

April 24, 2024

The Honorable Chiquita Brooks-LaSure
Centers for Medicare and Medicaid Services
7500 Security Blvd.
Baltimore, MD 21244

RE: Minimum Staffing Standards for Long-Term Care Facilities Final Rule

Dear Administrator Brooks-LaSure,

The National Rural Health Association (NRHA) is writing to express our concern regarding the recently finalized Minimum Staffing Standards for Long-Term Care Facilities rule. While NRHA shares the Administration's critical goal of increasing access to high-quality care, especially for rural residents, we are troubled by the unintended consequences that the final rule will have on rural nursing homes.

NRHA is a non-profit membership organization with more than 21,000 members nationwide that provides leadership on rural health issues. Our membership includes nearly every component of rural America's health care, including rural community hospitals, critical access hospitals, long-term care providers, doctors, nurses, and patients. We work to improve rural America's health needs through government advocacy, communications, education, and research.

As NRHA put forth in our comment to CMS¹, this rule will close rural nursing homes. NRHA appreciates the Administration's strong interest in and commitment to improving patient safety and outcomes in nursing facilities, particularly following the COVID-19 pandemic. We agree that this is a worthwhile cause and is of the utmost importance to our organization and members. Nonetheless we believe the proposed staffing standards come at an inopportune time for the rural long-term care sector and will significantly impact rural beneficiary access to these services in contravention to the stated goals of the rule. A federal mandate will not create qualified and interested workers where they do not currently exist in rural areas. If rural nursing homes cannot meet these requirements, or the eligibility criteria for exemptions, they will be forced to close.

Poor outcomes and quality cannot be fixed by imposing staffing mandates. In fact, nursing home closures are often unrelated to the quality of care provided considering that almost 40% of closures since 2020 were 4- or 5-star facilities.² In reality, minimum staffing standards are more likely to close a facility than improve outcomes, impacting already dire access in rural communities. Between 2008 and 2018, nearly 500 rural nursing homes shuttered resulting in 10.1% of rural counties becoming nursing home deserts.³ This trend has continued throughout and after the COVID-19 pandemic, with

¹ <https://www.ruralhealth.us/getmedia/2952f25b-13a0-440e-bd7e-059a5e9c1d62/NRHA-Minimum-Staffing-Standards-comment-11-6-23.pdf>

² <https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/Access%20to%20Care%20Report%20August%202023.pdf>

³ <https://rupri.publichealth.uiowa.edu/publications/policybriefs/2021/Rural%20NH%20Closure.pdf>

largely rural states like Montana and Texas losing the majority of their rural nursing homes to closures.⁴

A myriad of factors plays into the challenge of keeping rural nursing homes open and viable, many of which stem from workforce shortages. NRHA stresses that implementing federal staffing mandates will not increase availability of qualified workers in rural areas with current workforce deficits. Nationally, long-term care is experiencing the worst labor shortage and less than 20% of nursing homes would meet the minimum standards prescribed in the final rule.⁵ **CMS and the Administration must focus on curing the root cause – the supply of nurses – rather than imposing one-size-fits-all standards on rural nursing homes.** In the interim, **NRHA demands reconsider alternatives to the final policies as suggested in our comment letter,**⁶ including: 1) allowing licensed practical nurses to meet RN requirements; 2) allowing an RN to be immediately available rather than onsite 24/7; and 3) removing the total nurse staffing standard of 3.48 HPRD for rural facilities.

Another significant driver of rural nursing home instability is insufficient reimbursement, especially from Medicaid. In rural areas, Medicare and Medicaid are predominant payers given characteristics of rural residents. Medicaid is the primary payer for 62% of nursing home residents making adequate Medicaid payments paramount to nursing home financial viability.⁷ Rural residents are also more likely to be unemployed or work lower wage jobs and rely upon Medicaid.⁸ In most cases, Medicaid payment rates are not sufficient to cover the cost of care, which has an outsized impact on rural nursing homes. Further, rural populations are typically older, so Medicare is a dominant source of coverage, particularly in nursing homes. However, Medicare payment historically has not kept up with inflation and related cost pressures. NRHA urges CMS to continually update SNF payment rates to match inflation and reflect the true cost of providing care.

NRHA welcomes the opportunity to continue to work with the Administration on this important issue. For additional information, please contact NRHA's Government Affairs and Policy Director, Alexa McKinley at amckinley@ruralhealth.us.

Sincerely,



⁴ <https://kffhealthnews.org/news/article/wave-of-rural-nursing-home-closures-grows-amid-staffing-crunch/>

⁵ https://www.kff.org/policy-watch/nursing-facilities-staffing-levels-standards-final-rule/?utm_campaign=KFF-Medicaid&utm_medium=email&hsenc=p2ANqtz-8pp4z3ylxmK3QTFt9SIfpc261vg-b_nZdmk0PsbDWAQwcSPiv-128BtNKKN7fVoZiQT30JTHyAM5Xdzja_ZoKOzRf0IA&hsmi=303858651&utm_content=303858651&utm_source=hs_email

⁶ <https://www.ruralhealth.us/getmedia/2952f25b-13a0-440e-bd7e-059a5e9c1d62/NRHA-Minimum-Staffing-Standards-comment-11-6-23.pdf>

⁷ <https://www.kff.org/medicaid/issue-brief/a-look-at-nursing-facility-characteristics-through-july-2022/#:~:text=Deficiencies%20in%20Certified%20Nursing%20Facilities%2C%202015%2D2022&text=As%20of%20July%202022%2C%20Medicaid,%20pocket%2C%20etc>

⁸ <https://ccf.georgetown.edu/wp-content/uploads/2017/06/Rural-health-final.pdf>



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