Final Report

May 2024

At this writing, some bills that were passed by the legislature are still awaiting action by the Governor. Any bill that was passed and does not say "enacted" or "vetoed" has not been acted on by the Governor, who has the option to veto or sign. Bills that are not vetoed or signed become law without the Governor's signature.

A veto session is planned for June 17, 2024. We will update the report following the veto session.

Budget *(enacted as Act 113)*

The FY25 budget was signed by the Governor on May 23.

This session, VNAs of Vermont was successful in advocating for **a rate increase to bring skilled home health rates to 100% of Medicare LUPA**. The budget also includes language **directing the Department of Vermont Health Access (DVHA) to develop methodologies for comparing Medicaid rates for skilled home health services and pediatric palliative care services to Medicare rates.** Currently, DVHA compares home health rates to the LUPA fee schedule and has no benchmark for pediatric palliative care rates.

The House's initial budget included H.721, an expansion of Medicaid, Dr. Dynasaur and the Medicare Savings Program, paid for through an increase in the corporate income tax. The bill did not pass the Senate, though portions were included as part of the FY25 budget including expanded eligibility for the Medicare Savings Program (Qualified Medicare Beneficiary Program income threshold increased to 145% FPL), a technical analysis of rates, and premium invoicing suspension for Dr. Dynasaur.

The budget spends $8.57 billion across all funds and $2.19 billion in General Funds. Respectively, these spending levels represent $98 million and $223 million decreases compared to fiscal year 2024. The year-over-year difference is related to the dissipation of federal funds supporting the State's COVID-19 response and recovery. Some key provisions include the following (amounts listed in Global Commitment Funds unless otherwise noted).

Base Initiatives:

- **$1.3 million for a rate increase for Medicaid skilled home health services (to 100% of Medicare LUPA).**
- **$19 million for a 3 percent increase for home and community-based service including home-based Choices for Care direct services provided by home health agencies** and

other long-term care services provided by enhanced residential care providers, designated mental health agencies, specialized service agencies, adult day providers, and area agencies on aging.

- $4.9 million global commitment for the statutory rate increase to support skilled nursing facilities.
- $9.9 million in rate increases to skilled nursing facilities to align with changes in the rate setting methodology including reduction in the occupancy penalty, and adjustments to existing caps.
- $4.9 million in rate increases and rate incentives for the iCare facility in Bennington County.
- $1 million (GF) for start-up costs related to the youth psychiatric inpatient facility at Southwestern Vermont Medical Center.
- $4.9 million in rates and rate incentives for the iCare facility in Bennington County.
- $3.5 million (gross) for a psychiatric residential treatment facility, which must be licensed by the state, and is currently proposed at the Brattleboro Retreat.
- $560,000 for emergency non-medical transportation providers.

One-Time:

- $3.9 million and $5.3 million in federal match for a reform pilot in hospital global budgeting, drawing on the Medicaid caseload reserve. (This initiative was in the Governor recommend budget and was presented as a first step in the States Advancing All-Payer Health Equity Approaches and Development (AHEAD) model).
- $2 million in opioid settlement funds for the expansion of opioid antagonist distribution for overdose harm reduction strategies.
- $1 million in contingent funds to the Department of Disabilities, Aging, and Independent Living (DAIL) to expand the workforce pipeline of nursing assistants and medical directors at skilled nursing facilities.

Compliance

Auditor of Account Authority (S.9, passed by Senate only in 2023)

S.9, the bill that would extend the State Auditor's authority to examine the books and records of any contractor providing services to the State, was passed by the Senate in 2023 and referred to the House Government Operations and Military Affairs. After hearing substantial opposition from several advocacy groups including health care providers, the House committee declined to take up the bill in 2023**.** After taking testimony late in the 2024 session the House Government Operations and Military Affairs Committee again declined to act on the bill.

Data Privacy (H.121, passed by the House and Senate)

H.121 creates extensive **new data privacy requirements** for Vermont businesses and not-for-profit organizations. HIPAA "covered entities" such as home health agencies are exempt from the new requirements.

Home Health CON Moratorium (passed and enacted as Act 87, Section 93 - Budget Adjustment Act)

The Budget Adjustment Act incorporated S.162 as introduced, extending the existing **moratorium on certificates of need for new home health agencies** until 2030.

Workplace Violence/Employee Safety

Mental Health Response Service Guidelines and Home Health Employee Safety (S.189, passed and enacted as Act 115)

S.189 has been signed into law by the Governor as Act 115. It develops mental health response service guidelines and addresses social service and home health employee safety. **The home health safety policy change gives home health agencies flexibility to decline referrals, or refuse to send staff on a visit, for patients who have been previously discharged for safety reasons.**

The language passed by the Senate contained the caveat that flexibility only applies if the behavior cannot be mitigated or eliminated.

The House Committee on Health Care took testimony on S.189, and VNAs of Vermont was successful advocating for amendments to the Senate-passed version of the bill, such as clarifying that the behavior cannot be "reasonably" mitigated or eliminated, and that doing so would not "require a home health agency to enter a home to determine if a risk can be mitigated or eliminated."

The final bill, now enacted in law, requires that notice of denial of admission be provided to patients, to include the reason for denial of the admission and information regarding how an individual may submit a complaint under the Department of Aging and Independent Living's (DAIL) existing process. The bill also requires DAIL to provide an update to the House Health Care and Senate Health and Welfare Committees on the number of safety discharges, the nature of those discharges, and the number of individuals denied subsequent readmission.

Human Resource and Employer Obligations

Unemployment Insurance (H.55, passed by House, amended by Senate, with further proposal of amendment in House; no version was passed by both chambers but the bill could be taken up in the June 17 veto session)

H.55 makes miscellaneous unemployment insurance amendments including extending the period for which individuals can collect benefits without affecting employers' contributions, amends current statute to replace the term "illness" with "medical condition," and creates the Vermont Baby Bond Pilot Program. The bill passed the House in March, the Senate amended the bill, and the House amended it further and sent it back to the Senate. Although the bill did not make it across the finish line during the regular session, it could be taken up at the veto session scheduled for June 17.

Social Work Licensure Compact (H.543, passed and enacted as Act 91)

The Governor signed H.543 into law as Act 91, which allows Vermont to adopt the Social Work Licensure Compact. The law facilitates interstate practice of regulated social workers by improving public access to social work services, reducing duplicative requirements associated with holding

multiple licenses, promoting mobility and addressing workforce shortages, and allowing the use of telehealth to facilitate increased access to regulated social work services.

Compensation Disclosure (H.704, passed by House and Senate)

H.704 requires employers to disclose compensation or a range of compensation in job advertisements. Employers have flexibility in hiring employees within or outside the advertised compensation ranges based on factors like qualifications or market conditions. The Attorney General's Office is also tasked with publishing guidance for employers and employees regarding these provisions by January 1, 2025, and conducting outreach and education in coordination with stakeholders prior to the law taking effect on July 1, 2025.

Medical Leave (H.856, passed by House only, included in H.55)

H.856 updates Vermont's medical leave statutes to better comport with federal requirements. The Senate included the provisions of H.856 into the Senate-passed version of H.55.

Collective Bargaining (S.102, passed and enacted)

S.102 **prohibits employers from taking adverse employment actions against an employee** in relation to the employee's exercise of free speech. The bill also stipulates that the signatures of at least 50 percent plus one of the employees in a bargaining unit shall certify the representative and the bargaining representative.

End-of-Life/Advance Directives

Remote Witnessing of Advance Directives (H.469, passed and enacted as Act 88)

The Governor signed H.469 into law as Act 88 **which allows for digital signatures of advance directives, including by principals, witnesses, and explainers.**

Health Care Reform

Medicaid Coverage for Doula Services (S.109, passed and enacted as Act 97)

The Governor signed S.109 into law as Act 97, which directs the Office of Professional Regulation to conduct a review and issue a recommendation to the legislature on what model of regulation is appropriate for the doula profession. The bill also directs DVHA to provide a report to the legislature that shall include a methodology and estimated costs for providing Medicaid reimbursement for qualified doulas.

Green Mountain Care Board and Miscellaneous Health Care Reform Provisions (S.151 and S.211)

S.151 and S.211 were both considered by Senate Health and Welfare but did not advance to the Senate Floor. Between them, the bills included provisions related to role of the Green Mountain Care Board, investments in primary care and other miscellaneous health care reform provisions.

Reenvisioning the Agency of Human Services (S.183, passed and enacted)

Lawmakers approved a bill creating a process to "reenvision" the current Agency of Human Services (AHS). The bill requires the Secretary of AHS to evaluate the current structure of AHS, identify potential options for re-envisioning the agency and engage in a cost-benefit analysis of each option, and develop one or more recommendations for implementation. It requires the AHS Secretary to present an update on the work to the committees of jurisdiction on Feb. 1, 2025, with final recommendations by Nov. 1, 2025. AHS will engage with existing boards, committees, and other channels to collect input from individuals and families who are directly impacted by the work of the agency and its departments.

Community Nurse Pilot Program (S.231)

S.231 proposed to create a pilot program for community nursing programs, with a state budget allocation. Following advocacy from Vermont's health care provider community demonstrating that the state was not fully-funding existing programs, the bill was scaled back in the Senate Health and Welfare Committee. After being referred to the Senate Committee on Appropriations the bill was not taken up further.

Dr. Dynasaur and Medicaid Savings Plan Expansion (H.721, passed by the House)

See budget section.

Prior Authorization and Claims Edits (H.766, passed and enacted as Act 111)

H.766 (Act 111) reduces the administrative burden of prior authorization imposed by commercial health plans regulated in Vermont. It does not include Medicare Advantage plans because Vermont has minimal regulatory authority over them. The bill was largely driven by physician advocacy groups. The final bill prohibits insurance companies from imposing any prior authorization requirement for "any admission, item, service, treatment, or procedure ordered by a primary care provider." Pharmaceuticals and out-of-network services may still be subject to prior authorization requirements. The bill also reforms step therapy (a process insurance companies use that requires individuals to try lower cost medications first before moving to a higher cost brand name drug), requires coverage of at least one asthma controller medication without prior authorizations, and aligns claims edits to Medicare. The bill also limits the frequency in which insurers may release edits to no more than quarterly.

Telemedicine and Audio-Only Reimbursement (H.861, passed and enacted as Act 108)

Act 108 requires that health insurance plans provide the same reimbursement amounts to health care providers for delivering health care services in person, by telemedicine, and by audio-only telephone. It repeals a sunset on reimbursement parity for telemedicine services scheduled to expire on January 1, 2026.