

# Upper Payment Limit (UPL) Program

## Collateral Impact on Access to Hospice Services

*Prepared by the Homecare and Hospice Association of Utah (HHAU)*

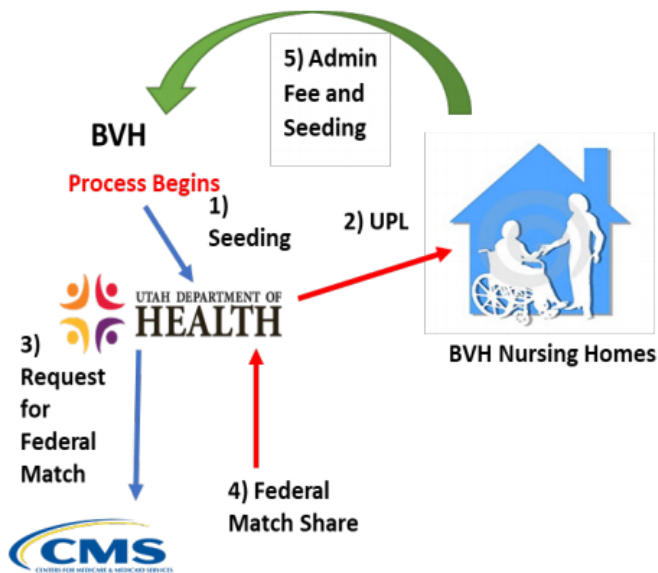
### SITUATION

When hospice services are initiated for a Medicaid beneficiary living in a skilled nursing facility, eligible facilities are no longer able to receive the Federal Upper Payment Limit supplement that is administered through the State. Utah's hospice agencies report substantially fewer referrals and hospice patients on service in nursing facilities, as well as shorter hospice lengths of stay, as the number of nursing facilities participating in the UPL programs has increased.

### BACKGROUND

- Non-state government-owned (NSGO) nursing care facilities are nursing care facility where a non-state government entity (e.g. community hospital) holds the license and is party to the facility's Medicaid provider contract.
- In Utah, a number of community hospitals contract with nursing facilities to be their licensed operator (at least on paper), although they do not own the real estate or property associated with the facility. The most prominent example, Beaver Valley Hospital, has over 40 nursing facilities under their name. There were >60 such arrangements throughout the State in 2019.
- The Federal Upper Payment Limit (UPL) Program pays NSGO operated nursing facilities with Medicaid residents a rate that is higher than the daily State Medicaid rate. This is done via quarterly supplemental payments that account for the gap between the Medicaid State rate and a much higher Medicare rate.
- In the case of Beaver Valley Hospital, the nursing facilities keep 49% of the supplemental UPL payment after Beaver Valley extracts an administration fee and a matching portion of the federal UPL funds that is required in order for the NSGO to access the money (a.k.a. "seed money").
- See '**Attachment A**' and '**Attachment B**', respectively, for "per bed day" payment gap for each facility and for UPL payment per NSGO operated facility in 2019.

**Figure 1.4. The Process to Receive Upper Payment Limit Funds.**



*Figure 1: Report to the Utah Legislature, Number 2017-10; A Performance Audit of the Beaver Valley Hospital's Medicaid Upper Payment Limit Program (For Nursing Facilities)*

## ASSESSMENT

HHAU has collected reports of conversations with nursing facility staff and Administrators who have acknowledged that they are not referring Medicaid beneficiaries to hospice services and/or discouraging services until someone is actively dying because it would result in the cessation of UPL payments.

Anecdotal family reports have supported concerns of loved ones being encouraged to postpone hospice and try another week of rehabilitation; told that a hospice consultation could be arranged, but there, "might be a billing issue;" or had it explained to them that the facility staff was perfectly capable of doing end of life care, so the patient didn't need hospice.

HHAU understands the financial concerns related to the loss of UPL payments. However, Medicare hospice benefits are an entitlement, and when they are discouraged or otherwise obstructed, it is the beneficiary and their family who ultimately pays the greatest price.

We believe that the current situation with UPL discourages hospice services. Unfortunately, as explained by John Curless, Director of Coverage and Reimbursement Policy with the Utah Department of Health's Medicaid Program, the State is not able to continue and distribute the federal UPL funds to nursing facilities when a patient is on hospice services and the Hospice is receiving Medicare funds for those services, because it would be an example of duplicity in billing.

## RECOMMENDATION

Deferred to conversation about contracted hospice room and board rates.

**NF NSGO UPL Payments**

Data as of: 04/23/19

Provider Name	UPL Gap	Owner	SFY2019 - Q1		SFY2019 - Q2		SFY2019 - Q3		SFY2019 - Q4	
			Days	Dollars	Days	Dollars	Days	Dollars	Days	Dollars
Alpine Meadow Rehabilitation and Nursing	\$119.59	Beaver Valley Hospital	2,057	\$ 245,996.63	2,033	\$ 243,126.47	1,926	\$ 230,330.34		
Avalon West Health and Rehabilitation	\$166.52	Gunnison Valley Hospital	-	\$ -	13,197	\$2,197,564.44	8,424	\$1,402,764.48		
Cedar Health And Rehabilitation	\$103.16	Beaver Valley Hospital	3,375	\$ 348,165.00	3,325	\$ 343,007.00	349	\$ 36,002.84		
Bella Terra St George	\$86.62	Beaver Valley Hospital	4,205	\$ 364,237.10	4,097	\$ 354,882.14	3,457	\$ 299,445.34		
Canyonlands Care Center	\$114.08	Canyonlands Special Servicing District	1,623	\$ 185,151.84	1,500	\$ 171,120.00	1,194	\$ 136,211.52		
Cascades at Orchard Park	\$164.43	Beaver Valley Hospital	1,714	\$ 281,833.02	2,508	\$ 412,390.44	2,404	\$ 395,289.72		
Cascades at Riverwalk	\$119.98	Beaver Valley Hospital	3,966	\$ 475,840.68	3,842	\$ 460,963.16	4,001	\$ 480,039.98		
City Creek Post Acute	\$97.86	Beaver Valley Hospital	4,257	\$ 416,590.02	2,960	\$ 289,665.60	3,598	\$ 352,100.28		
Copper Ridge Health Care	\$129.04	Beaver Valley Hospital	5,182	\$ 668,685.28	6,201	\$ 800,177.04	5,344	\$ 689,589.76		
Crestwood Rehabilitation and Nursing	\$114.71	Beaver Valley Hospital	3,640	\$ 417,544.40	4,032	\$ 462,510.72	4,197	\$ 481,437.87		
Draper Rehabilitation and Care Center	\$124.04	Beaver Valley Hospital	3,020	\$ 374,600.80	2,348	\$ 291,245.92	3,202	\$ 397,176.08		
Emery County Care and Rehab Center	\$93.70	Emery County	889	\$ 83,299.30	1,470	\$ 137,739.00	1,166	\$ 109,254.20		
Four Corners Regional Care	\$101.45	Beaver Valley Hospital	4,268	\$ 432,988.60	4,197	\$ 425,785.65	3,300	\$ 334,785.00		
Harrison Pointe Healthcare and Rehabilitation	\$122.32	Beaver Valley Hospital	1,592	\$ 194,733.44	1,874	\$ 229,227.68	1,767	\$ 216,139.44		
Heritage Hills Rehabilitation and Care Center	\$128.04	Gunnison Valley Hospital	-	\$ -	3,194	\$ 408,959.76	3,236	\$ 414,337.44		
Heritage Park Healthcare and Rehabilitation	\$100.99	Beaver Valley Hospital	5,509	\$ 556,353.91	5,376	\$ 542,922.24	5,308	\$ 536,054.92		
Highland Care Center	\$155.24	Beaver Valley Hospital	13,061	\$2,027,589.64	2,761	\$ 428,617.64	2,376	\$ 368,850.24		
Holladay Healthcare Center	\$132.49	Beaver Valley Hospital	4,360	\$ 577,656.40	4,203	\$ 556,855.47	4,191	\$ 555,265.59		
Hurricane Health and Rehabilitation	\$116.65	Beaver Valley Hospital	1,981	\$ 231,083.65	2,211	\$ 257,913.15	2,153	\$ 251,147.45		
Little Cottonwood Rehab	\$117.19	Beaver Valley Hospital	3,076	\$ 360,476.44	3,084	\$ 361,413.96	3,115	\$ 365,046.85		
Lomond Peak Nurs Rehab	\$113.34	Beaver Valley Hospital	4,700	\$ 532,698.00	4,752	\$ 538,591.68	4,558	\$ 516,603.72		
Meadow Brook Rehab and Nurs	\$147.25	Beaver Valley Hospital	2,497	\$ 367,683.25	2,546	\$ 374,898.50	2,628	\$ 386,973.00		
Millard Co Care and Rehab Inc	\$126.51	Millard County	1,414	\$ 178,885.14	1,882	\$ 238,091.82	1,659	\$ 209,880.09		
Millcreek Rehab and Nursing	\$135.28	Beaver Valley Hospital	3,486	\$ 471,586.08	3,849	\$ 520,692.72	4,008	\$ 542,202.24		
Mission at Alpine Rehabilitation Center	\$133.70	Gunnison Valley Hospital	2,851	\$ 381,178.70	2,993	\$ 400,164.10	2,913	\$ 389,468.10		
Mission at Comm Liv Rehab	\$112.64	Gunnison Valley Hospital	2,436	\$ 274,391.04	2,572	\$ 289,710.08	2,201	\$ 247,920.64		
Mission at Maple Springs	\$106.50	Gunnison Valley Hospital	577	\$ 61,450.50	621	\$ 66,136.50	411	\$ 43,771.50		
Mt Ogden Health and Rehabilitation	\$114.43	Beaver Valley Hospital	2,853	\$ 326,468.79	3,485	\$ 398,788.55	3,354	\$ 383,798.22		
Mt Olympus Rehab Ctr	\$131.11	Beaver Valley Hospital	2,757	\$ 361,470.27	3,141	\$ 411,816.51	2,320	\$ 304,175.20		
North Canyon Care Center	\$127.24	Gunnison Valley Hospital	-	\$ -	-	\$ -	5,497	\$ 699,438.28		
Orem Rehabilitation and Nursing Center	\$133.24	Beaver Valley Hospital	2,950	\$ 393,058.00	3,945	\$ 525,631.80	4,049	\$ 539,488.76		
Paramount Health and Rehabilitation	\$119.49	Beaver Valley Hospital	3,906	\$ 466,727.94	3,381	\$ 403,995.69	3,267	\$ 390,373.83		
Parkdale Health Rehab	\$103.66	Beaver Valley Hospital	1,509	\$ 156,422.94	1,559	\$ 161,605.94	1,535	\$ 159,118.10		
Parkway Health Center	\$132.48	Canyonlands Special Servicing District			-		5,810	\$ 769,708.80		
Pine Creek Rehab and Nurs	\$117.13	Beaver Valley Hospital	2,892	\$ 338,739.96	2,867	\$ 335,811.71	2,971	\$ 347,993.23		
Pinnacle Nursing and Rehabilitation Center	\$103.41	Beaver Valley Hospital	2,007	\$ 207,543.87	2,145	\$ 221,814.45	2,128	\$ 220,056.48		
Pioneer Care Center	\$90.93	Gunnison Valley Hospital	-	\$ -	2,671	\$ 242,874.03	2,158	\$ 196,226.94		
Provo Rehabilitation and Nursing	\$98.73	Beaver Valley Hospital	8,034	\$ 793,196.82	7,702	\$ 760,418.46	9,102	\$ 898,640.46		
Red Cliffs Health and Rehab	\$128.68	Beaver Valley Hospital	2,533	\$ 325,946.44	3,049	\$ 392,345.32	3,248	\$ 417,952.64		
Rocky Mountain Care - Riverton	\$108.62	Beaver Valley Hospital	257	\$ 27,915.34	91	\$ 9,884.42	299	\$ 32,477.38		

Provider Name	UPL Gap Owner		SFY2019 - Q1		SFY2019 - Q2		SFY2019 - Q3		SFY2019 - Q4	
			Days	Dollars	Days	Dollars	Days	Dollars	Days	Dollars
Rocky Mountain Care - Logan	\$115.32	Beaver Valley Hospital	4,106	\$ 473,503.92	3,718	\$ 428,759.76	4,129	\$ 476,156.28		
Rocky Mountain Care - Hunter Hollow	\$112.11	Beaver Valley Hospital	5,580	\$ 625,573.80	4,957	\$ 555,729.27	5,837	\$ 654,386.07		
Rocky Mountain Care - Clearfield	\$107.06	Beaver Valley Hospital	6,675	\$ 714,625.50	7,139	\$ 764,301.34	7,338	\$ 785,606.28		
Rocky Mountain Care - Cottage Vine	\$139.59	Beaver Valley Hospital	2,451	\$ 342,135.09	2,724	\$ 380,243.16	2,789	\$ 389,316.51		
Rocky Mountain Care - Mntn View	\$153.70	Beaver Valley Hospital	1,810	\$ 278,197.00	1,580	\$ 242,846.00	1,786	\$ 274,508.20		
Rocky Mountain Care - Willow Springs	\$130.67	Beaver Valley Hospital	4,320	\$ 564,494.40	5,156	\$ 673,734.52	5,410	\$ 706,924.70		
Sandy Health And Rehab	\$157.18	Beaver Valley Hospital	4,373	\$ 687,348.14	5,006	\$ 786,843.08	3,752	\$ 589,739.36		
Seasons Healthcare Rehab	\$137.35	Canyonlands Special Servicing District		\$ -	-		4,900	\$ 673,015.00		
South Davis Community Care Center	(\$0.34)	Beaver Valley Hospital	3,086	\$ (1,049.24)	3,256	\$ (1,107.04)	3,216	\$ (1,093.44)		
South Ogden Post Acute	\$129.10	Beaver Valley Hospital	3,657	\$ 472,118.70	4,155	\$ 536,410.50	4,004	\$ 516,916.40		
Spanish Fork Rehab and Nurse	\$147.74	Beaver Valley Hospital	2,038	\$ 301,094.12	2,365	\$ 349,405.10	2,076	\$ 306,708.24		
Spring Creek Healthcare Ctr	\$128.57	Beaver Valley Hospital	3,517	\$ 452,180.69	3,335	\$ 428,780.95	2,371	\$ 304,839.47		
St George Rehabilitation	\$114.09	Beaver Valley Hospital	4,446	\$ 507,244.14	4,701	\$ 536,337.09	5,142	\$ 586,650.78		
St Joseph Villa	\$123.91	Beaver Valley Hospital	8,471	\$1,049,641.61	10,014	\$1,240,834.74	10,446	\$1,294,363.86		
Stonehenge of American Fork	\$144.44	Kane County Human Resource Special Service District	-	\$ -	7,713	\$1,114,065.72	3,216	\$ 464,519.04		
Stonehenge of Cedar City	\$118.89	Kane County Human Resource Special Service District	-	\$ -	5,950	\$ 707,395.50	2,191	\$ 260,487.99		
Stonehenge of Ogden	\$61.52	Kane County Human Resource Special Service District	-	\$ -	1,591	\$ 97,878.32	621	\$ 38,203.92		
Stonehenge of Richfield	\$120.80	Kane County Human Resource Special Service District	-	\$ -	1,988	\$ 240,150.40	942	\$ 113,793.60		
Stonehenge of Springville	\$177.57	Kane County Human Resource Special Service District	-	\$ -	4,955	\$ 879,859.35	1,886	\$ 334,897.02		
Uintah Basin Rehabilitation and Senior Villa	\$118.48	Duchesne County	2,858	\$ 338,615.84	3,107	\$ 368,117.36	3,172	\$ 375,818.56		
Uintah Care Center	\$110.98	Uintah County	3,977	\$ 441,367.46	4,314	\$ 478,767.72	4,418	\$ 490,309.64		
Willow Glen Health and Rehab	\$110.10	Gunnison Valley Hospital	-	\$ -	364	\$ 40,076.40	7,608	\$ 837,640.80		
Woodland Park Rehabilitation and Care Center	\$117.25	Gunnison Valley Hospital	-	\$ -	11,551	\$1,354,354.75	8,230	\$ 964,967.50		





**UPL Days and Dollars**

Data as of: 06/21/19

Row Labels	SFY2014 - Q2		SFY2014 - Q1		SFY2013 - Q4		SFY2013 - Q3		Total Days	Total Dollars
	Days	Dollars	Days	Dollars	Days	Dollars	Days	Dollars		
<b>Beaver Valley Hospital</b>	<b>2,956</b>	<b>\$ 541,819.17</b>							<b>1,898,373</b>	<b>\$ 226,362,415.04</b>
ALPINE MEADOW REHABILITATION AND NURSING									21,404	\$ 2,971,614.73
BELLA TERRA ST GEORGE									44,423	\$ 5,210,787.82
CASCADES AT ORCHARD PARK									21,713	\$ 3,362,669.18
CASCADES AT RIVERWALK									25,000	\$ 3,321,426.77
CEDAR HEALTH AND REHABILITATION									37,551	\$ 3,343,101.43
CITY CREEK POST ACUTE									46,938	\$ 4,800,027.42
COPPER RIDGE HEALTH CARE									58,840	\$ 7,228,454.45
CRESTWOOD REHABILITATION AND NURSING									32,329	\$ 3,999,553.25
DRAPER REHABILITATION AND CARE CENTER									34,502	\$ 4,451,560.06
FOUR CORNERS REGIONAL CARE									65,865	\$ 6,743,601.89
HARRISON POINTE HEALTHCARE AND REHABILITATION									16,579	\$ 2,033,693.32
HERITAGE PARK HEALTHCARE AND REHABILITATION									36,984	\$ 3,694,530.11
HIGHLAND CARE CENTER									17,633	\$ 2,825,057.52
HOLLADAY HEALTHCARE CENTER									44,456	\$ 5,889,339.75
HURRICANE HEALTH AND REHABILITATION									22,807	\$ 2,701,300.85
LITTLE COTTONWOOD REHAB									39,794	\$ 4,638,388.46
LOMOND PEAK NURS REHAB									51,760	\$ 6,088,510.89
MEADOW BROOK REHAB AND NURS									35,488	\$ 4,747,104.46
MILLCREEK REHAB AND NURSING									47,674	\$ 6,505,391.44
MT OGDEN HEALTH AND REHABILITATION									30,792	\$ 3,625,217.25
MT OLYMPUS REHAB CTR									44,549	\$ 6,000,437.29
OREM REHABILITATION AND NURSING CENTER									38,255	\$ 4,890,577.03
PARAMOUNT HEALTH AND REHABILITATION									39,281	\$ 4,614,445.90
PARKDALE HEALTH REHAB									25,077	\$ 2,571,251.21
PINE CREEK REHAB AND NURS									37,453	\$ 4,620,634.31
PINNACLE NURSING AND REHABILITATION CENTER									27,067	\$ 2,843,960.03
PROVO REHABILITATION AND NURSING									73,936	\$ 6,872,156.12
RED CLIFFS HEALTH AND REHAB									44,213	\$ 6,110,267.55
ROCKY MOUNTAIN CARE - RIVERTON									2,624	\$ 424,233.79
ROCKY MOUNTAIN CARE LOGAN									46,291	\$ 5,269,096.74
ROCKY MT CARE HUNTER HOLLOW									71,366	\$ 8,580,607.33
ROCKY MTN CARE CLEARFIELD									124,551	\$ 13,323,967.23
ROCKY MTN CARE COTTAGE VINE	1,603	\$ 225,032.85							63,184	\$ 8,658,626.91
ROCKY MTN CARE THE LODGE	371	\$ 76,497.63							29,894	\$ 3,806,083.35
ROCKY MTN WILLOW SPRINGS	982	\$ 240,288.69							72,005	\$ 11,000,022.80
SANDY HEALTH AND REHAB									82,010	\$ 11,824,976.86
SOUTH DAVIS COMMUNITY CARE CENTER									57,385	\$ 214,629.76
SOUTH OGDEN POST ACUTE									57,896	\$ 7,659,590.33
SPANISH FORK REHAB AND NURSE									26,497	\$ 3,611,889.48
SPRING CREEK HEALTHCARE CTR									57,516	\$ 7,586,169.34
ST GEORGE REHABILITATION									36,844	\$ 4,395,921.44
ST JOSEPH VILLA									107,947	\$ 13,301,539.19
<b>Canyonlands Special Servicing District</b>	<b>2,468</b>	<b>\$ 210,255.73</b>	<b>1,768</b>	<b>\$ 119,406.77</b>	<b>1,715</b>	<b>\$ 50,357.89</b>	<b>533</b>	<b>\$ 15,650.59</b>	<b>47,787</b>	<b>\$ 4,933,754.88</b>
CANYONLANDS CARE CENTER	2,468	\$ 210,255.73	1,768	\$ 119,406.77	1,715	\$ 50,357.89	533	\$ 15,650.59	43,412	\$ 4,343,888.92
PARKWAY HEALTH CENTER									2,267	\$ 300,332.16
SEASONS HEALTH AND REHABILITATION									2,108	\$ 289,533.80
<b>Duchesne County</b>									<b>35,024</b>	<b>\$ 4,011,778.39</b>
UINTAH BASIN REHABILITATION AND SENIOR VILLA									35,024	\$ 4,011,778.39
<b>Emery County</b>	<b>1,762</b>	<b>\$ 151,413.59</b>	<b>2,403</b>	<b>\$ 206,496.52</b>	<b>1,337</b>	<b>\$ 109,852.02</b>	<b>1,033</b>	<b>\$ 83,917.03</b>	<b>33,283</b>	<b>\$ 2,939,470.29</b>
EMERY COUNTY CARE AND REHAB CENTER	1,762	\$ 151,413.59	2,403	\$ 206,496.52	1,337	\$ 109,852.02	1,033	\$ 83,917.03	33,283	\$ 2,939,470.29
<b>Gunnison Valley Hospital</b>									<b>156,520</b>	<b>\$ 19,306,990.39</b>
AVALON WEST HEALTH AND REHABILITATION									21,621	\$ 3,600,328.92
HERITAGE HILLS REHABILITATION AND CARE CENTER									6,430	\$ 823,297.20
MISSION AT ALPINE REHABILITATION CENTER									20,589	\$ 2,681,439.37
MISSION AT COMM LIV REHAB									38,575	\$ 4,214,726.23
MISSION AT HILLSIDE REHABILITATION CENTER									18,642	\$ 2,129,959.93
MISSION AT MAPLE SPRINGS									12,584	\$ 1,521,660.04
NORTH CANYON CARE CENTER									5,497	\$ 699,438.28
PIONEER CARE CENTER									4,829	\$ 439,100.97
WILLOW GLEN HEALTH AND REHAB									7,972	\$ 877,717.20
WOODLAND PARK REHABILITATION AND CARE CENTER									19,781	\$ 2,319,322.25
<b>Kane County Human Resource Special Service District</b>									<b>31,053</b>	<b>\$ 4,251,250.86</b>
STONEHENGE OF AMERICAN FORK									10,929	\$ 1,578,584.76
STONEHENGE OF CEDAR CITY									8,141	\$ 967,883.49
STONEHENGE OF OGDEN									2,212	\$ 136,082.24
STONEHENGE OF RICHFIELD									2,930	\$ 353,944.00
STONEHENGE OF SPRINGVILLE									6,841	\$ 1,214,756.37
<b>Millard County</b>	<b>2,396</b>	<b>\$ 239,538.90</b>	<b>2,524</b>	<b>\$ 252,335.64</b>	<b>2,048</b>	<b>\$ 162,946.25</b>	<b>1,282</b>	<b>\$ 102,000.54</b>	<b>47,801</b>	<b>\$ 5,520,798.42</b>
MILLARD CO CARE AND REHAB INC	2,396	\$ 239,538.90	2,524	\$ 252,335.64	2,048	\$ 162,946.25	1,282	\$ 102,000.54	47,801	\$ 5,520,798.42
<b>Uintah County</b>	<b>4,744</b>	<b>\$ 565,713.46</b>	<b>4,756</b>	<b>\$ 563,924.74</b>	<b>4,835</b>	<b>\$ 466,951.35</b>	<b>2,793</b>	<b>\$ 274,798.80</b>	<b>104,549</b>	<b>\$ 11,508,464.66</b>
UINTAH CARE CENTER	4,744	\$ 565,713.46	4,756	\$ 563,924.74	4,835	\$ 466,951.35	2,793	\$ 274,798.80	104,549	\$ 11,508,464.66
<b>Grand Total</b>	<b>14,326</b>	<b>\$ 1,708,740.85</b>	<b>11,451</b>	<b>\$ 1,142,163.67</b>	<b>9,935</b>	<b>\$ 790,107.51</b>	<b>5,641</b>	<b>\$ 476,366.96</b>	<b>2,354,390</b>	<b>\$ 278,834,922.93</b>