

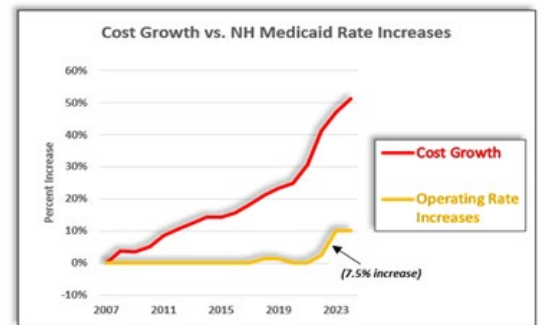
Support Older Adults with Skilled Nursing Needs by Addressing the Nursing Home Funding Crisis

Nursing homes play a critical role in the state's health care system, caring for more than 300,000 vulnerable individuals annually, despite overwhelming challenges. They are staggering under the stresses of depleted resources, rising costs, and unprecedented staffing shortages. They are doing everything in their power to recruit and retain staff yet face 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, its rates fall short of the costs of care by **\$90/resident/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 until 2023. While that increase is a critical lifeline, it does little to narrow the huge gap between rates and costs which have risen by more than 50 percent.

Inadequate Medicaid rates make it impossible for homes to recruit and retain staff, resulting in closed beds and waiting lists that 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, **11 nursing homes closed in the past 4 years**. And, due to staff shortages, quality homes are forced to limit their capacity – **5,600 fewer** nursing home beds are in operation today than in 2019. This is causing alarming **backups at hospitals** – hospital patients who need post-acute care cannot find a nursing home bed.

DESPITE DIRE NEED, NURSING HOMES FACE REDUCED FUNDING

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. In the coming year, rates will not be updated for resident acuity, resulting in further State savings, and a 5 percent capital cut remains in effect, along with a low-occupancy penalty – all this before any of the cuts proposed by the 2024-25 Executive Budget.

The State must reinvest the savings achieved through years of Medicaid underfunding back into nursing homes.

LeadingAge New York

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LeadingAge New York requests the following budget actions:

Reject cuts and increase nursing home Medicaid rates by \$510M. Commit to update and rationalize the rate methodology by 2025. We urge the Legislature to invest \$510M (State share) in the 2024-25 budget to narrow the current Medicaid rate gap that exceeds 25 percent (\$1.6B annually). We further ask for a firm plan to update and rationalize the rate methodology by 2025 to promote quality, efficiency, and provider viability in line with the state's demographic realities. Rates must be updated to reflect current costs, rather than 2007 costs, and the methodology must ensure that rates stay current going forward. Wages and benefits, primarily for nursing staff, represent the bulk of nursing home costs. Providers cannot continue to operate and staff at required levels under rates that have been stagnant for 15 years. An immediate and significant investment is needed.

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 that set forth in *A.8299 (Clark)*, would help to address the staffing shortage in nursing homes, while providing new career opportunities for CNAs and preserving quality and safety. Approximately 38 states already authorize medication aides in nursing homes. Likewise, in New York State, the Office for People with Developmental Disabilities (OPWDD) 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 cost to the State.

Ensure appropriate capital reimbursement: reject proposed 10 percent cut, restore existing 5 percent cut, and waive the imputed occupancy provision. The Executive Budget proposal seeks to impose a cut of 10 percent on nursing home capital reimbursement, on top of a 5 percent cut that took effect in April 2020. Medicaid reimburses the Medicaid proportion of pre-approved capital expenses incurred by a nursing home, and most financing arrangements are dependent on Medicaid meeting its promise. Current and proposed reductions to capital reimbursement not only threaten access to needed capital funding for improvements to make facilities more homelike and improve infection control, but also put providers in danger of defaulting on existing obligations. We urge the Legislature to reject this new cut and restore the prior cut.

In addition, we ask the Legislature to enact legislation to waive the capital reimbursement penalty on facilities with occupancy below 90 percent. Through this penalty, the State has quietly denied these facilities full reimbursement of approved capital costs, risking their viability and generating savings of more than \$50M in each of the prior two years. The impact falls disproportionately on homes that have been forced to limit admissions in the face of staffing shortages.

Restore proposed \$75M cut to Nursing Home Vital Access Provider Assurance Program (VAPAP) funding. The Nursing Home VAPAP is a suballocation within the larger hospital VAPAP, intended to provide \$100M annually to support nursing homes that are in severe financial distress. Until Medicaid rates are increased and the rate methodology is updated, the program is critical in helping those homes that are facing the most severe financial challenges to survive. We urge the Legislature to reject the proposed \$75M cut and ensure that this lifeline funding is distributed promptly.

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 75 percent in Quarter 2 of 2023) have found impossible to meet. The staffing requirements are based solely on nurses and aides, and require specified minimum hours for each, regardless of the needs of residents. Denying the hours of care provided by other direct caregivers, or requiring that their time be replaced by aide hours, does little to improve the quality of care for 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 thank Assemblyman Hevesi for introducing *A.2800*, which would recognize the care provided by therapy staff, and urge the Legislature to enact and expand upon this legislation.

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