

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 RATE FOR CALENDAR)
 YEAR 2026)**

DOCKET NO. 2025-0010

ORDER SETTING
PATIENT COMPENSATION FUND SURCHARGE RATES
FOR CALENDAR YEAR 2026

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, submitted after the PCF Advisory Board conducted a properly noticed public hearing on PCF surcharge rates and assessments for deficit reduction on September 30, 2025, and again on October 23, 2025. 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 evidence from the hearing, and being otherwise fully advised in the premises, **HEREBY FINDS AND CONCLUDES:**

A. The Finding of Fact of the PCF Advisory Board are supported by substantial evidence in the record as a whole and unless otherwise modified below the PCF Custodian adopts those Findings of Fact as her own.

B. The PCF Advisory Board's Conclusions and Recommendations are adopted unless otherwise modified below.

IT IS THEREFORE ORDERED:

A. The PCF surcharges for independent providers shall be increased by 10 percent. The insurance industry standard practice is to increase premiums paid by individual providers by an additional 10 percent. The Custodian determines that it is in the best interest of the public and the independent providers to follow the insurance industry standard practice by limiting the PCF surcharges increase to 10 percent.

B. PCF surcharges for hospitals shall be increased by 2.6% for a base surcharge rate increase and a 22.5% increase for deficit surcharges subject to the disclaimer set forth in Paragraph 20 of the Advisory Board's Proposed Findings, Conclusions and Recommendations.

B. PCF surcharges for provider owned entities will be assessed at 10 percent of the cumulative individual QHP surcharges for all individual QHPs who practice within the entity. The PCF will continue to compile data on a per procedure basis for provider owned entities for use in determining the most appropriate method for future surcharges.

F. Independent Outpatient Healthcare Facilities that are admitted to the PCF will be assessed the following surcharges.

Independent Outpatient Healthcare Facilities Rates		
Facility Type	Exposure Type	January 1, 2026 Indicated Rate at \$556,239 xs \$500,000 Limit
Cardiac Rehabilitation Centers	Per 100 Visits	45.32
College/University Health Centers	Per 100 Visits	20.18
Community Health Centers	Per 100 Visits	31.54
Dialysis Centers	Per 100 Visits	44.15
Home Health/Hospice Care	Per 100 Visits	8.76
Medical Laboratories	Per \$1,000 Receipts	2.14
Medispas	Per 100 Visits	31.54
Mental Health Counseling Centers	Per 100 Visits	33.04
Pathology Laboratories	Per \$1,000 Receipts	1.82
Physical/Occupational Rehabilitation Centers Quality	Per 100 Visits	36.84
Quality Control/Reference Laboratories	Per \$1,000 Receipts	1.93
Sleep Centers	Per 100 Visits	31.54

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Substance Abuse Counseling Centers	Per 100 Visits	47.22
Surgery Centers	Per 100 Visits	175.20
Urgent Care Centers	Per 100 Visits	78.23
X-Ray/Imaging Centers	Per \$1,000 Receipts	2.14
Emergency Room Visits	Per 100 Visits	81.86

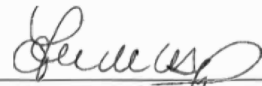
G. These changes shall become effective January 1, 2026.

DONE AND ORDERED at Santa Fe, New Mexico, this 31st day of October, 2025.


ALICE T. KANE
 Superintendent of Insurance, as
 Custodian of the PCF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 31st day of October 2025, I filed the foregoing *Order* through the OSI's e-filing system, which caused the parties to be served by electronic means, as more fully reflected on the eService recipients list for this case.


Frances Gallegos, Law Clerk
Office of General Counsel
Office of Superintendent of Insurance

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**

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Docket No. 2025-0010

PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

FINDINGS OF FACT:

1. On September 30, 2025, and again on October 23, 2025, a quorum of the Advisory Board of the New Mexico Patient's Compensation Fund ("PCF") conducted a duly noticed public hearing to receive evidence and comment on proposed surcharges to be levied pursuant to NMSA 1978, § 41-5-25(D).
2. The Patient Compensation Fund Advisory Board's objective in holding this public hearing is to advise the Office of the Superintendent of Insurance ("OSI") regarding the setting of surcharges to eliminate the deficit and create a sustainable PCF for the future.
3. Mr. Robert Walling of Pinnacle Actuarial Resources ("Pinnacle") testified at the hearing as a qualified casualty actuary. Exhibits A and B were admitted into the record.
4. The obligations of the PCF are funded by annual surcharges collected from every qualified healthcare provider ("QHP") admitted into the PCF pursuant to NMSA 1978, § 41-5-5. NMSA 1978, § 41-5-25(D).
5. The PCF is required to collect surcharges from: (a) independent providers based on designated classes grouped by risk; (b) entities organized by one or more individual providers, but not majority owned by hospitals; (3) hospitals (including hospital employed providers); (4) outpatient health care facilities; and (5) independent outpatient health care facilities. NMSA 1978, § 41-5-3, NMSA 1978, § 41-5-5.
6. NMSA 1978, § 41-5-25(D) requires the PCF Custodian to determine the surcharges based on sound actuarial principles.
7. NMSA 1978, § 41-5-25(D) requires the PCF Custodian to contract for an annual independent actuarial study of the PCF. The purpose of the actuarial study is two-fold:
 - a. To analyze risk based on all available data to set surcharges to cover expected payouts for occurrences for the year the surcharges are collected.

b. To set surcharges “with the intention of bringing the fund to solvency with no projected deficit by December 31, 2026. All qualified and participating hospitals and outpatient health care facilities shall cure any fund deficit attributable to hospitals and outpatient health care facilities by December 31, 2026.” NMSA 1978 § 41-5-25(F).

8. Third Party Administrator Integriion contracted with the consulting actuarial firm Pinnacle Actuarial Resources (“Pinnacle”) to conduct an actuarial study of the PCF as of December 31, 2024. Robert Walling of Pinnacle prepared a report (“Report” or “Pinnacle’s Report”) which was admitted as evidence at the Surcharge Rate Setting Hearing on September 30, 2025. *See Exhibit B.*

9. The data sources Pinnacle used to prepare the Report were:

- a. PCF Financial Statement Data
- b. Industry Rate Filings
- c. PCF Claims Data
- d. PCF Current Class Plan and Exposure Data

Deficit

10. As of December 31, 2024, the PCF fund balance was approximately \$308.3 million.

11. Pinnacle estimated the losses to be paid for all claims occurring prior to December 31, 2024 to be approximately \$342.6 million on a nominal basis (i.e. not including funds that may be earned on invested assets).

12. Therefore, as of December 31, 2024, the the Fund’s deficit was \$34.3 million, which is approximately 11.1% of the current Fund balance.

13. Reflecting reserves on a present value basis, using a 3.5% discount rate on invested assets, Pinnacle’s actuarial analysis results in the PCF having a deficit of approximately \$26.5 million. This is a decrease of \$7.4 million since the prior analysis as of December 31, 2023.

14. The Independent Pracitioners’ portion of the deficit in the PCF is fully paid off.

15. Pinnacle has assigned 100% of the \$34.3 million deficit to the hospitals.

Future Risk

16. The Consumer Price Index (CPI) for all urban consumers was used to calculate the increase to the per occurrence limit for independent physicians and surgeons. Evaluating the index as of year-end produces an adjustment factor of 2.87 percent. The result is an increase to the per occurrence limit from \$883,404 to \$908,779 – widening the PCF’s exposed layer from \$633,404 to \$658,779. The analysis of MPLI increased limits factors (“ILF’s”) indicate that rates for

independent physicians should be increased an additional +2.1 percent to support the additional exposure.

17. A 3-year average for all urban consumers was used to calculate the increase to the per-occurrence limit for independent outpatient healthcare facilities. The CPI adjustment for this year is 4.19 percent, which increased the PCF's exposed layer from \$556,239 to \$600,495.

18. Without a deficit surcharge, due to elimination of the deficit, Pinnacle's rate level indication for independent physicians and surgeons suggests an overall rate impact of +16.0 percent at the expected level and +25.6 percent at the 75 percent confidence level.

19. The insurance industry standard practice is to increase premiums paid by individual insured providers by an additional 10 percent to provide coverage for an entity under which the insured provider(s) practice. Using this standard practice, the PCF surcharge payable by an entity qualified under the Medical Malpractice Act is 10 percent of the aggregate surcharges for the independent providers who practice in the entity.

20. Including a surcharge for the \$34.3 million deficit allocated to the hospitals, Pinnacle's rate level indication for hospitals, suggests an increase of +25.7 percent on an expected value basis. At a 75 percent level of statistical confidence, the indicated increase is +36.1 percent. Pinnacle's estimate of surcharges is based on the assumption that amounts due from a judgment or settlement against a hospital or outpatient health care facility shall not be paid from the fund if the injury or death occurs after December 31, 2026, which is consistent with NMSA 1978, § 41-5-7(C). It should be noted, however, that under NMSA 1978, § 41-5-6(K), "[b]eginning January 1, 2027, amounts due from a judgment or settlement against a hospital or hospital-controlled outpatient health care facility shall not be paid from the fund," which could have an impact on the surcharge rate increases proposed by the actuary and recommended by the Advisory Board.

21. Pinnacle suggested surcharge rates for Independent Outpatient Healthcare Facilities, which can be found below and were set forth on page 4 of Pinnacle's Report:

Facility Type	Exposure Type	January 1, 2026
		Indicated Rate at \$600,495 xs \$500,000 Limit
Cardiac Rehabilitation Centers	Per 100 Visits	45.32
College/University Health Centers	Per 100 Visits	20.18
Community Health Centers	Per 100 Visits	31.54
Dialysis Centers	Per 100 Visits	44.15
Home Health/Hospice Care	Per 100 Visits	8.76
Medical Laboratories	Per \$1,000 Receipts	2.14
Medispas	Per 100 Visits	31.54
Mental Health Counseling Centers	Per 100 Visits	33.04
Pathology Laboratories	Per \$1,000 Receipts	1.82
Physical/Occupational Rehabilitation Centers	Per 100 Visits	36.83
Quality Control/Reference Laboratories	Per \$1,000 Receipts	1.93
Sleep Centers	Per 100 Visits	31.54
Substance Abuse Counseling Centers	Per 100 Visits	47.22
Surgery Centers	Per 100 Visits	175.20
Urgent Care Centers	Per 100 Visits	78.23
X-Ray/Imaging Centers	Per \$1,000 Receipts	2.14
Emergency Room Visits	Per 100 Visits	81.86

22. Going forward, the PCF should continue to compile data on a per procedure basis—as it does for Hospitals—for Independent Outpatient Healthcare Facilities for use in determining the most appropriate method for assessing surcharges and surcharge changes in the future.

BASED ON THESE FINDINGS, THE PCF ADVISORY BOARD, ACTING AS THE HEARING OFFICER, HEREBY CONCLUDES AND RECOMMENDS:

- A. PCF surcharges for independent providers should be increased by 16%.
- B. PCF surcharges for hospitals should be increased by 2.6% for a base surcharge rate increase and a 22.5% increase for deficit surcharges subject to the disclaimer set forth in Paragraph 20.
- C. PCF surcharges for provider owned entities should continue to be assessed at 10 percent of the cumulative individual QHP surcharges for all individual QHPs who practice within the entity.
- D. The surcharge rates for Independent Outpatient Healthcare Facilities set forth in the following table and on page 4 of Pinacle's Report should be adopted:

		January 1, 2026 Indicated Rate at \$600,495 xs \$500,000 Limit
Facility Type	Exposure Type	
Cardiac Rehabilitation Centers	Per 100 Visits	45.32
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Emergency Room Visits	Per 100 Visits	81.86

- E. Going forward, the PCF shall keep data on a per procedure basis, as it does for hospitals, for use in determining the most appropriate way to calculate surcharges for Independent Outpatient Healthcare Facilities in the future.

DATED this _____ day of October, 2025

William Ritchie, MD
PCF Advisory Board Chair

Kathy Love
PCF Advisor Board Vice Chair

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Proposed Findings, Conclusions and Recommendations* was sent by email to the following individuals, as indicated below, on this _____ day of _____, 2025.