

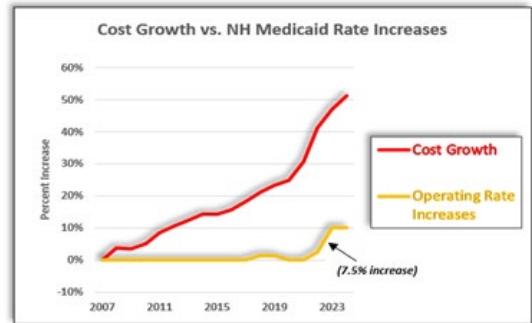
## Support Older Adults with Skilled Nursing Needs by Addressing the Nursing Home Funding Crisis

Nursing homes play a critical role in the state's health care system, providing long-term and post-acute care for more than 300,000 vulnerable individuals annually. They are staggering under the stresses of depleted resources, rising costs, and unrelenting staffing shortages, while consumers struggle to find nursing home care close to home. Providers are doing everything in their power to recruit and retain staff, yet face the threat of harsh penalties for failing to meet arbitrary staffing requirements. While they continue finding creative ways to help enrich the lives of residents, many quality providers are facing an existential crisis.

### NEW YORK IS SHORTCHANGING ITS MOST VULNERABLE RESIDENTS

Medicaid pays for 73 percent of the nursing home days in New York State; it is the payer most responsible for the quality and accessibility of nursing home care. Yet, the State-set nursing home Medicaid rates fall short of the costs of care by **\$90 per resident per day** on average.

According to the federal [Medicaid and CHIP Payment and Access Commission](#), the shortfall between New York's nursing home Medicaid rate and costs is **among the worst in the nation**.



Medicaid rates for nursing home care in New York are based on **2007 costs**, with no meaningful updates between 2007 and 2023. The resulting shortfall in reimbursement, a **\$1.6B gap**, means that New York State is asking nursing homes to provide free care for one out of every four Medicaid residents.

*Closed beds and waiting lists are forcing older adults to seek care far away from their loved ones. We cannot abandon older adults with the highest care needs – those who require 24/7 care, skilled nursing, continuous medical oversight, and/or extensive assistance with activities of daily living. Nursing home residents deserve access to the best possible quality of care and quality of life in close proximity to their loved ones.*

### NEW YORK'S NEGLECT HAS CREATED HEALTH CARE ACCESS BARRIERS FOR ALL NEW YORKERS

Despite waiting lists in most markets, **14 nursing homes closed in the past 4 years**. Due to staffing shortages, quality homes are forced to limit their capacity – **7,200** certified nursing home beds are not staffed, meaning that they are unavailable even when there is demand for them. This is causing alarming **backups at hospitals** – hospital patients who need post-acute care cannot find a nursing home bed.

***Reinvest savings achieved through years of Medicaid underfunding back into nursing homes.***

By eliminating inflation adjustments annually for more than a decade, the State has cut payments to nursing homes by a cumulative amount exceeding \$15B since 2012 alone. Modest funding increases have been reduced or offset by concurrent cuts: recent increases have been accompanied by a case mix freeze that reduces funding by \$250M, which, along with recently enacted cuts to capital reimbursement, result in a net loss to some providers. It is time to **get serious about the nursing home funding crisis** and provide the required financial commitment to ensure that New York's older adults can count on quality services in their community when they most need it.

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**We ask that you prioritize efforts to:**

**Invest in closing the gap between Medicaid rates and costs; preserve access to quality care with a 20 percent rate increase.**

The Executive Budget proposes \$100M (all funds) in new funding, a mere 1.3 percent increase, while continuing \$285M (all funds) in previously enacted funding. This does not begin to close the \$1.6B gap between rates and costs. Years of underfunding demand a material new investment. **We urge the Legislature to:**

- ***Ensure that the previously enacted \$285M continues based on the same allocation methodology and is made permanent;***
- ***Add \$460M (State share) to the proposed new funding, as a permanent percentage increase, and make real progress toward closing the Medicaid rate-to-cost gap that has ballooned to an average \$90 per Medicaid resident per day.***

A permanent rate increase is needed to stabilize the deteriorating financial condition of nursing homes and to allow them to ensure quality, provide competitive wages and benefits, meet collective bargaining agreement obligations, and modernize care models to address the needs of our aging population. Inadequate and unpredictable funding makes this impossible and negatively impacts residents, their families and staff, and the health system as a whole. This overdue increase would serve as a bridge to a state-of-the-art nursing home reimbursement methodology that would rationalize the current outdated approach.

**Restore the 15 percent cut to capital funding.** With the enactment last year of a 10 percent cut to Medicaid capital rates on top of the existing 5 percent cut, nursing homes now face a 15 percent shortfall in capital reimbursement. Medicaid reimburses the pre-approved capital expenses incurred by a nursing home, and most financing arrangements are dependent on Medicaid meeting its promise. These reductions to capital reimbursement threaten access to needed capital funding for improvements to make facilities more homelike and improve infection control, while also putting providers in danger of defaulting on existing obligations. The damage caused by this cut far outweighs the State savings. We ask that the Legislature allocate the required \$41.1M to restore these damaging cuts.

**Authorize medication aides in nursing homes.** We support the Governor's proposal to authorize specially trained certified nurse aides (CNAs) to work in nursing homes as certified medication aides (CMAs) administering routine medications to residents under the supervision of a registered nurse (RN). This proposal, or *A.1272 (Clark)*, would help to address staffing shortages, while providing new career opportunities for CNAs and preserving quality and safety. Approximately 39 states already authorize medication aides in nursing homes. In New York State, the Office for People with Developmental Disabilities already allows unlicensed direct care staff to administer medications. Unlike many workforce development proposals that require years to provide a measurable impact, this initiative could be implemented and begin to make a difference relatively quickly – without any cost to the State.

**Add titles to minimum staffing level provisions and allow nurses to satisfy aide hours.** The minimum nurse staffing law enacted in 2021 sets inflexible staffing requirements that the vast majority of homes (nearly 70 percent in Quarter 2 of 2024) have found impossible to meet. The requirements are based solely on nurses and aides and require specified minimum hours for each, regardless of resident needs. Denying the hours of care provided by other direct caregivers, or effectively requiring that RN or therapy time be replaced by aide hours, does not improve the quality of care for all residents. The law should be amended to take into consideration the hours worked by rehabilitation therapy staff, nurse practitioners, recreation and activities staff, aide trainees, and feeding assistants. We support *A.600 (Hevesi)*, which would recognize the care provided by therapy staff, and urge the Legislature to enact and expand upon this legislation.

**Address the safe staffing funding error.** A peculiarity in the Department of Health's calculation of "safe staffing" funding eligibility resulted in the inequitable exclusion of 11 non-profit homes. These homes met and exceeded direct spending requirements and, in most cases, experienced sizeable, annual operating losses when one-time funding (e.g., COVID relief) is excluded. These facilities should have qualified for safe staffing funds, given the Legislature's intent. We ask the Legislature to provide **\$2.7M** in State-share funding to correct this.

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