long-term care facilities as a result of the repeal of requirements from this rule that already exist in federal regulations, the repeal of requirements that are not in federal regulations may result in a small fiscal benefit to non-small businesses as they will no longer be subject to these state requirements. However, it is impossible to estimate what that benefit will be because the internal practices and number of residents served in each long-term care facility vary, and some facilities may choose to continue to align internal practices with the repealed provisions. Additionally, there is no anticipated cost as a result of this repeal because no additional requirements will be imposed.

As the anticipated benefit is inestimable, no benefit is recorded in the regulatory impact summary table.

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*):

While there is no anticipated fiscal impact to other persons or entities, including residents in long-term care facilities, as a result of the repeal of requirements from this rule that already exist in federal regulations, the repeal of requirements that are not in federal regulations may result in an inestimable cost or savings to residents as the long-term care facilities will no longer be subject to the requirements removed in this rule. It is impossible to estimate what that cost or benefit may be because the internal practices and number of residents served in each long-term care facility vary, and some facilities may choose to continue to align internal practices with the repealed provisions. There is no anticipated change to current or future appropriations as a result of this repeal.

As any anticipated cost or savings is inestimable, no cost or savings is recorded in the regulatory impact summary table.

F. Compliance costs for affected persons:

Any compliance costs for affected persons, including residents of long-term care facilities, are inestimable because the internal practices and number of residents served in each long-term care facility vary, and some facilities may choose to continue to align internal practices with the repealed provisions.

G. Regulatory Impact Summary Table (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0	\$0	\$0
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0	\$0	\$0

H. Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213		
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Incorporation by Reference Information

8. Incorporation by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1.

A. Comments will be accepted until:

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.):

Date:	Time (hh:mm AM/PM):	Place (physical address or URL):

To the agency: If more than one hearing is planned to take place, continue to add rows.

10. This rule change MAY become effective on:

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. The office may return incomplete forms to the agency, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/19/2026
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R414. Health and Human Services, Integrated Healthcare.

~~**R414-15. Residents Personal Needs Fund.**~~

~~**R414-15-1. Introduction and Authority.**~~

~~_____ (1) This policy ensures proper administration of the personal funds of a Medicaid client who is a resident in a long term care facility. The administrative payee is responsible for using the beneficiary's benefits in his best interest. Flat rate reimbursement shall not be charged to personal funds. The flat rate shall cover the services specified in Attachment 4.19-D, Section 400 of the State Plan.~~

~~_____ (2) This rule is authorized by Section 26B-1-213 and 42 CFR 442 and 447.~~

~~**R414-15-2. Definitions.**~~

~~_____ The definitions in R414-1 apply to this rule.~~

~~**R414-15-3. Facility Responsibilities.**~~

~~_____ (1) For residents who are Medicaid clients, the administration and management of a long term care facility (the facility) must provide the resident, next of kin, or legal guardian:~~

~~_____ (a) a written statement at the time of admission explaining:~~

~~_____ (i) the resident's rights regarding personal funds; and~~

~~_____ (ii) a list of services included in the basic per diem rate;~~

~~_____ (b) access to a written record of all financial transactions involving the individual resident funds;~~

~~_____ (c) a written itemized statement quarterly of all financial transactions involving the individual resident funds upon written request; and~~

~~_____ (d) all funds that were given to the facility for safekeeping, including interest, within 30 days of the resident's discharge.~~

~~_____ (2) The facility must notify the Social Security Administration office to have a representative payee appointed for residents who do not have a legal guardian, representative payee, or other authorized individual to manage their personal needs funds.~~

~~_____ (3) The facility must serve as a temporary representative payee for the resident until the representative payee is appointed.~~

~~_____ (4) The facility must allow the resident to access his funds for at least one hour during business hours.~~

~~_____ (5) Upon request, the facility must return funds to the resident from an outside interest bearing account within one business day.~~

~~_____ (6) The facility shall deposit all funds in excess of \$50.00:~~

~~_____ (a) within 15 calendar days of receipt of the money;~~

~~_____ (b) in an interest bearing account that clearly indicates that the facility's interest is only fiduciary; and~~

~~_____ (c) in a federally insured savings institution.~~

~~_____ (7) The facility may deposit the resident's Social Security check into the facility's bank account if the personal need portion of the resident's check is transferred to the resident's account on the same day.~~

~~_____ (8) The facility must distribute monthly the interest from the resident's interest bearing accounts by either:~~

~~_____ (a) maintaining separate savings accounts for each resident; or~~

~~_____ (b) prorating the amount individually if funds are combined in one account for all residents.~~

~~_____ (9) The facility may keep up to \$50.00 of the resident's money in a non interest bearing account that is readily accessible to the resident.~~

~~_____ (10) The facility must give any benefits to the resident either personally or through the resident's personal need fund unless there is a written authorization from the resident or legal guardian to do otherwise. This includes resident entitlements from Social Security Supplemental Income, government and private pensions, Veterans Administration, and other similar entitlement programs.~~

~~_____ (11) The facility must provide the estate executor or administrator of a deceased resident with a written accounting of the resident's personal funds within 30 days of the resident's death. If the resident has not had an executor or administrator appointed, the facility must provide the accounting to:~~

~~_____ (a) the resident's next of kin, legal guardian, representative payee, or other person the resident designated to manage his personal financial affairs while he was living; and~~

~~_____ (b) the District Court in the county where the resident died.~~

~~_____ (12) If the facility sells or leases the business, it must:~~

~~_____ (a) provide the buyer or lessee with a written statement of all of the residents' monies and properties being transferred;~~

~~_____ (b) obtain a signed receipt from the new owner or lessee before the sale or lease is final; and~~

~~_____ (c) provide each resident's legal guardian, representative payee, or other person the resident authorized to manage his personal funds, a written accounting of all funds held by the facility before any transfer of ownership. The new owner or lessee shall assume full liability for all residents' personal needs accounts.~~

~~_____ (13) For medical or supplemental security income recipients, the facility must provide written notification to the resident and the Department ten days before the resident's funds are about to exceed the amount that would jeopardize his Medicaid eligibility.~~

~~_____ (14) The facility must maintain the resident's personal funds for safekeeping if requested according to R414-15-4.~~

~~R414-15-4. Resident Personal Funds for Safekeeping.~~

~~_____ The resident shall not be required to give his personal funds to the facility for safekeeping. If the resident (or legal guardian) requests this service of the facility, the request must be a written authorization.~~

~~KEY: medicaid~~

~~Date of Last Change: June 19, 2025~~

~~Notice of Continuation: June 21, 2022~~

~~Authorizing, and Implemented or Interpreted Law: 26B-1-213]~~

State of Utah
Administrative Rule Analysis
Revised May 2025

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or section number:

R414-303-10

Filing ID: OFFICE USE ONLY

Date of previous publication (only for CPRs):

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 143325	
City, state and zip:	Salt Lake City, UT 84114-3325	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:	
R414-303-10. Refugee Medicaid.	
3. Are any changes in this filing because of state legislative action?	Changes are not because of legislative action.
If yes, any bill number and session:	
4. Purpose of the new rule or reason for the change:	
The purpose of this change is to implement a change in refugee assistance, as mandated by the Office of Refugee Resettlement in the March 21, 2025, edition of the Federal Register, which can be viewed at https://www.federalregister.gov/documents/2025/03/21/2025-04839/office-of-refugee-resettlement-notice-of-change-of-eligibility .	
5. Summary of the new rule or change:	
In accordance with the mandate set forth by the Office of Refugee Resettlement, this amendment reduces eight months of medical assistance to refugees to four months upon entry into the United States.	

Fiscal Information

6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:	
A. State budget:	
The Department of Health and Human Services (department) estimates this amendment may produce nominal savings. There is, however, no current information to determine how many of the approximately 160 refugees would receive Medicaid services in Utah or what those services might be. There is no anticipated cost as a result of this amendment, as it applies only to a procedure that provides an assistance.	
B. Local governments:	
There is no anticipated impact to local governments as they neither fund nor provide services under the Medicaid program.	
C. Small businesses ("small business" means a business employing 1-49 persons):	
There is no anticipated impact to small businesses as this amendment does not impose requirements for small businesses.	
D. Non-small businesses ("non-small business" means a business employing 50 or more persons):	

There is no anticipated impact to non-small businesses as this amendment does not impose requirements for non-small businesses.

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**):

Medicaid providers may see a nominal decrease in revenue with the reduction of assistance to refugees. There is, however, no current information to determine how many of the approximately 160 refugees would receive Medicaid services in Utah or what those services might be.

F. Compliance costs for affected persons:

The only anticipated compliance costs to affected persons as a result of this amendment is a nominal decrease in revenue for Medicaid providers with the reduction assistance to refugees. There is, however, no current information to determine how many of the approximately 160 refugees would receive Medicaid services in Utah or what those services might be. No other affected persons are anticipated to have a compliance cost.

G. Regulatory Impact Summary Table (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0	\$0	\$0
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0	\$0	\$0

H. Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this cost and savings analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Section 26B-3-108	45 CFR 400.211(b)
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Incorporation by Reference Information

8. Incorporation by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1.

A. Comments will be accepted until:

B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.):

Date:	Time (hh:mm AM/PM):	Place (physical address or URL):

To the agency: If more than one hearing is planned to take place, continue to add rows.

10. This rule change MAY become effective on:

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. The office may return incomplete forms to the agency, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	4/19/2026
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R414. Health and Human Services, Integrated Healthcare.

R414-303. Coverage Groups.

R414-303-10. Refugee Medicaid.

(1) The ~~[D]~~department ~~[adopts and incorporates by reference 45 CFR 400.90 through 400.107 and 45 CFR, Part 401, October 1, 2012 ed., relating to refugee medical assistance]~~applies this section in accordance with 45 CFR 400.90 through 400.107 and 45 CFR 401 relating to refugee medical assistance.

(2) The department may not apply [C]child support enforcement rules~~[do not apply].~~

(3) The department may not count [T]the sponsor's income and resources~~[are not counted]~~or in-kind service or shelter provided by the sponsor.~~[In-kind service or shelter provided by the sponsor is not counted.]~~

(4) The department may not count [C]cash assistance payments that a resettlement agency provides to a refugee~~[received by a refugee from a resettlement agency are not counted].~~

(5) A ~~[R]~~refugee[s] may qualify for medical assistance for four~~[eight]~~months after entry into the United States.

KEY: MAGI-based, coverage groups, former foster care youth, presumptive eligibility

Date of Last Change: ~~[June 19, 2025]~~**2026**

Notice of Continuation: January 6, 2023

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108

State of Utah
Administrative Rule Analysis
Revised May 2025

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or section number:

R414-502

Filing ID: OFFICE USE ONLY

Date of previous publication (only for CPRs):

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 143325	
City, state and zip:	Salt Lake City, UT 84114-3325	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:	
R414-502. Nursing Facility Levels of Care.	
3. Are any changes in this filing because of state legislative action?	Changes are not because of legislative action.
If yes, any bill number and session:	
4. Purpose of the new rule or reason for the change:	
Upon internal review, the department determined this filing is necessary to clarify level of care criteria for patients who reside in nursing facilities.	
5. Summary of the new rule or change:	
This amendment clarifies level of care criteria for the benefit of patients in nursing facilities and for the providers who treat them daily. It clarifies provisions for attending providers, cognitive functioning and testing, and specifies the meaning of orientation as it pertains to the daily activities of nursing facility patients.	
Additionally, it makes style and formatting changes to comply with the Rulewriting Manual for Utah and align more closely with other rules under the Department of Health and Human Services.	

Fiscal Information

6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:	
A. State budget:	
The Department of Health and Human Services (department) does not expect any fiscal impact on the state budget as a result of this amendment because the amendment clarifies existing level of care criteria for nursing facility patients. This clarification neither affects current patient services nor payments to providers.	
B. Local governments:	
There is no expected fiscal impact on local governments as they neither fund nor provide services under the Medicaid program.	
C. Small businesses ("small business" means a business employing 1-49 persons):	
The department does not expect any fiscal impact on small businesses as a result of this amendment because this amendment clarifies existing level of care criteria for nursing facility patients. This clarification neither affects current patient services nor payments to providers.	

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

The department does not expect any fiscal impact on non-small businesses as a result of this amendment because this amendment clarifies existing level of care criteria for nursing facility patients. This clarification neither affects current patient services nor payments to providers.

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**):

The department does not expect any fiscal impact on other persons or entities as a result of this amendment because this amendment clarifies existing level of care criteria for nursing facility patients. This clarification neither affects current patient services nor payments to providers.

F. Compliance costs for affected persons:

The department does not expect any compliance costs for affected persons as a result of this amendment because this amendment clarifies existing level of care criteria for nursing facility patients. This clarification neither affects current patient services nor payments to providers.

G. Regulatory Impact Summary Table (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
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Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0	\$0	\$0

H. Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Section 26B-3-108	
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Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/19/2026
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R414. Health and Human Services, Integrated Healthcare.

R414-502. Nursing Facility Levels of Care.

R414-502-2. Definitions.

~~The definitions~~ Terms used in this rule are defined in Sections R414-1-2 and ~~Section~~ R414-501-2 ~~apply to this rule~~.

Additionally:

(1) "Attending provider" means a medical doctor or doctor of osteopathic medicine, physician assistant, advanced practice registered nurse, or nurse practitioner who is:

(a) duly licensed or certified; and

(b) responsible for the overall care of the patient including diagnosis, treatment, and follow-up.

(2)(a) "Cognitive testing" means testing used to diagnose a condition that includes questions about memory, executive function, language, visuospatial abilities, or orientation.

(b) Cognitive testing may include a Mini-Mental Status Examination or Montreal Cognitive Assessment.

(3) "Orientation" means a person's ability to understand and be aware of:

(a) person, including recognizing themselves and others around them;

(b) place, including understanding where the person is located; and

(c) time, including knowing the current date, day of the week, and time of day.

R414-502-3. Approval of Level of Care.

(1) The ~~Department~~ shall document that at least two of the ~~following~~ factors listed in Subsections (1)(a) through (1)(c) exist when ~~it determines~~ determining whether an applicant has a ~~mental~~ cognitive or physical condition[s] that requires the level of care provided in a nursing facility or equivalent care provided through a Medicaid home and community-based services (HCBS) waiver program~~[-]~~.

(a)(i) ~~Due to a~~ diagnosed medical condition[s], the applicant requires substantial ongoing physical assistance with multiple categories of activities of daily living~~[-activities]~~ above the level of verbal prompting, supervising, or setting up.

(ii) Each program using level of care criteria shall determine a list of activities of daily living that would qualify an applicant for that program based on the type of setting.

(b) ~~The attending~~ ~~physician~~ provider has ~~determined~~ diagnosed and documented that the applicant's ~~level of~~ ongoing cognitive dysfunction ~~in orientation to person, place, or time~~ is not related to an acute condition and requires long-term nursing facility care~~[-]~~ or equivalent care provided through a Medicaid home and community-based waiver program.

(i) The attending provider shall evidence any cognitive dysfunction by conducting current cognitive testing and documentation.

(ii) Cognitive dysfunction may include disorientation.~~[; or]~~

(c) ~~[t]~~The applicant's medical condition and intensity of services indicate that the long-term care needs of the applicant cannot be safely met in a less structured setting~~[,]~~ or without the services and supports of a Medicaid home and community-based waiver program.

(2)(a) The ~~[D]~~department shall determine whether at least two of the factors described in Subsection (1) exist by reviewing ~~[the following]~~ clinical documentation.

(b) Required clinical documentation varies between specific programs based on the type of setting.

(c) Required documentation for an HCBS waiver program is described in waiver implementation plans approved by the Centers for Medicare and Medicaid Services (CMS).

(d) A nursing facility provider shall include in the required clinical documentation:

~~[(a)]i) an applicant's current history and physical examination completed by an attending ~~[physician]~~ provider;~~

~~[(b)]ii) a comprehensive resident assessment for an applicant, completed, coordinated, and certified by a registered nurse;~~

~~[(e)]iii) a social services evaluation of an applicant that meets the criteria in 42 CFR 456.370~~[and]~~, completed by a person licensed as a social worker, or with a higher degree of training and licensure;~~

~~[(d)]iv) a written plan of care for an applicant established by an attending~~[physician]~~ provider;~~

~~[(e)]v) an attending ~~[physician's]~~ provider's written certification that ~~[the]~~an applicant requires nursing facility placement;~~[and]~~~~

(vi) weekly narrative nursing summaries that outline the care required and include the three factors of level of care criteria;

(vii) daily documentation of physical assistance given to an applicant for activities of daily living;

(viii) applicable and current cognitive testing with associated narrative charting related to an applicant's cognitive need with examples of impact;

(ix) any applicable pre-admission screening and resident review evaluation, in accordance with Rule R414-503;

~~[(f)]x) documentation indicating that less restrictive alternatives or services to prevent or defer nursing facility care for an applicant have been explored;~~

(xi) the cognitive dysfunction attestation form published by the department; and

(xii) any other pertinent documentation related to the factors described in Subsection (1).

(3) If the ~~[D]~~department finds that at least two of the factors described in Subsection (1) exist, the ~~[D]~~department shall determine whether the applicant meets criteria for nursing facility level of care and is medically approved for Medicaid reimbursement of nursing facility services or equivalent care provided through a Medicaid home and community-based waiver program.

(a) Meeting medical eligibility for nursing facility services does not guarantee Medicaid payment.

(b) Financial eligibility and other home and community-based waiver targeting criteria apply.

KEY: Medicaid

Date of Last Change: ~~[July 28, 2025]~~2026

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