



GRAMA APPEAL

Hearing Presentation

PRESENTED BY TAYLOR HARTMAN

Who is Beaver Valley Hospital? And are they subject to GRAMA?

- ▶ Beaver Valley Hospital (BVH) is a medical center located in Beaver, Utah.
- ▶ BVH has fulfilled GRAMA requests for me in the past, and participated in a mediation and this hearing.
- ▶ BVH, in an audited financial report from 2019, stated it was “an essential government function of the City.”



- ▶ BVH is on the transparent.utah.gov website and some of its financial information is available there.
- ▶ Employees at BVH are given pensions through the Utah Retirement System (URS), which are provided exclusively to public employees.
- ▶ Because the hospital is a government entity at its core, it is subject to GRAMA requests.

ENTITY NAME	PAYEE NAME	POSTING DATE	AMOUNT	FISCAL YEAR	TRANSACTION ID	DESC	REFERENCE ID	TYPE	TITLE	CONTRACT NAME	CONTRACT NUMBE	UNIFORM ACCOUNT	ORG1
Beaver Valley Hospit	Not Provided	6/30/2019	252.8	2020	47906	SALARIES MGMT		Expense				500-400500-400101	LTC
Beaver Valley Hospit	Not Provided	6/30/2019	67.98	2020	47906	SALARIES MGMT		Expense				500-400500-400101	LTC
Beaver Valley Hospit	Not Provided	6/30/2019	2461.62	2020	47906	SALARIES MGMT		Expense				500-400500-400101	LTC

SET

Name: Beaver Valley Hospital (1) Year: 2020 (1) Type: Expense (1) Level

1	\$	2	\$	3	\$	4	\$
Employee Benefits	3,564,050		24,977,462		24,977,462		24,977,462
RMC SNF GENERAL	2,177,544						
ACUTE	1,655,589						
SNF ADMINISTRATIVE	1,234,927						
LAB	1,232,597						
Administration	1,211,945						
FMPI OYFF BENFFITS	1 051 441						

Org1	Organization	Amount
Cat	ACUTE	1,655,589.02
Fund	ADMINISTRATION	1,050,667.78
Prog	ANESTHESIA	150,979.88
Funct	Administration	1,211,945.32
Tran	Grand total	24,977,461.58

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Name	Amount
Not Provided	18,931,466.01
UTAH STATE RETIREMENT	960,728.20
PEHP	878,249.81
MCKESSON DRUG	241,858.38
Grand total	24,977,461.58

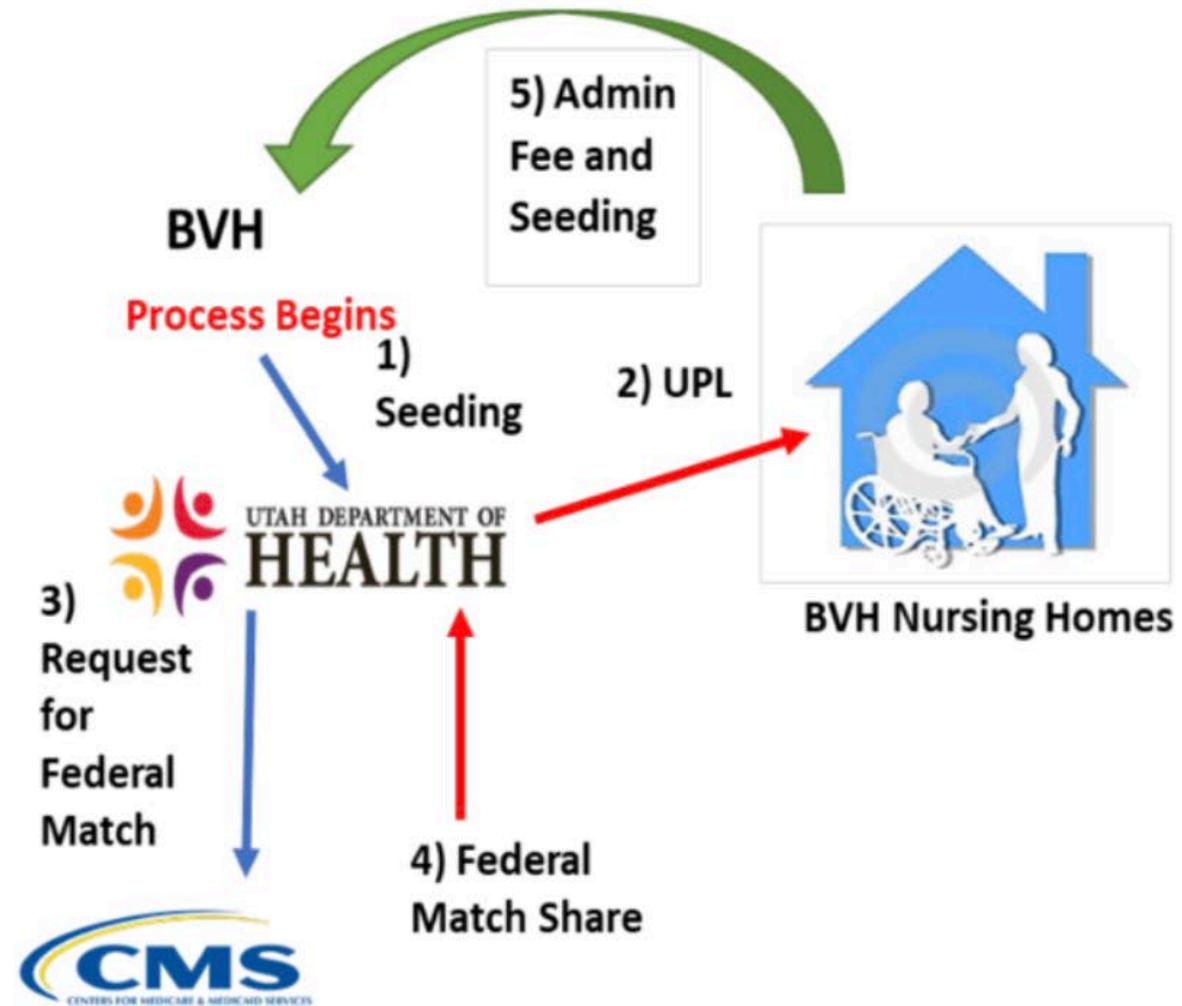
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BVH Owns the Vast Majority of Nursing Homes in Utah

- ▶ In 2014, the hospital began buying nursing homes throughout the state. To date, it owns 44 nursing homes.
- ▶ Beaver Valley Hospital is responsible for caring for more than half of Utah's nursing home patients.
- ▶ In order to run these nursing homes, BVH contracts with private management companies who oversee the day to day.
- ▶ Quality of care has been a concern at nursing homes owned by BVH for years.

What is the Upper Payment Limit Program?

- ▶ The Upper Payment Limit program (UPL) is a federal program meant to improve the care of nursing home residents.
- ▶ The program uses federal funding to raise the amount nursing homes are paid for Medicaid patients, which is often too low to give quality care.
- ▶ In order to receive these funds, Beaver Valley Hospital works with the Utah Department of Health to provide the federal government with “seed money.”
- ▶ The government then provides the Department of Health with funds, who in turn gives them to BVH and its nursing facilities.
- ▶ This is no small amount of money. According to the Department of Health, in SFY2020 - Q2, BVH received \$21,529,578.98 from the UPL program.



Source: A Performance Audit of the Beaver Valley Hospital's Medicaid Upper Payment Limit Program (For Nursing facilities) October 2017

BVH UPL Program Under Scrutiny

- ▶ In 2017, the hospital came under scrutiny by the Office of the Legislative Auditor General because of the way they were using UPL funds. The audit found that BVH was keeping 51% of the UPL money, rather than spending it on nursing homes.
- ▶ The full audit expressed concern over Beaver's policies and practices, as there was no transparency on how the 51% of funds were being used.
- ▶ While BVH keeps UPL funds for itself, its nursing homes have consistently seen poor health inspection surveys, with some being threatened to close and others being put under investigation.
- ▶ In a 2020 interview, Craig Davidson, who is in charge of the UPL program for BVH, confirmed the hospital keeps UPL dollars for itself, to cover "a tremendous amount of expenses" related to UPL participation.
- ▶ BVH has time and time again avoided my requests to see documentation on how they're using the UPL money they keep.

Nursing Home Contractors Under Scrutiny, Information Sparse

- ▶ During my investigation I realized that though it's alarming that BVH keeps 51 percent of UPL money, they're also sending money to nursing home management companies in the form of fees and incentives.
- ▶ On May 31, 2018, Ensign, one of the companies who manages nursing homes owned by BVH, received a Civil Investigative Demand from the DOJ, to determine if the company had violated an anti-kickback statute at nursing homes in Calif.
- ▶ The company also stated that it paid \$48 million to settle a Justice Department investigation in 2013 related to claims submitted to the federal Medicare program.
- ▶ BVH and Ensign have a relationship that is unclear in documentation. Additional financial reports are needed to understand how BVH, a government entity, relates to a company that has been investigated in the past.

My Request

- ▶ For the committee considering the request I am withdrawing items 1 and 2.
- ▶ I am requesting and appealing the following:
 - ▶ Documentation showing all administrative and other fees charged by BVH to NF management companies, including office fees, IGT fees, UPL fees, etc.
 - ▶ Documents showing transactions to and from BVH and NF's, whether that be UPL payments, management fees, etc.
 - ▶ Salary information for BVH administrators from 2015 to the present.

- Documentation showing all administrative and other fees charged by BVH to NF management companies, including office fees, IGT fees, UPL fees, etc.

Response: Please find this information in the Beaver Valley Hospital 2019 audited financial statements previously provided.

- Information from the audited financial documents is not sufficient to understand what money BVH is taking from nursing homes. The financial statement is too broad:

	<u>2019</u>	<u>2018</u>
Operating Revenues		
Net patient service revenue, net of provision for uncollectible accounts; 2019 – \$9,722,894, 2018 – \$7,256,191	\$ 270,373,035	\$ 259,166,719
UPL revenue	56,919,755	48,075,483
Other	<u>1,729,053</u>	<u>1,531,841</u>
Total operating revenues	<u>329,021,843</u>	<u>308,774,043</u>
Operating Expenses		
Salaries, wages and employee benefits	145,634,189	121,525,230
Purchased services and professional fees	43,227,366	63,639,315
Supplies	37,471,094	35,816,107
Management fees related to long-term care	56,119,852	47,313,187
Other expenses related to long-term care	2,289,001	3,736,076
Depreciation	1,127,361	1,121,834
Other	<u>32,436,346</u>	<u>28,549,835</u>
Total operating expenses	<u>318,305,209</u>	<u>301,701,584</u>
Operating Income	<u>10,716,634</u>	<u>7,072,459</u>

BVH provided me some of this info in the past but only for some facilities:

10-100100-000	Cash - BVH/UPL	\$442,547.24	\$0.00	\$194,080.12	(\$194,080.12)	\$248,467.12
10-102000-100	UPL Receivable	\$696,317.00	\$0.00	\$0.00	\$0.00	\$696,317.00
10-200200-000	Accounts Payable - BVH/UPL	(\$1,340,508.00)	\$0.00	\$0.00	\$0.00	(\$1,340,508.00)
10-200200-100	Due to Manager Reserve	\$67,075.00	\$0.00	\$0.00	\$0.00	\$67,075.00
10-300200-310	BVH/UPL Revenue Medicaid BVH/UPL	(\$164,556.17)	\$0.00	\$0.00	\$0.00	(\$164,556.17)
10-500350-310	Other Operating Revenue Medicaid BVH/UPL	\$21,426.62	\$0.00	\$0.00	\$0.00	\$21,426.62
10-600300-000	Management Fee Expense - Base BVH/UPL	\$117,892.54	\$0.00	\$0.00	\$0.00	\$117,892.54
10-600310-000	Management Fee Expense - Subordinate BVH/UPL	\$134,735.03	\$0.00	\$0.00	\$0.00	\$134,735.03
10-600320-000	Management Fee Expense - Quality BVH/UPL	(\$468,653.55)	\$0.00	\$0.00	\$0.00	(\$468,653.55)
10-600330-000	Management Fee Expense - Incentive BVH/UPL	\$17,460.00	\$0.00	\$0.00	\$0.00	\$17,460.00
10-700100-000	Depreciation - Building BVH/UPL	(\$106,138.64)	\$0.00	\$0.00	\$0.00	(\$106,138.64)
10-700220-000	Lease - Building BVH/UPL	\$200,190.14	\$0.00	\$0.00	\$0.00	\$200,190.14
10-700230-000	Lease - Equipment BVH/UPL	\$61,999.95	\$0.00	\$0.00	\$0.00	\$61,999.95
10-700280-000	Royalty Fee BVH/UPL	\$595,200.00	\$0.00	\$0.00	\$0.00	\$595,200.00
10-700310-000	Real Property Taxes BVH/UPL	(\$37,085.02)	\$0.00	\$0.00	\$0.00	(\$37,085.02)
10-700500-000	Capital Improvement BVH/UPL	\$42,000.00	\$0.00	\$0.00	\$0.00	\$42,000.00
10-700510-000	Capital Maintenance BVH/UPL	\$14,910.00	\$0.00	\$0.00	\$0.00	\$14,910.00
10-700999-000	Manager Fee Forgiveness	(\$67,075.00)	\$0.00	\$0.00	\$0.00	(\$67,075.00)
10-900130-000	Interest Income BVH/UPL	\$3,513.21	\$0.00	\$0.00	\$0.00	\$3,513.21
10-900130-320	MEDICARE INTEREST PAYMENT	\$0.05	\$0.00	\$0.00	\$0.00	\$0.05
10-900300-000	Therapy Adjustment BVH/UPL	(\$7,831.31)	\$0.00	\$0.00	\$0.00	(\$7,831.31)
10-900310-000	Medicaid Incentives for Capital Purchases BVH/UPL	(\$33,842.30)	\$0.00	\$0.00	\$0.00	(\$33,842.30)
10-900550-000	Triumph Interest Expense BVH/UPL	\$4,553.87	\$0.00	\$0.00	\$0.00	\$4,553.87
25-100100-000	Cash - RMC/UPL	\$3,981,828.35	\$0.00	\$813,105.04	(\$813,105.04)	\$3,168,723.31
25-102800-000	A/R RMC/UPL	\$1,340,508.00	\$0.00	\$0.00	\$0.00	\$1,340,508.00
25-108000-000	A/R RMC/UPL	\$0.00	\$266,776.33	\$1,788.35	\$264,987.98	\$264,987.98
25-244000-000	Retained Earnings	(\$4,428,556.00)	\$2,010,805.70	\$0.00	\$2,010,805.70	(\$2,417,750.30)
25-500010-000	Lease Revenue	(\$468,180.00)	\$0.00	\$93,636.00	(\$93,636.00)	(\$561,816.00)
25-500020-000	Royalty Fee Income	(\$61,999.95)	\$0.00	\$148,800.00	(\$148,800.00)	(\$210,799.95)
25-500040-000	Management Fee Income - Base RMC/UPL	(\$273,839.43)	\$1,788.35	\$24,340.33	(\$222,551.98)	(\$296,391.41)
25-500050-000	Management Fee Income - Subordinate	(\$312,959.36)	\$0.00	\$0.00	\$0.00	(\$312,959.36)
25-500060-000	Management Fee Income - Incentive	(\$78,750.00)	\$0.00	\$0.00	\$0.00	(\$78,750.00)

HISTORICAL TRIAL BALANCE SUMMARY FOR 2017

8/31/2018

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8/31/2018

Source: Tooele FCP's Scanned FYE 6-3—18 from GRAMA request

3. Documentation showing all administrative and other fees charged by BVH to NF management companies, including office fees, IGT fees, UPL fees, etc.

Response: Please find this information in the Beaver Valley Hospital 2019 audited financial statements previously provided.

- In management contracts between BVH and the nursing home companies, it shows that BVH is in fact taking out money for IGT operating expenses. This flow of money is what I am trying to look at, not just totals. I need this information for each facility:

2.2.3 All Net Patient Revenue from the City Creek Facility shall be deposited by Manager into a single deposit account designated by Operator (the “*Depository Account*”). All funds in the Depository Account shall be swept on a daily basis into a single deposit account designated and controlled exclusively by Operator (the “*Operator Account*”). The Operator Account shall be established in the name of Operator; however, checks shall bear the assumed business name of the City Creek Facility. Operator, in its sole discretion, may transfer all Other Revenue Reserve Deposit amounts and reimbursement of all of Operator’s IGT seed funds to its general operating accounts or other designated accounts from the Operator Account. All other funds in the Operator Account shall transfer on a daily basis to a third account controlled exclusively by Manager or its Lender/Senior Creditor (the “*Operating Account*”) for payment of Operating Expenses and payments due Manager under this Agreement and the City Creek Lease.

4. Documents showing transactions to and from BVH and NF's, whether that be UPL payments, management fees, etc.

Response: Please find this information in the Beaver Valley Hospital 2019 audited financial statements previously provided

- Information on the audited financial reports is once again far too broad.

The management agreements include management fees consisting of base management fees, subordinated management fees and incentive management fees. Base and subordinate management fees are determined on percentages of net patient service revenue of the individual facilities and range from 3% to 4%. Incentive management fees are to be paid only if sufficient working capital exists. The management agreements also call for quality, royalty and capital improvement fees to be paid to the Managers. Management and other fees were approximately \$24,524,000 and \$14,326,000 for the years ended June 30, 2019 and 2018, respectively, and included fee reductions as insufficient cash flows existed to fund amounts due. Amounts are included in management fees related to long-term care on the accompanying statements of revenues, expenses and changes in net position.

4. Documents showing transactions to and from BVH and NF's, whether that be UPL payments, management fees, etc.

Response: Please find this information in the **Beaver Valley Hospital 2019 audited financial statements previously provided**

- BVH contracts with multiple companies who manage their nursing facilities.
- To identify how public money is being used by BVH and what the hospital's financial relationship is with other companies, a broad number of fees it paid to multiple organizations over a year is not sufficient.
- It is impossible for me to calculate these fees because "net patient service revenue" calculated by BVH is not available.
- Grama law states:
 - The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections [63G-2-201\(3\)\(b\)](#) and [\(6\)\(a\)](#): "(j) documentation of the compensation that a governmental entity pays to a contractor or private provider;
- This request number is of upmost public interest, because it can give a glimpse into how BVH and nursing management companies have profited from this program while patient care and quality remains low.

Beaver asserts it's showed how UPL funds are spent

- ▶ Through a GRAMA request, BVH provided me information on how nursing facilities spend their UPL money.
- ▶ This does not provide adequate information. I need to see not a summary, but the actual transactions between BVH and nursing homes.

Davidson acknowledged the hospital does take back a “confidential” amount of money from nursing homes, most of it to cover “a tremendous amount of expenses” related to UPL participation.

After those administrative expenses, between 9% and 11% goes toward providing health care to Beaver residents, including allowing the hospital to buy expensive new equipment, Davidson said. Based on Beaver Valley’s financial reports, that would mean the hospital would have retained between \$5.1 million and \$6.2 million of UPL funds in the past fiscal year.

5. Salary information for BVH administrators from 2015 to the present.

Response: Administrators of the nursing homes operated by Beaver Valley Hospital are employed by the various Management companies with whom BVH contracts.

- BVH has provided some administrator salaries in the past as part of a GRAMA request. The salaries provided were recent, but I'm asking to see salaries from several years, to see how compensation changed as the hospital began making more and more money from the UPL program and taxpayer dollars.
- BVH should have salary information for any administrators they're paying.
- If some salary information is confidential and therefore illegal to provide, it should be easy for BVH to redact that specific information, provide reasoning, and give salary documentation for other administrators. So far this request has fallen on deaf ears.

Remembering the Human Side of This



- This is Anna Marie Boswell
- Boswell's granddaughter said a lack of care and oversight in BVH owned facility, Provo Rehabilitation and Nursing caused her grandmother's untimely and preventable death.
- Boswell choked to death in the cafeteria while no staff members were present.
- Her granddaughter said staffing was an issue and her grandmother didn't receive proper dentures for months.
- Provo Rehabilitation and Nursing had three times more health deficiencies than the national average from 2017 to 2019, despite receiving UPL money.

Statewide Suffering

- ▶ At Parkdale Health and Rehab in Price, a resident lost 28 pounds in 33 days despite having specific guidelines for feeding.
- ▶ A September 2019 health report said that two residents at Cascades at Orchard Park in Orem lost an abnormal amount of weight, with one resident going from 186 pounds to 153.9 pounds in 2½ months.
- ▶ Nine patients at Rocky Mountain Care in Logan contracted urinary tract infections — five from E. coli — despite the facility being warned in 2018 about hygiene issues that could lead to infection.
- ▶ An inspector at St. George Rehabilitation observed a woman, screaming and delusional, using a wheelchair asking for help only to have a nurse wheel her in front of a television and then walk away.
- ▶ Nurses at Millcreek Rehabilitation mistakenly coded a resident as “do not resuscitate” — the opposite of what the person had requested. One nurse’s response? “Oops, that’s bad,” according to the report.
- ▶ A hospice resident at Provo Rehabilitation and Nursing was voluntarily taken off a breathing apparatus. Because staff did not have a care plan in place, the individual was not fully sedated during the procedure and died gasping for air.

Thank you!

Thank you for taking the time to listen to my presentation today.

