

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE
AS CUSTODIAN OF THE PATIENT'S COMPENSATION FUND

IN THE MATTER OF DETERMINING)
PATIENT'S COMPENSATION FUND)
SURCHARGE RATES FOR CALENDAR)
YEAR 2024)
_____)

Docket No. 2023-0018-PCF

ORDER SETTING
PATIENT'S COMPENSATION FUND SURCHARGE RATES
FOR CALENDAR YEAR 2024

THIS MATTER comes before the New Mexico Superintendent of Insurance as Custodian of the Patient's Compensation Fund (hereinafter referred to as the "Custodian") upon her receipt of the Patient's Compensation Fund ("PCF") Advisory Board's Proposed Findings, Conclusions and Recommendations after the PCF Advisory Board conducted a properly noticed public hearing on PCF surcharge rates and assessments for deficit reduction. The Proposed Findings, Conclusions and Recommendations of the PCF Advisory Board are incorporated into this Order by reference. The Custodian, having reviewed the PCF Advisory Board's Proposed Findings, Conclusions and Recommendations, having reviewed the record, and being otherwise fully advised in the premises, **HEREBY FINDS AND CONCLUDES:**

1. The PCF Advisory Board's Findings of Fact are supported by substantial evidence in the record as a whole and the PCF Custodian adopts those Findings of Fact as her own.
2. The PCF Advisory Board's Conclusions and Recommendations are adopted with the changes set forth below.

IT IS THEREFORE ORDERED:

A. PCF surcharges for independent providers shall be increased by 10 percent, and no deficit reduction amount will be assessed against independent providers this year. The PCF Advisory Board's reasoning for the surcharge rate is sound and is accepted by the Custodian. However, the

Custodian will be able to reduce the rate increase further than that recommended by the PCF Advisory Board by working with the state investment council to take advantage of the current interest rate environment with a conservative investment strategy for the PCF, without further contributing to the deficit.

B. The Custodian allocates the \$32.5 million infusion from the Legislature 62 percent to the deficit attributable to independent providers and 38% to the deficit attributable to the hospitals, based upon the ratio of independent providers to providers employed by hospitals.

C. PCF surcharges for hospitals shall be increased by the amount recommended by the actuarial report at the expected level which is 11.8 percent. That rate will not be reduced by the batch claims amount, since batch claims remain a possibility. The hospital deficit reduction assessment will be set at 46 percent, based on the allocation of the \$32.5 million recommended by the PCF Advisory Board. This amount is within a zone of reasonableness suggested by the evidence in the record.

D. Independent outpatient health care facility surcharges will continue to be an additional 10 percent of the surcharges calculated for qualified health care providers employed or contracted with the independent outpatient health care facilities, and this surcharge will be reassessed when sufficient data is available.

DONE AT ORDERED at Santa Fe, New Mexico this 31st day of October, 2023.



HONORABLE ALICE T. KANE
New Mexico Superintendent of Insurance as
Custodian of the Patient's Compensation Fund