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HOUSE OF REPRESENTATIVES
COMMONWEALTH *of* PENNSYLVANIA

House Democratic Policy Committee Hearing

Sustainable Long-Term Care
Wednesday, March 19th | 3:30 p.m.
Chair Ryan Bizzarro

OPENING REMARKS
3:30p.m. Rep. Ryan Bizzarro, D-Erie

PANEL ONE
3:35p.m. Zach Shamberg, President and Chief Executive Officer
Pennsylvania Health Care Association

Zane Barrick, Director of Data Management
Pennsylvania Health Care Association

Meir Gelley, Chief Executive Officer
Nationwide Healthcare

Q & A with Legislators

PANEL TWO
4:05p.m. Garry Pezzano, President and Chief Executive Officer
LeadingAge PA

Anna Warheit, Director of Regulatory Affairs
LeadingAge PA

Jason Shott, Chief of Operations
Phoebe Ministries

Q & A with Legislators

Written Testimony of

PHCA

Delivered by
Zach Shamberg
President & CEO

Public Hearing on Sustainable Long-Term Care

Delivered before the
House Majority Policy Committee

March 19, 2025

Chairman Bizzarro and members of the House Majority Policy Committee: thank you for the opportunity to testify and offer input from the provider community caring for our most vulnerable Pennsylvanians.

My name is Zach Shamberg, and I am the president and CEO of the Pennsylvania Health Care Association, or PHCA. We are proud to represent long-term care across the commonwealth, including government-run, nonprofit, and for-profit nursing homes, as well as personal care homes and assisted living communities. The residents our members serve are primarily Pennsylvania seniors in need of care or adults with mental and/or physical disabilities.

Today, we are here to talk about the state's Budget Adjustment Factor for nursing homes, also known as the "BAF," and to explain how this well-intentioned – but ultimately complex and outdated – funding mechanism is harming some of Pennsylvania's most vulnerable residents.

Most importantly: we're here to propose a workable solution moving forward.

First, let me explain some of the important history.

History

Back in the early 2000s, nursing home costs were growing far too quickly. From 2000-2005 alone, there were 5% increases each year with an overall increase of approximately 29.5%. In FY 2005-06, to try to control the rate of cost growth and encourage efficiency, what was then known as the Department of Public Welfare implemented a "BAF". The BAF was originally set at 0.95122. It has since varied over the years based on the investment made by the General Assembly in each year's budget.

What the BAF really is and how it works

Important context to note - approximately 70% of resident days of care in Pennsylvania nursing facilities are paid for by Medicaid. That means that the vast majority of payment coming into nursing homes is through the state's Medicaid program. Pennsylvania has an established Nursing Facility Medicaid rate setting system based on reasonable costs and resident acuity measured by a Case Mix Index (CMI) – which is essentially how sick a resident is while he or she is receiving care. The CMI is used to adjust the rate SNFs are paid for nursing home costs in order to recognize the care needs of the residents being served. Sicker residents have higher CMI scores because they need more nursing time and have higher care needs. Medicaid nursing home rates are adjusted four times a year based on each facility's average CMI. Facilities also file annual cost reports, and PA adjusts reimbursements in July of each fiscal year based on audited allowable Medicaid costs.

Nursing homes have their budgets, and the state has its set budget, too. When nursing facility rates and Medicaid days come in at a higher amount than what the state budgeted for, the Budget Adjustment Factor, or "BAF", is applied to make sure that the state does not spend more than it has budgeted. So if the state only budgeted 90% of what SNFs are truly owed, the state then reduces the case-mix rate calculated for each nursing facility by 10% to make their math work. It is incredibly important to note that, when initially implemented, **this was intended to be a one-year solution** while the Department and its stakeholders found a more sustainable way to change the reimbursement system to control the rate of growth. But that has not happened, and the impact has been disastrous.

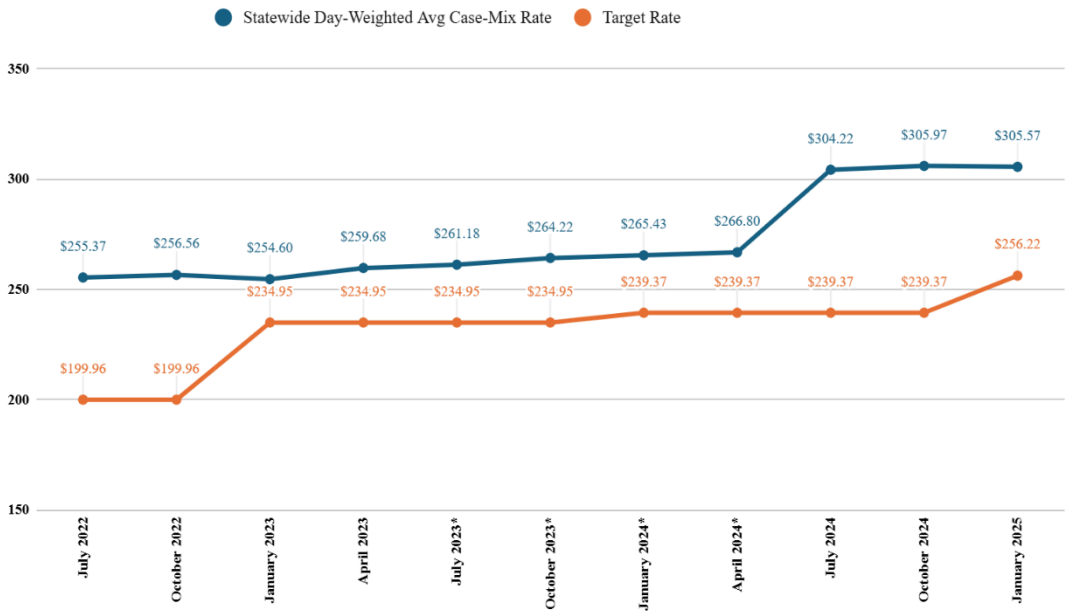
Impact to providers and residents

Before diving into the specific and tangible impact this has on providers, I first need to acknowledge and thank the General Assembly for the rate increases you have awarded nursing homes throughout the past 3 years – 17.5% in 2022, 1.88% in 2023, and 7.04% in 2024. These rate increases are deeply appreciated by the provider community. But what has become clear is that rate increases alone are not a sustainable solution moving forward.

Reduced reimbursement rates and unpredictable funding

The "silver tsunami" that we have been anticipating is here. Pennsylvania has the 5th highest population of older adults in the entire country. And in the past 5 years, exacerbated by COVID-19, the acuity of residents in nursing homes has increased dramatically. Remember, as SNF residents keep getting sicker, the CMI will rise to keep up, so rates keep rising as well. Meanwhile, overall costs are rising, too – the rate of inflation makes everything astronomically more expensive, and on top of that, the nursing shortage means SNFs must pay more and use expensive agency staff when they can't find enough full-time employees to hire. SNF patients keep getting sicker, CMI keeps rising, costs keep rising, so rates keep increasing.

But because of the BAF, it's like walking up a down-escalator because those higher rates are ultimately a phantom rate – the BAF just decreases to offset the rate increase so providers aren't getting paid as much as they need to be to offset the growth. The chart (below) shows how the decrease in the BAF is the product of these ongoing cost increases. Year over year (on average) during this 3 year period, costs are growing 9.15% per year, whereas the state budget allocation has not kept pace with these increased costs, even with allocated reimbursement increases:



From January 2024 to October 2024, the BAF dropped from 0.90182 to 0.78233. This means providers' full case-index Medicaid rates were reduced by an additional 12% in October compared to the 10% reduction they were already facing at the start of the year. In total, a 0.78233 BAF means 22% is being deducted from what providers should have been paid based on the case-mix rate setting system.

To put the impact of this into perspective, the average case-mix rate (at 100%) across all non-public nursing facilities was $312.11 for the October 2024 quarter. When applying the 78% BAF, **the average rate actually paid was $244.17**. This means providers were paid nearly **$68 per day (per Medicaid resident)** ***less*** than they otherwise should have been. For a facility with a census of 100 and 70% Medicaid occupancy, this equates to an annual deficit of $1,935,960.

Due to federal changes, the state will soon be transitioning to a new way of calculating a facility's CMI (acuity) scores: "PDPM". Based on preliminary analysis by the Department of Human Services, the average CMI scores under PDPM are higher under PDPM compared to the current methodology, which will result in the BAF going down without additional funding and facilities receiving a smaller percentage of their full rate. Nursing homes are already operating on average at a -5.4% operating margin and simply cannot sustain shortages of this magnitude.

More than 30 SNFs have closed since the start of the pandemic, including the announcement of Bonhams Nursing and Rehab in Luzerne County earlier this month. For those that do stay open, this creates an immense uncertainty among SNFs, making staffing, investments, and planning nearly impossible.

Disproportionate Impact across Facilities

To add additional complexity for providers: because the BAF ensures there is a finite pot of money through capping aggregate reimbursement, whenever rates are adjusted, how much a facility is paid becomes a comparison of how provider operations compare to other providers down the street. This puts facilities in competition for the limited pool of dollars. But given the BAF, if facility A's costs went up higher than the statewide average, Facility A will actually get more money than their more efficient counterpart whose costs were lower.

And who then is hurt the most? Facilities with the highest population of Medicaid residents and those who operate the most efficiently.

Challenging Payor Mix

The payor mix within facilities creates further challenges. The statewide average payor mix for Medicaid-participating facilities is 77% Medicaid, 14% Medicare, and 9% private pay (or other). In prior years, Medicare partially compensated for lower Medicaid rates, as providers could 'cost-shift' to make up the disparity; however, much of Medicare has been pushed to Medicare Advantage plans, which are offered by private insurance companies, and these plans often negotiate lower reimbursement rates with nursing homes compared to traditional Medicare. On average in PA, Medicare Advantage plans pay only 70% of traditional Medicare. This puts further strain on the financial resources of nursing homes, which already operate on tight margins.

And in addition to these payor mix challenges, there are potentially detrimental Medicaid cuts at risk at the federal level.

Under this current payor mix and reimbursement structure, the system is set up for providers to fail, ultimately jeopardizing access to essential services for Pennsylvania's most vulnerable residents.

How do we fix this?

Pennsylvania is one of only five states in the entire country (Nevada, Maryland, New Hampshire, and Idaho) that has a Budget Adjustment Factor (BAF) in place. Nursing homes are the only entity in the state of Pennsylvania that are subject to a BAF. This arcane, complex mechanism, intended to control spending, ultimately undermines the financial stability of nursing homes, particularly those serving a high proportion of Medicaid residents, and jeopardizes access to essential services for Pennsylvania's most vulnerable residents.

The bottom line is that the role of the BAF does not match its original intent, and it needs to change. It is now used as a tool to ensure the Department of Human Services does not spend more than the funding allocated in the final budget each

year with no consideration for the reasonableness and adequacy of the resulting nursing facility rates and the impact those rates have on residents.

In order to restore stability to the system and ensure older Pennsylvanians can count on having access to nursing home care when they need it, we are fully supporting Chairman Bizzarro's initiative – which is currently a co-sponsor memo in the state House –that would establish a 0.90 floor to the BAF. This would equate to an approximate investment of $140 million, based on the FY 24-25 rate setting database.

This would ensure that a nursing facility's Medicaid case-mix rate is not reduced by more than 10% in each fiscal year, providing better predictability and the means to continue to serve those residents in need of nursing facility services.

That is the path to sustainability, plain and simple.

Thank you for the opportunity to testify, and I look forward to taking your questions at this time.

Testimony of Meir Gelley — Nationwide Healthcare Services

Delivered before the House Majority Policy Committee

March 19, 2025

Chairman Bizzarro and members of the House Majority Policy Committee:

I thank you for allowing me to speak here today and for the opportunity to express the dire situation we operators of Long-Term Care facilities are experiencing.

My name is Meir Gelley and I own and operate four facilities in the Philadelphia area.

I don't represent any large organization nor do I have any great large financial backers or partners I can turn to for an influx of funds at any given moment.

I entered the Long-Term Care business when I came out of college many years ago with my first job in a nursing home as the buyer in a kitchen. Buying the potatoes and tomatoes etc.

I graduated from there and ultimately learned how to take care of the elderly sick frail residents that are in a nursing home.

Over the last 23 years I have acquired four facilities in Pennsylvania.

We rely, as we should, on funds from Medicaid, Medicare, and the various payors that cover the stay of a resident in a nursing home.

Our four facilities are approximately on average 78% Medicaid funded residents which means that Medicaid is our primary source of income and we rely heavily on Medicaid reimbursement.

When the BAF was first instituted, which was only meant for one year, it was a hardship but we learned to cope with it.

Through the time of Covid and now post Covid, expenses have risen in all areas, supplies, utilities, insurance, etc., and mostly in staffing.

Please see the chart that I prepared highlighting four of the biggest-ticket items.

The BAF moves every quarter and in 2024 it was as low as .78.

That means for every dollar we are supposed to be reimbursed we are only receiving 78 cents.

This represents a loss of 22% to the neediest and most vulnerable elderly residents of the Commonwealth.

An analogy to this would be if for example one would go to the supermarket and fill up a wagon full of all household essentials i.e., bread, milk, cheese, chicken and maybe some toiletries and then when checking out at the counter was told that your bill is $310.00.

At that moment you tell the clerk that's checking you out, I'm so sorry I don't have that amount available I'm only paying you 78% of the bill so I'll only give you $241.80.

We have a situation in a building that we need now to buy a new generator.

The cheapest way to go, according to regulations, is $80,000.

But that would not cover all electrical outlets, and many residents are on equipment that need constant supply of electricity. It would not power all refrigeration, freezer, laundry equipment, elevators etc. in case of electrical outage.

The right way is to buy a generator for $250,000 that powers the whole building. It's a safer choice for the residents and that's what our mission is.

But how can I go and borrow money to buy equipment like that when the BAF next quarter could drop to a low .64 for example.

It is nearly impossible to plan and improve the building and incur expenses when reimbursement fluctuates to unknown numbers.

There have been many closures in Pennsylvania because of the BAF and low Medicaid funding which is devastating to the elderly residents that have to move out and find other places to live but many forget about the staff that has worked in these facilities for many years losing their jobs, income and livelihood.

Just last week, we celebrated with the staff those that have worked over 30 years at one of our facilities. One care giver has been at the facility for 41 years.

What a devastation to these employees if the doors are closed, may G-D protect us from such a scenario.

We are guided and demanded to follow all regulation from state and federal agencies and abide by all demands at all times and we are ready for the challenge as best as we can do.

We follow all that is required 100% so we humbly request that we should be reimbursed 100%.

Thank you for listening.

Pennsylvania House Democratic Policy Committee
Public Hearing on Sustainable Long-Term Care
Wednesday, March 19, 2025

Testimony by:
Garry Pezzano
President & CEO
LeadingAge PA

Good afternoon, Chairman Bizzarro and members of the House Democratic Policy Committee. I'm Garry Pezzano, President and CEO of LeadingAge PA. I'm grateful for the opportunity to discuss with you the problematic Budget Adjustment Factor (BAF) and related financial challenges our nursing home provider members are facing. We thank Chairman Bizzarro for his leadership on this issue and for planning to introduce legislation that would help protect access to nursing home care for those who need it by implementing a floor to the BAF. This would not only provide greater predictability for providers who are confronted with worsening rate volatility but would support greater sustainability for the system that our growing population of older adults depends on.

LeadingAge PA is comprised of more than 420 mission-driven providers of senior housing, health care, and community services across the Commonwealth. Our members include the full spectrum of aging services providers, including personal care homes, assisted living residences, Living Independence for the Elderly (LIFE) providers, skilled nursing communities, affordable housing, and more.

LeadingAge PA is dedicated to helping our mission-oriented members advance high-quality, affordable, and ethical aging services. With me today is one of those members, Jason Shott from Phoebe Ministries, and LeadingAge PA's Regulatory Affairs Director, Anna Warheit, who hears

from our members on a regular basis what challenges they are facing as a result of the BAF and related factors.

What you'll hear today from Jason is not unique. As Zach shared, the BAF is imposing additional strain on a reimbursement system that is already drowning our state's nursing home providers. Phoebe is just one example of the many organizations providing care to our state's most vulnerable residents who must bear the devastating effects of this broken system.

Another of our members, located in Lancaster County, recently shared that their current actual cost of care per resident per day is $584. Yet the reimbursement rate calculated by the state for St. Anne's is only $316. Even if the state reimbursed at 100% of that full calculated rate, it would only cover 54% of the provider's costs invested into each resident's care and operational expenses.

But we don't reimburse at 100%. The BAF further reduces reimbursement to approximately three quarters of the *calculated* rate. So, instead of receiving $316, St. Anne's receives $265 – an additional loss of $51/day, for a total loss of $319/day, per Medicaid-eligible resident. Over the course of 2024, St. Anne's lost over $470,000 strictly as a result of the BAF. We are piling on loss in a system that already does not factor in total costs.

When all is said and done, St. Anne's (and so many providers like them) are being paid only a fraction of the cost it actually takes to provide this level of care. We estimate most of our members are receiving only 45-60% of their actual expenses.

As a representative from St. Anne's shared, "This lack of funding from the state transfers the cost of care for our Medicaid residents solely to the facility, and our only option is to raise rates on our private pay residents to cover the gap. This becomes a vicious circle, with those residents spending their resources at an accelerated rate and ending up on Medicaid more quickly. Facilities cannot be expected to be the stopgap on this issue. This will lead to facility closures and create an even more dire access to care issue."

Across the state, providers are reducing their overall census and/or Medicaid occupancy as a result of this reimbursement shortfall, which is further exacerbated by the ongoing workforce crisis and prescriptive per-shift staffing ratios that make it impossible to operate at full capacity. Providers are running out of alternate revenue stream options to offset these losses and continue to face additional increased costs stemming in large part from the workforce crisis, unreasonable staffing mandates, and temporary staffing agencies taking advantage of the increased demand for workers.

What does this mean for Pennsylvania?

If we can't find a way to reduce the gap between costs and reimbursement for providers, more and more providers will be forced out of Medicaid participation. Approximately 70% of Pennsylvania's older adults who either cannot safely remain at home, or who choose the social and clinical benefits afforded by 24/7 care in a nursing home, rely on Medicaid to pay for their care. These are former teachers, pastors, police officers, and community leaders. Individuals who have dedicated their lives to bettering their communities, only to outlive their resources through no fault of their own. When we fail to invest in the organizations whose mission it is to care for them, we fail to invest in the heart of Pennsylvania, in those who came before us and now depend on us to ensure they have the care they need.

If providers like Phoebe or St. Anne's have to further reduce their census or stop accepting residents on Medicaid altogether, there will be nowhere else for them to go. We must do better.

We appreciate the opportunity to share the challenges of our members, and we look forward to continuing this very important discussion to ensure care is available in Pennsylvania for all who need it. Implementing a 0.90 floor to the BAF would go a long way in starting to fix this broken funding system through greater predictability and sustainability for those caring for our state's growing population of older adults. Thank you again for bringing attention to this critical issue and for your leadership. We look forward to continuing to work together toward meaningful change.

Pennsylvania House Democratic Policy Committee
Public Hearing on Sustainable Long-Term Care
Wednesday, March 19, 2025

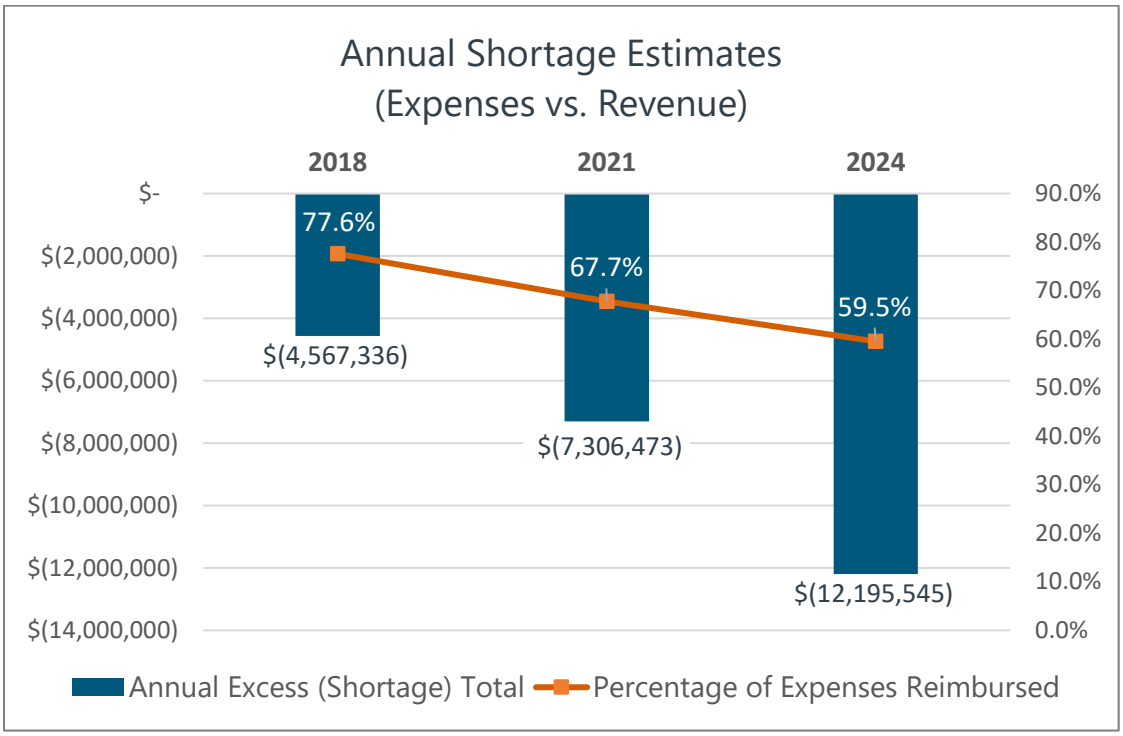
Testimony by:
Jason Shott
Chief Operating Officer
Phoebe Ministries

Good afternoon, Chairman Bizzarro and members of the House Democratic Policy Committee. My name is Jason Shott, and I am the Chief Operating Officer for Phoebe Ministries. Phoebe operates four Continuing Care Retirement Communities (CCRCs) as well as eight affordable housing communities for seniors across Pennsylvania. I am grateful for Chairman Bizzarro's leadership in addressing this critical issue.

LeadingAge PA recently commissioned a case study from an independent consultant, RKL LLP, which utilized our Phoebe Allentown location as its primary subject. Our Allentown location is a CCRC that provides independent living, personal care, and skilled nursing services to over 385 residents. While we are licensed for 395 nursing beds, we are currently utilizing just over 250 beds. We began downsizing our nursing capacity in 2016 due to staffing challenges, which have continued to worsen through the COVID-19 pandemic and ongoing workforce crisis, further exacerbated by the state's new prescriptive staffing requirements. Our Medicaid occupancy for 2024 averaged at 72.3%, meaning at any given time we are caring for approximately 180 individuals who rely on Medicaid in Lehigh County.

Unsustainable: The BAF Exacerbates Existing Reimbursement Shortfall

As previous testifiers have shared, the Budget Adjustment Factor (BAF) is further reducing our Medicaid reimbursement from a calculated rate that already does not factor in our total costs. Since 2018, the gap between our revenue and expenses for residents on Medicaid has more than doubled:



In 2018, we were reimbursed approximately 77.6% of costs and had an annual shortage of $4.6 million. In 2024, that has ballooned to a reimbursement of just 59.5% and an annual shortage of $12.2 million, even with a relatively constant number of Medicaid days. This is simply unsustainable. Implementing a floor to the BAF to help prevent rates from dropping so low would help significantly in offsetting this difference between cost and reimbursement. With over 60,000 Medicaid days per year, every little bit helps.

The RKL report found that every 0.01 decrease in the BAF causes our daily expense/revenue deficit to grow by $3.37. So if the BAF drops by 0.01, we lose an additional $1,230 annually. If it drops by 0.11, as it did from last April to July, we lose an additional $13,530 per resident each year. These drops and overall volatility have a direct impact on our operations and ability to budget accurately from year to year.

These additional shortfalls caused by an unrestricted BAF pile on to financial challenges we are already facing in several other areas. Phoebe Allentown has experienced an operating loss every year since at least 2016. We've been able to mitigate the extent of that loss (which was $6.7 million in 2016) only by implementing dramatic census reductions in our nursing community, however we still experienced a $4 million loss in 2023 and remained in the red in 2024. While we are a non-profit organization, we need to at least be breaking even. Ideally we could also rely on modest operating gains to re-invest in our community and help offset future costs such as building maintenance that allow us to provide the care residents need and deserve over time, but we've not been able to save any funds to that end.

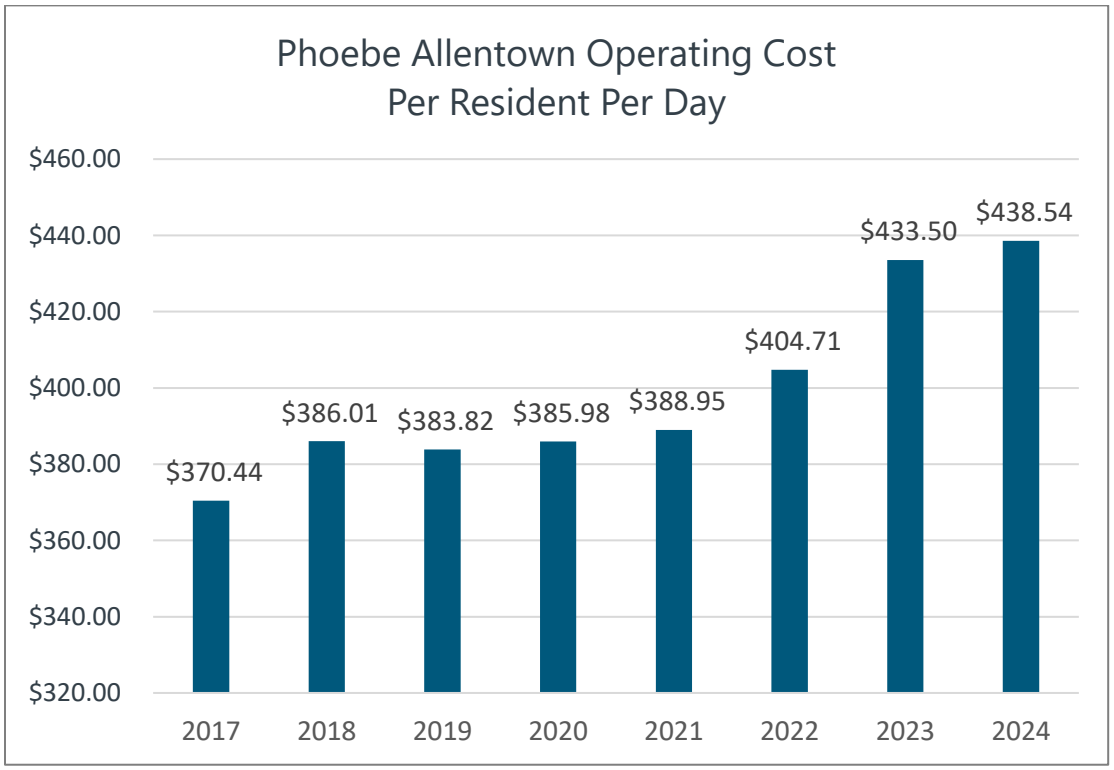
Alternate Options for Offsetting Losses Have Been Exhausted

Aside from further reducing census, we have little to no remaining options to offset losses to this degree. Compromising resident care and quality is certainly not an option. And while Medicare (which primarily covers 19- to 20-day rehab stays, not long-term care) offers a more favorable reimbursement rate, our percentage of Medicare days is actually declining, which translates to a corresponding increase in Medicaid occupancy. Each time we accept a resident on Medicaid rather than a Medicare or Managed Care stay, we lose approximately $100-300 per day. The loss we absorb for a Medicaid resident compared to Private Pay is over $200 per day.

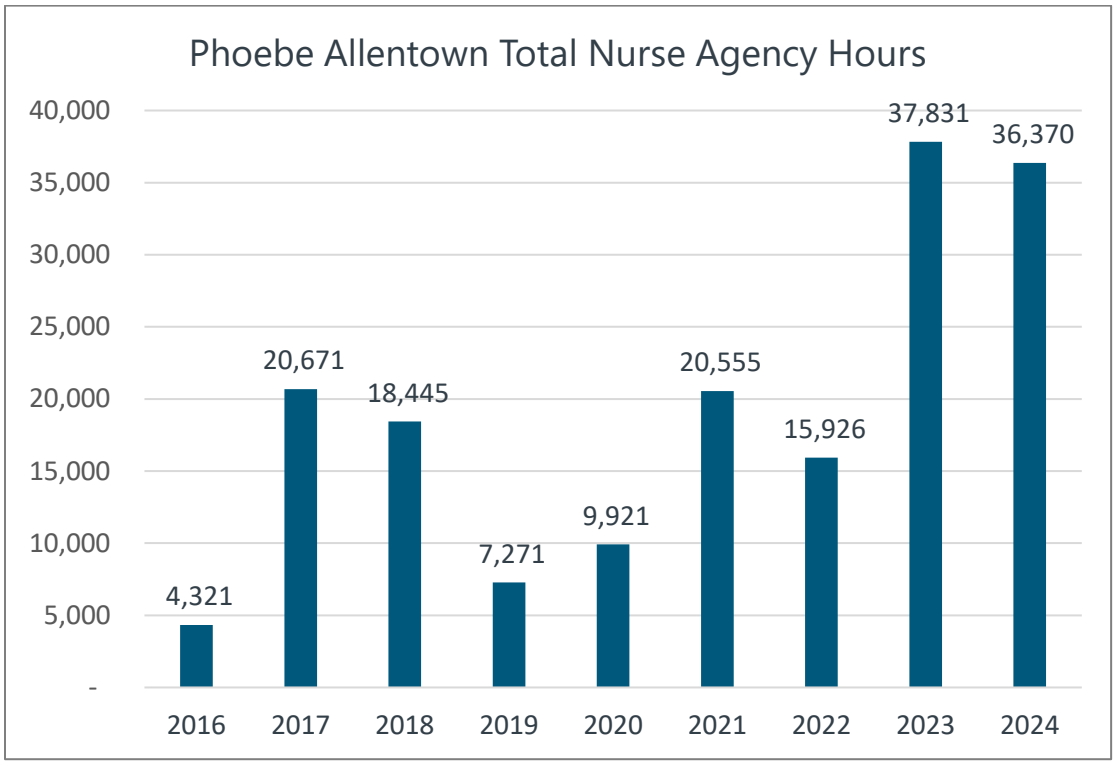
Gone are the days when we can rely on increased Medicare census or increased rates to private pay residents to offset Medicaid losses. We've already pushed the boundaries of what we can charge private pay residents, and doing so only causes them to spend down faster to qualify for Medicaid themselves. Similar to many other providers, Phoebe Allentown also has not been able to successfully negotiate with the Community HealthChoices (CHC) Managed Care Organizations (MCOs) to obtain Medicaid reimbursement rates that are any higher than the minimum rates established by the PA Department of Human Services. We are trapped under the weight of rapidly increasing costs with no viable options remaining to increase our revenue to meet them.

Costs Continue to Rise

What do those increasing costs look like, and what are they paying for? Since 2017, our daily cost per resident has increased from $370 to $439 – a 19% increase in 7 years.

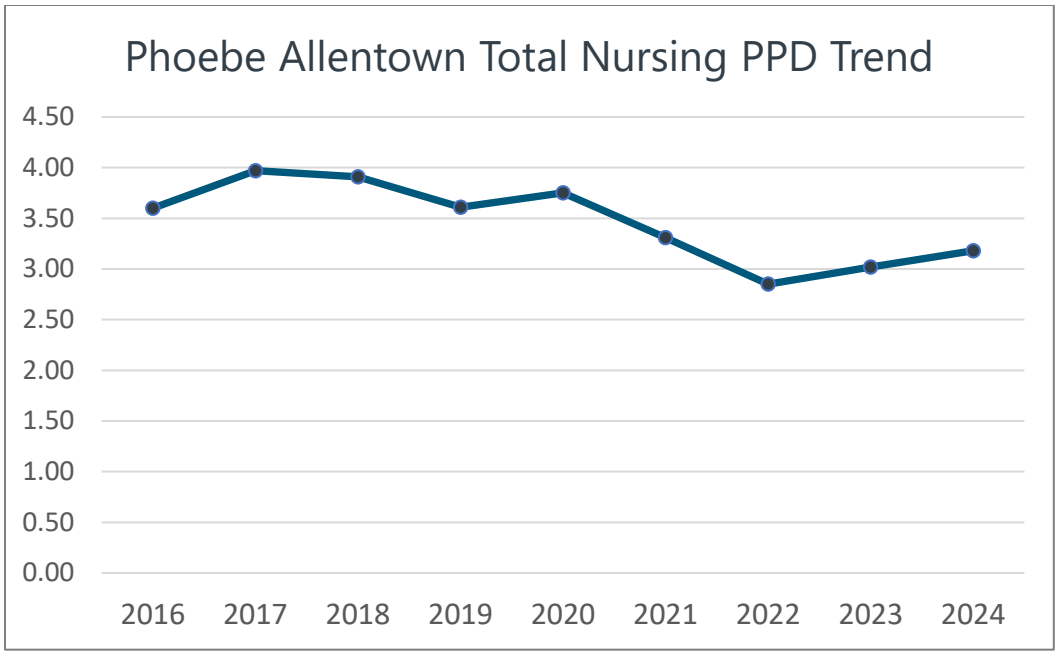


Our greatest expense is tied to staffing. While our workforce challenges pre-dated the pandemic, the struggle has intensified through both COVID-19 and the implementation of state-mandated staffing ratio requirements in 2023 and 2024. As a result, in addition to increasing wages for in-house employees, we've had a significant increase in reliance on temporary staffing agencies to fill open shifts.

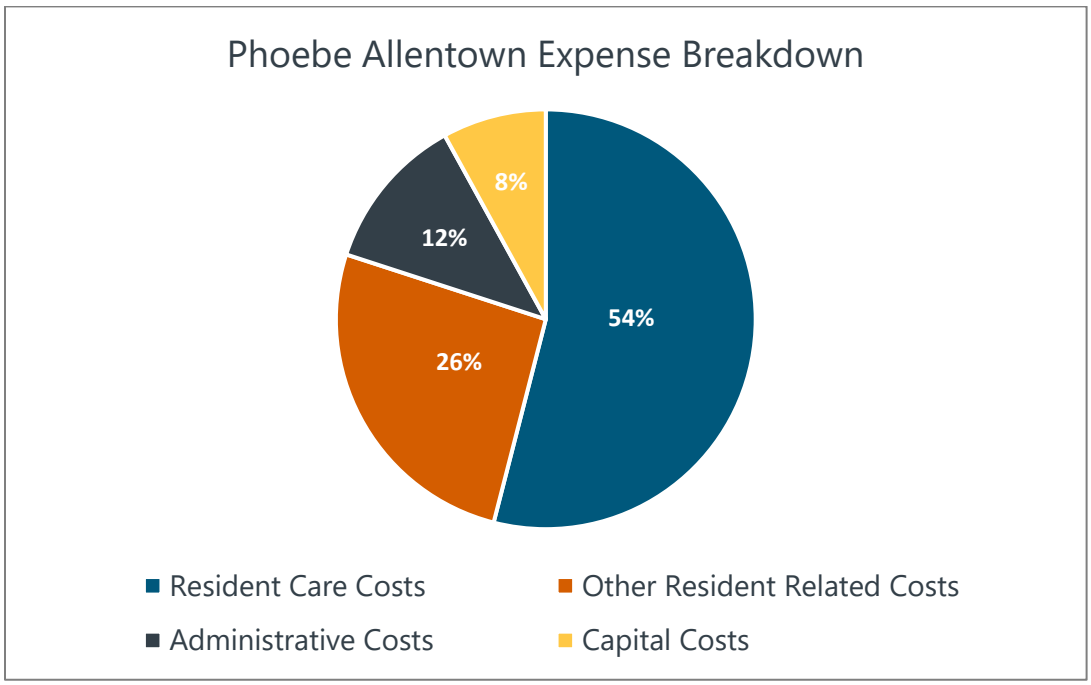


Compared to the cost of in-house staff (including hourly wages and benefits), we pay over $10/hour more for agency RNs, over $13/hour more for agency LPNs, and over $8/hour more for agency CNAs. In 2023, we had 37,831 hours of agency staffing, which equates to approximately 4,729 8-hour shifts. This heavy reliance on agency can easily cost us upwards of $400,000 annually more than it should if we were able to fill these positions using in-house employees. Continuing to pay staffing agency fees at this level is not sustainable, and this heavy utilization of temporary workers damages employee morale and impacts quality for residents. But aggressive hiring practices from temporary staffing agencies and the general workforce shortage prohibit us from building the needed workforce pool in-house that would allow us to dramatically reduce our reliance on agency.

Despite these added costs, Phoebe's overall Hours Per Patient Day (PPD) were unfortunately lower in 2023 and 2024 than in previous years. From 2016 to 2020, Phoebe maintained a PPD of 3.6 or higher. Due to staffing challenges and rising costs, we have not been able to maintain as high of a daily PPD, to where we are now able to just maintain the state-required minimum of 3.2 even with heavy reliance on agency staff.



Communities like ours, who prioritize resident care and higher staffing standards, cannot continue to operate at these levels without improved reimbursement. The state's prescriptive staffing standards have actually created unnecessary demand and strain on a limited workforce that has somehow managed to drive up our staffing costs while our actual PPD has been reduced. Instead of supporting our ability to recruit and retain qualified, dedicated staff through increased reimbursement, we're held captive to minimum standards which we can only reach through heavy reliance on costly temporary staffing agencies and reducing the number of residents we care for.



Nevertheless, our commitment to resident care has not waivered. Despite the shortfall, we've done everything in our power to maintain quality and positive resident outcomes. The FY 2023 State Budget included a provision that required nursing home providers to demonstrate that 70% of costs incurred were either Resident Care or Other Resident related expenses as reported on the PA MA-11 Cost Reports. We consistently surpass this requirement at 77-80%. A strong majority of our costs are directly supporting resident care and wellbeing, as they should. However, the number of residents we're able to care for at this level will continue to decline if the state does not improve our Medicaid reimbursement.

It's a great privilege to work in this field and provide care to older Pennsylvanians who either cannot safely remain at home or who benefit from the 24/7 clinical expertise that a nursing home like ours provides. Since 1903, Phoebe Allentown has been committed to offering a community-centered culture of caring to enrich the lives of our seniors, their families, and the communities we serve. We are committed to providing charitable care to those who have outlived their resources, but we cannot continue to do so at this level without additional support from the state. The elderly and disadvantaged, who are often forgotten in our society, are at the heart of our mission and ministry, and we're counting on you to help us continue to fulfill that mission.

Thank you for bringing attention to this important issue as we all have the shared goal of ensuring care is available for those who need it, particularly the most vulnerable among us.