

**Health and Human Services Subcommittee
House Bill 110
February 25, 2021**

Good afternoon, Chair Roemer, Ranking Member West, and members of the subcommittee. I am Pete Van Runkle from the Ohio Health Care Association. OHCA represents providers of assisted living, home care, hospice, intellectual and developmental disabilities, and skilled nursing services. We appreciate the opportunity to appear before you today to discuss the Department of Medicaid budget on behalf of our skilled nursing facility (SNF) members. OHCA is the state's largest organization numbering SNFs among its members.

We appreciate the DeWine Administration's focus, through three different state agency budgets, on quality of services in Ohio's SNFs. As with the other provider types we represent, we strongly support high-quality care for Ohio's SNF patients and tirelessly advocate for the resources necessary to achieve that goal.

The Executive Budget is a good starting point for the discussion, but we feel there is much more to be done to give seniors and people with disabilities in all of Ohio's SNFs the best opportunity in the coming biennium.

Perhaps more than any other provider type OHCA represents, SNFs have borne the brunt of the COVID-19 pandemic. They truly have been and continue to be the front lines of the struggle. There are two key facts that make COVID-19 such an insidious and deadly challenge. The first is that it is spread by people who do not know they are sick. The second is that it disproportionately kills older people and people with chronic medical conditions whose systems are unable to fight off the virus. These two factors combined to make SNFs the epicenter of the pandemic, despite the heroic efforts of front-line staff and leaders striving every day against all odds to keep COVID-19 out and to care for those who contract it, while contending with staff and supply shortages and stringent, ever-changing regulatory requirements.

In this subcommittee, we have discussed workforce challenges with respect to the ID/DD system and home and community-based services for older Ohioans. Workforce is no less of a challenge for SNFs. The rates Medicaid pays SNFs do not support wages sufficient to attract enough nursing assistants and applicants for other key positions. SNFs have had to exclude tens of thousands of direct-care workers from work because they contracted COVID-19 or were

exposed. Others left their jobs because of family obligations stemming from the pandemic or because of fear of contracting the virus. Providers have been forced to increase wages substantially, to pay overtime, and to use high-priced temporary agencies just to staff their buildings at a minimum level. In some cases, they even needed help from the National Guard. Compliance with COVID-19-related regulatory mandates such as screening, testing, and data reporting require additional staff beyond the level needed to provide care.

SNFs across Ohio have incurred massive additional costs, not only for labor but also for personal protective equipment, outfitting COVID-19 and quarantine units, testing, and other expenses resulting directly from the pandemic. At the same time, facility revenue cratered, as statewide average occupancy fell from 81% in 2019 to 68% today. Without significant financial assistance from the federal government, some of which was routed through the state, our sector would not have been able to survive. That federal assistance has ended, even though the pandemic continues, increased expense and regulatory restrictions are still in place, and census has not begun to recover.

Against this backdrop, we again wish to express our appreciation that the Department of Medicaid proposed at least to continue, and in some ways to enhance, Medicaid funding for SNFs in the Executive Budget. We are concerned, however, that the Executive Budget would take away important funding that the legislature in previous budgets directed Medicaid provide to SNFs and actually would cut funding to hundreds of providers located in rural areas, urban areas, and throughout the state.

Medicaid funding for SNFs is governed by a complex statutory formula, not unlike the K-12 education formula, that has the goal of equitably providing a base level of support to all providers along with incentive payments to those who fare well on statutory quality metrics.

While the Executive Budget would continue the incentive payments that are in the current formula and even add to them, the Administration proposes to cancel for the biennium the 5-year rebasing of rates that the legislature mandated two budgets ago and reaffirmed in the last budget. As the General Assembly recognized, rebasing is critical to the health of the SNF industry as a whole because it adjusts all providers' base rates to reflect cost inflation over the 5-year period. It is mistaken policy to put all eggs into the quality incentive basket because it leaves more than 300 SNFs throughout the state with stagnant or even reduced rates – in the face of a continuing pandemic. It unfairly penalizes the thousands of Ohioans who live in those 300-plus centers, which make up a third of the state's SNF population.

OHCA respectfully asks this subcommittee, and the legislature as a whole, to allow rebasing to proceed as mandated by statute. We estimate the all-funds impact of rebasing to be \$466 million, although the actual impact will be considerably less because of the sharp reduction of Medicaid days throughout the pandemic that we expect to continue during the coming biennium. The cost of rebasing could be offset partially by shifting dollars from the Executive Budget proposal for an add-on payment related to census.

We also ask that the legislature maintain the language for the SNF quality incentive payment in the Revised Code. The Executive Budget proposes to move it to temporary law for the first year of the biennium and then to give the Department of Medicaid authority to replace the legislatively-written quality formula or even to do away with the quality incentive altogether. We understand the Department may wish to see changes in the quality metrics. We would support a task force to discuss possible recommendations for change to the legislature, with a delayed effective date so providers have time to refocus their efforts on the new measures.

Last, we look forward to passage of additional federal stimulus legislation in the next month or so that would direct billions of dollars of pandemic recovery funding to Ohio state and local government. Assuming the federal legislation passes, we recommend including in the budget direction to the Administration to process a second round of pandemic relief funding to SNFs using a similar methodology to the first round last summer under the CARES Act, albeit for more months.

To be clear, rebasing and the quality incentive establish base funding to keep up with cost increases through 2019 and to reward higher-performing facilities. The pandemic relief payment would be one-time funding to address the extraordinary impact of COVID-19, which has continued far beyond the time period covered by the original relief payment.

On a non-funding note, the Executive Budget also includes an effort to resuscitate a Medicaid statute that was declared unconstitutional by a state appellate court. The statute was an unnecessary attempt to “one-up” a long-established federal enforcement process against SNFs. The federal process remains in full force and effect, and the unconstitutional state statute simply should be repealed.

I am very appreciative of your attention to our suggestions for improving the budget as it relates to SNFs and would be happy to answer any questions from the subcommittee.