



# Nursing Facility Transformation Program Guidance

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## 1 Executive Summary

The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 designated aid for state governments to support COVID-19 efforts. Rhode Island is using a portion of that funding to create the **LTSS Resiliency Program**, a set of grant programs to promote Response, Recovery, Resiliency, and Reopening in order to respond to the current COVID-19 pandemic. The LTSS Resiliency Program is intended to address the crisis in LTSS caused or exacerbated by the COVID-19 public health emergency. The goal of the LTSS Resiliency Program is to support nursing home response, invest in HCBS supply and transform nursing facilities into more resilient environments where the risks associated with COVID-19 can be more easily controlled.

**The COVID-19 public health emergency has had a significant second order impact on Nursing Facility revenues and occupancy.** When the high rate of spread of COVID-19 in nursing facilities became more apparent, many people began seeking alternative care settings, including some existing residents. In addition, hospitals began postponing elective surgeries, which resulted in fewer people entering nursing facilities for post-acute care rehabilitation stays. The result for nursing facilities was a significant drop in census. These trends, along with the death rate of residents from COVID-19, have led to a significant drop in nursing facility occupancy rates. As a result, many nursing facilities are in financial distress and have fewer of the resources required to prevent and mitigate infection, provide person-centered care, and maintain business operations.

**The loss of existing occupancy coupled with a reduced incoming stream of residents has led some industry leaders to anticipate that it may be 18 months before their occupancy can recover to pre-COVID levels.<sup>1</sup>** This presents significant business interruption risk to the industry.

**Nationally we have seen, and it has been noted by HHS and HRSA, that nursing facilities and their residents have been unfortunately particularly susceptible to COVID-19 as a respiratory virus.** Nursing facilities by their nature as currently structured pose a unique set of challenges for infection prevention and mitigations. Like many other congregate settings, nursing facility residents live near one another, often sharing rooms, and frequently have meals, therapeutic activities and social gatherings together in group settings. Nursing facility residents in short-term rehab units and long-term stay units are particularly vulnerable to infection in congregate care settings– the former are recovering from medical treatments and procedures that have taxed their overall health; the latter, typically suffer from serious chronic conditions that require personal care assistance and other supports around the clock or at least during waking hours.

**Finally, we know that potential residents with co-morbidities that make them particularly susceptible to the virus often end up in hospital settings when they otherwise could be cared for in a less restrictive, nursing home setting.** For example, individuals with complex behavioral health needs, traumatic brain injury, or patients in need of a ventilator may require a stay at a nursing facility to stabilize before returning home. However, if there are no specialized nursing home beds available for those types of patients, they remain in the hospital. During the public health emergency we need to ensure that hospital beds are free for the sickest patients. Therefore, creating opportunities for nursing facilities to meet the needs of specialized complex populations will create additional demand for nursing facilities who need it, and address concerns of hospitals during the continuing public health emergency.

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<sup>1</sup> Cory Rutledge, managing principal at CliftonLarsonAllen, told *McKnight's Long-Term Care News*. <https://www.mcknights.com/news/operators-worried-it-might-be-18-months-before-skilled-nursing-occupancy-recovers/>



## 2 Program Overview

### 2.1 Program Description

**The Nursing Facility Transformation Grant Initiative is established as a partnership initiative to provide additional financial assistance for long-term care facilities in Rhode Island.** These grant funds are an additional measure to be used as secondary to other federal coronavirus relief funding received by long-term care facilities, and other funding resources made available by the State over the duration of the COVID-19 response.

As a result of COVID-19, demand for nursing facility care has declined based on consumer preference and lack of hospital discharges. This has caused significant business interruption to nursing facilities. The **Nursing Facility Transformation Grant Initiative** will distribute a total of up to \$10 million in funding via a competitive grant process to nursing facilities in Rhode Island. These grants will allow nursing facilities to diversify their business models to remain viable through the public health emergency, mitigating the impact of the current pandemic through the following options:

1. **Nursing Facility Diversification** that reduces the number of nursing facility beds, enabling the facility to diversify their sources of revenue to counter losses from business interruption due to the public health emergency .
2. **Targeted, Specialized Nursing Facility Service Capacity Building** to develop a specialized unit under current licensure with the structural capacity and approved clinical care models to support at risk populations with specialized needs where service provision by a nursing facility to these populations can stabilize occupancy and free up hospital capacity.

Nursing facilities will submit a proposal detailing their transformation plans and the number of licensed beds to be either de-licensed, taken out of service or reserved for specialized populations. Successful applicants will need to demonstrate organizational and leadership readiness, community engagement, and a commitment to participation with the Medicaid program.

The final allocation of grant funding will depend upon the number and quality of applications received. This document is intended to provide an overview of the goals of the program, the application process and eligibility and evaluation criteria.

### 2.2 Funding Distribution Methodology

The methodology outlined below is intended to define a fair means of allocating funds to nursing facilities who wish to transform their existing facilities in support of the State's response to COVID-19.

- EOHHS intends to award between eight and ten grants for up to \$1 million each and up to four (4) grants for up to \$500,000 each. Depending on need and applications, grant size may be higher or lower than indicated here.
- Grant funding will be disbursed according to the following schedule upon completion of deliverables:
  - Upon award: 30% of awarded funds will be disbursed
  - Upon evidence of a reduction in beds (either delicensed or taken out of service) or evidence of reserving beds for targeted, specialized capacity: remaining 70% of funds will be disbursed



### **2.3 EOHHS Partnership Commitments**

**The Nursing Facility Transformation Grant Initiative is structured as a partnership** between EOHHS and participating Nursing Facilities. As such EOHHS is making the following partnership commitments to the Initiative:

- (1) **Facilitate a Learning Collaborative** – EOHHS intends to support successful applicants/participants with monthly learning collaborative meetings, providing an opportunity to share learnings, challenges and opportunities across participating facilities
- (2) **Provide State Resources** - EOHHS will make state resources available to support participating facilities throughout the grant deliverables process and work to streamline/eliminate any state/local regulatory barriers to implementation. EOHHS will leverage its LTSS Governance structure and team to support this grant and all potential applicants are encouraged to utilize the following email address for questions and input: [OHHS.LTSSResiliency@ohhs.ri.gov](mailto:OHHS.LTSSResiliency@ohhs.ri.gov).
- (3) **Develop Sustainability Plans**– EOHHS is committed to working with participating facilities to understand changes in reimbursement or regulations that may be necessary to sustain investment and operation in these areas. We want to ensure that selected transformation models are supported by longer term Medicaid payment system modifications that align with these investments. We commit to working with CMS as necessary to facilitate approval of any authority when possible.



### 3 Program Details

#### 3.1 Funding and Application Dates

Key dates for Nursing Facility Transformation program are as follows:

- **August 28 2020:** Applications available online at EOHHS website.
- **September 9, 2020:** Deadline to submit questions about the application to [OHHS.LTSSResiliency@ohhs.ri.gov](mailto:OHHS.LTSSResiliency@ohhs.ri.gov)
- **October 5, 2020:** Applications due to the State at 5pm.
- **December 15, 2020:** Funds tied to evidence of either a permanent reduction in licensed beds or evidence of reserved targeted, specialized capacity disbursed to facilities

#### 3.2 Eligible Applicants

Grant funding through the Nursing Facility Transformation Program is restricted to Nursing Homes that meet the following base criteria:

1. **Nursing Facilities licensed** by Rhode Island Department of Health (RIDOH) to do business in the state of Rhode Island
2. **Facility in Good standing** in accordance with state and federal requirements, defined as not an identified Medicare “Special Focus Facility (SFF)”, as specified in Table A, B, or E of the SFF listing, or has an approved corrective action plan in place.<sup>2</sup>
3. **Minimum Medicaid partner**, providing at least 10,000 Medicaid days in (or 20% of days provided were for Medicaid days) in CY 2019, based on the EOHHS 2019 BN-64 Cost Report for Total Medicaid days provided, including managed care days or at least 20% of residents were Medicaid eligible as of January 15, 2020

Only facilities that are determined as meeting the above base criteria will be eligible to participate in this program and receive grant funding.

#### 3.3 Program Application Requirements

In order to receive funding from this program, eligible nursing facilities must submit a completed application to the State. The application will require agreement to a section of attestations and the submission of a proposal for facility transformation that includes a high level workplan.

The attestations that applicants must agree to are listed below:

1. **Facility Transformation** – Applicants must propose either a reduction in beds (either delicensed or taken out of service) or a commitment to reserve a predetermined number of current licensed beds to support targeted at-risk populations (as defined below), beginning on or before December 15, 2020, as specified below.
2. **Active Medicaid Participation:** Applicants must commit to participating in the Medicaid program and accepting Medicaid eligible populations, such that at least 40% of the residents/users in the new/transformed facility will be Medicaid eligibles.
3. **Comply with the Federal Minimum Data Set (MDS):** Applicants must commit to completing Section Q for all residents and actively participate in nursing facility transition initiatives including the Money Follows the Person

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<sup>2</sup> The Medicare Special Focus Facility Program (SFF) information is available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-certification/CertificationandCompliance/downloads/sfflist.pdf>.



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(MFP) and the Care Transitions Program. Grant recipients will need to provide a monthly referral list to EOHHS in accordance with EOHHS specifications

4. **Implement Financial Controls:** Applicants must agree to retain and track funds and expenditures in a separate operating account consistent with sound grant management practices; provide periodic status and financial reports in a format approved by EOHHS and DOA, and respond to state auditing requests as needed.

**The main part of the application will be the proposal and high level workplan for facility transformation.**

Applicants will need to describe their proposed transformation plan, their commitment to the Medicaid program, and their operational readiness to undergo a transformation to their business model to address the impact of COVID-19 on their business. Applicants must choose one of the two transformation options outlined below and commit to the parameters of each.

- I. **Nursing Facility Diversification** that will reduce the number of nursing facility beds, enabling the facility to diversify their sources of revenue to counter losses from business interruption due to the public health emergency. Applicants must specify the number of beds to be reduced (either delicensed or taken out of service) beginning on or before December 15, 2020.<sup>3</sup>

- OR -

- II. **Targeted, Specialized Nursing Facility Service Capacity Building** that will reserve a set of currently licensed beds to support populations with specialized needs where service provision by a nursing facility to these populations can stabilize occupancy. Applicants must specify the number of beds to be reserved, beginning on or before December 15, 2020, for services to support at least one of the following at risk populations:

- (1) Populations with a behavioral health diagnosis, especially SPMI/SMI; or
- (2) Populations with I/DD; or
- (3) Populations in need of memory care services; or
- (4) Hospital transitions of populations with complex behavioral health and medical conditions (e.g. Eleanor Slater Hospital)<sup>4</sup>; or
- (5) Populations with a Traumatic Brain Injury (TBI) in need of Habilitative Services; or,
- (6) Populations either dependent upon or transitioning from a Ventilator; or,
- (7) Pediatric long term care services; or
- (8) Populations with complex social needs, such as people with prior criminal convictions, prior sex offenders, or people who have a history of assaultive behavior; or,
- (9) Other specialized populations to be specified by the applicant.

All questions regarding this Initiative should be directed to: [OHHS.LTSSResiliency@ohhs.ri.gov](mailto:OHHS.LTSSResiliency@ohhs.ri.gov).

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<sup>3</sup> Note: The Medicaid Director may consider restoring the beds at a future date if occupancy is greater than 95% and the facility demonstrates significant unmet need. In accordance with the Nursing Facility Principles of Reimbursement, the Medicaid Director must approve an increase to the licensed bed capacity, new beds or beds out of service brought back into service, for participation and payment in Title XIX Medicaid.

<sup>4</sup> Specific populations currently treated in state funded inpatient facilities that could be transitioned to appropriate post-acute or long term care settings include: (1) Geripsych – elderly individuals with complex psychiatric needs that also require skilled or nonskilled medical care. Some are assaultive/aggressive; (2) individuals currently utilizing portable ventilators; (3) Individuals with complex medical needs, often with multiple co-occurring medical conditions; (4) Individuals with I/DD with complex medical and/or behavioral needs. Some are assaultive/aggressive; (5) Individuals with traumatic brain injuries and complex medical needs.



### **3.4 Program Evaluation Criteria**

A Nursing Facility Transformation Program Evaluation Committee shall be established by the Secretary of EOHHS. The Committee's objective is to review applications in order to determine whether submitting facilities meet the eligibility criteria set forth by EOHHS, evaluate each application according to a set of criteria, and make recommendations to the Secretary as to grant awardees.

#### **Applications will be evaluated based on the following criteria:**

1. **Alignment with** program objectives of nursing facility diversification or building of specialized service capacity (25%)
2. **Scope of proposal**, impact on bed supply or transformative impact (25%)
3. **Organizational capacity**, including leadership commitment, financial stability, demonstrated evidence of management/mitigation in accordance with RIDOH COVID 19 Nursing Facility Standards (20%)
4. **Demonstration of emerging and effective partnerships** with existing LTSS, behavioral health, community service providers or other clinical providers, or other health care facilities in developing and delivering both the care model (e.g, transitions from nursing facilities to home care) as well as the necessary clinical and social supports for these programs. (20%)
5. **A clear, organized, and well structured workplan**, including tasks, timelines and responsible parties (10%)

EOHHS will look favorably on applications with the following elements:

- Identification of new revenue sources to diversify and sustain the nursing facility business model.
- Commitment to contribute additional funding to the transformation effort
- Partnerships with existing LTSS, behavioral health, community service providers or other clinical providers, or other health care facilities in developing and delivering both the care model (e.g, transitions from nursing facilities to home care) as well as the necessary clinical and social supports for these programs.
- Demonstration of structural capacity, approved clinical care models and cultural competency for applications for building specialized capacity.

Preference will be given to applications create capacity and reserve beds for discharges from hospitals or reducing hospitalizations, particularly for behavioral health, TBI, ventilator and other populations.

### **3.5 Required Deliverables and Funding Distribution**

Grant funds will be paid out based on grant recipients meeting the following deliverables<sup>5</sup> in accordance with the timelines below.

- **Deliverable #1: Approved Application and High Level Workplan**  
Once the evaluation is complete, nursing facilities will be notified and the initial 30% of grant funds will be disbursed to grant recipients as soon as is possible.
  - High level workplan should include a needs assessment, marketing plan, and statement of impact to the community for the diversification or capacity building plan proposed; and the number of beds to be de-licensed, taken out of service, or reserved for specialized populations.

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<sup>5</sup> Consistent with Federal Guidance, for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time



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- This transformation workplan must include a demonstration of financial need in the amount of the funds requested based on revenue loss sustained due to reduced occupancy or business interruption, after taking into account any other federal/state assistance received.
- Deadline: on or before application due date
- **Deliverable #2: Demonstration of Transformation** The remaining 70% of grant funds will be disbursed upon State receipt of this deliverable.
  - Demonstrated evidence of either a reduction of nursing facility beds (either delicensed or taken out of service), or specifically reserved for targeted, specialized capacity building.<sup>6</sup>
  - Deadline: on or before December 15, 2020

### 3.6 Uses of Funds

This is a deliverables based grant – as such, funds shall be earned based on the accomplishment of deliverables specified in Section 3.5. Funding must be used to cover costs resulting from the COVID-19 pandemic during the period March 1, 2020 to December 30, 2020 for the following eligible expenses:

- Costs to prevent, prepare for, or respond to coronavirus, including supplies and equipment used to provide care to possible or actual COVID-19 patients, workforce training, reporting COVID-19 test results; and undertaking COVID-19 infection control procedures.
- Costs resulting from the business interruption resulting from COVID-19 that enable the applicant to continue to deliver care during the pandemic, including typical payroll and benefits, rent or mortgage payments, equipment lease payments, and other standard operating expenses.

Once funds are disbursed, providers are instructed to keep financial records demonstrating that funds received are spent in accordance with award requirements, as recipients of these funds will be subject to reporting and audit requirements. In the event of an audit, if the facility is found to have used funds for ineligible expenses, the facility will be considered in violation of the grant agreement at which point RI EOHHS may begin the process of recouping all or a portion of the funds awarded by reducing future payments to the facility.

## 4 In Closing

The COVID-19 public health emergency represents a clear hardship for the State's LTSS system that requires broad cooperation to overcome; it is also clear that the situation will continue to present challenges as it evolves. This partnership represents an opportunity to extend that cooperation to build strong resilience for the current crisis and improve health outcomes for all Rhode Islanders in need of long term services and supports.

The State of Rhode Island looks forward to working with critically important nursing homes and stakeholders to establish and carry out this partnership.

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<sup>6</sup> Note: The Medicaid Director may consider restoring the beds at a future date if occupancy is greater than 95% and the facility demonstrates significant unmet need. In accordance with the Nursing Facility Principles of Reimbursement, the Medicaid Director must approve an increase to the licensed bed capacity, new beds or beds out of service brought back into service, for participation and payment in Title XIX Medicaid.