Affordability of Assisted Living Facilities

Commission Meeting
October 5, 2022

Study purpose

- Identify challenges ALFs face in offering the AG program
- Assess whether residents could potentially be more appropriately served in other settings
- Understand different ways that other states structure and finance ALFs and the feasibility of implementing those models
- Recommend changes to the way Virginia structures, regulates, and finances ALFs

AG = Auxiliary Grant
ALF = Assisted Living Facility
NOTE: Study mandate approved by the Commission on December 07, 2021.

Findings in brief

- The Auxiliary Grant rate does not cover the typical cost of assisted living in Virginia, resulting in fewer AG beds
- Increasing the AG rate is the most direct way to increase access to ALFs for low-income Virginians
- Other community settings could be more cost-effective for some individuals seeking AG payments in ALFs
- Improved coordination and increased personal funds can improve quality of services for current AG recipients

Policy options in brief

- Introduce a budget amendment to increase the base Auxiliary Grant rate to $2,500 per month
- Introduce a budget amendment to provide a one-time, lump sum payment to ALFs that serve a new AG resident
- Expand the list of eligible living arrangements for the AG program to include non-ALF community settings

Policy options in brief (cont.)

- Direct DBHDS and DARS to create a proposed increased rate for AGSH
- Increase the personal needs allowance for AG recipients
- Direct DSS to coordinate ALF licensing data with DARS and appropriate local DSS staff

AGSH = Auxiliary Grant Supportive Housing

Agenda

ALFs in Virginia

Sufficiency of the Auxiliary Grant rate

Medicaid coverage of assisted living

Alternative community settings for AG recipients

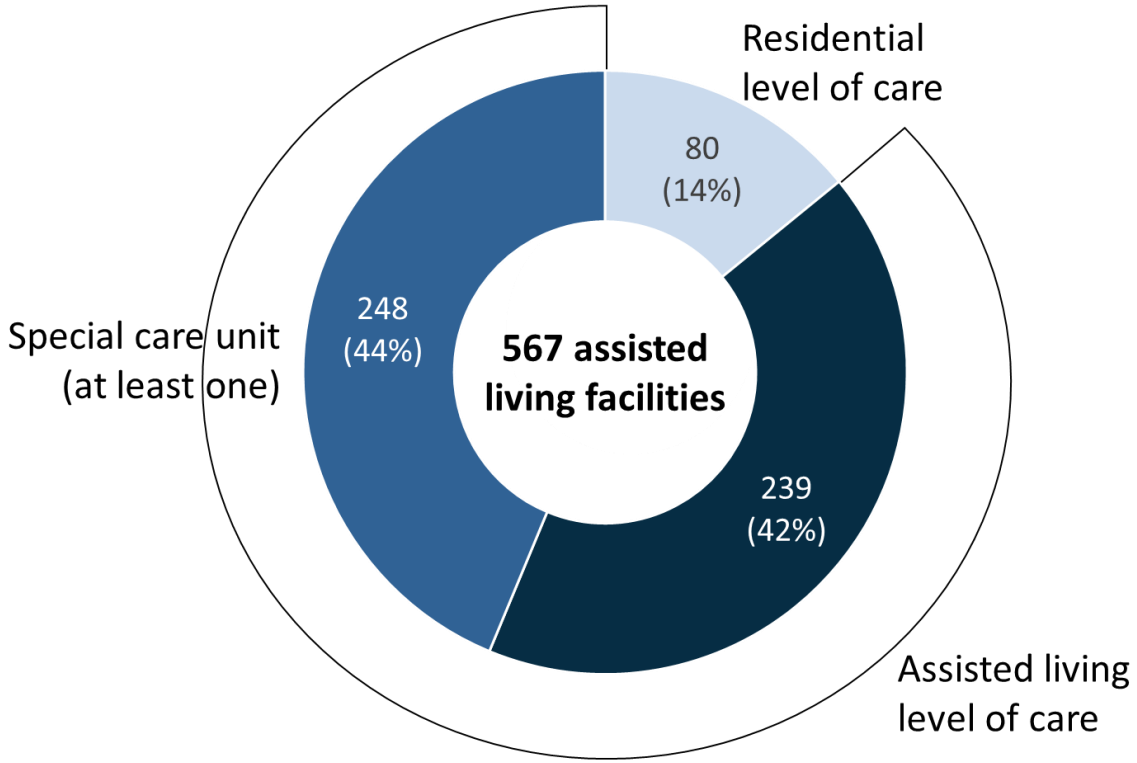
Improvements to the current Auxiliary Grant program

There are three levels of care in assisted living

- **Residential living care** serves adults who are dependent in medication administration and may require little or no physical assistance with ADLs
- **Assisted living care** serves adults with physical or mental impairments and requires at least moderate assistance with their ADLs
- **"Safe, secure environment"** is a self-contained special care unit for residents that exhibit serious cognitive impairments due to a primary psychiatric diagnosis of dementia

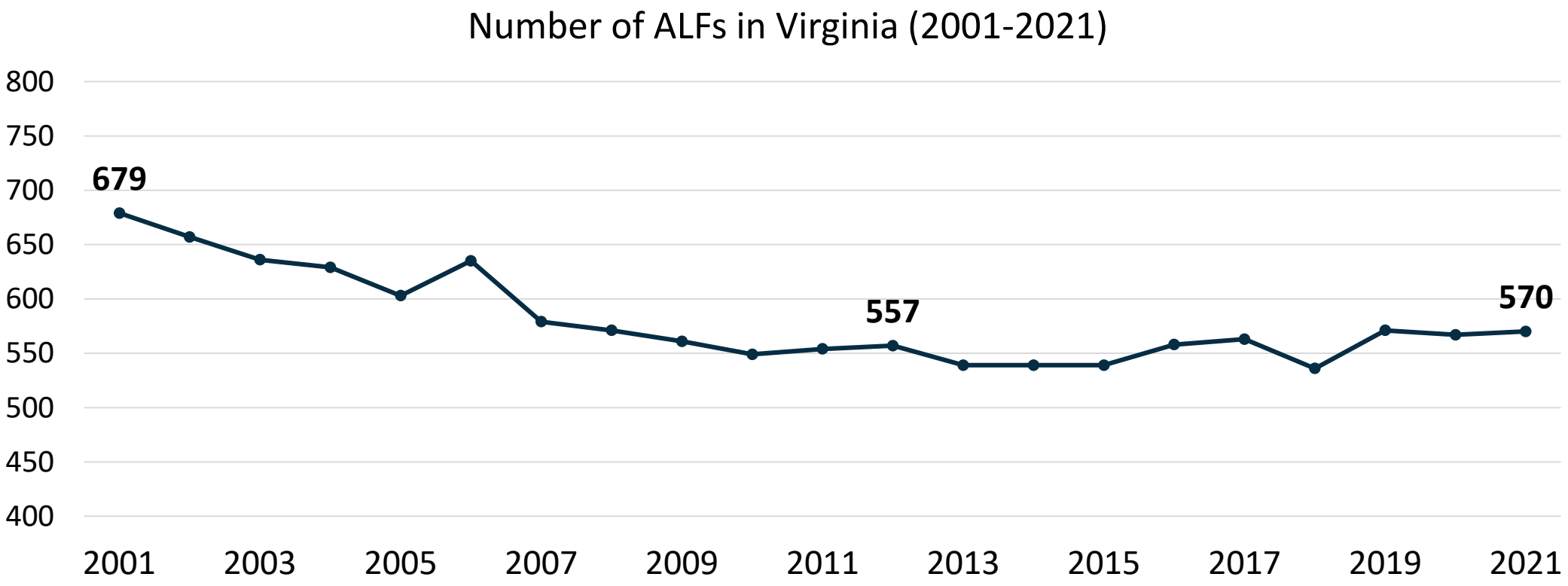
NOTE: "Safe, secure environment is a level of care within the assisted living care license; ADLs= Activities of daily living

More than 85% of ALFs are licensed for assisted living level of care



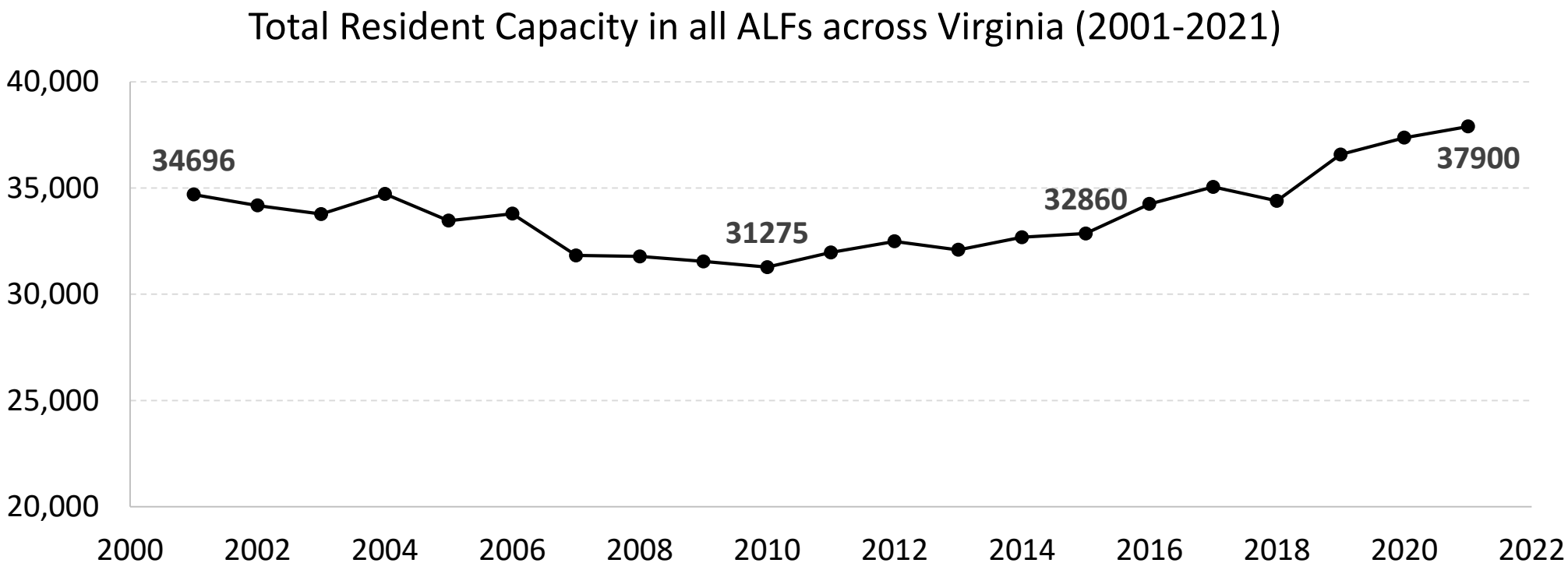
SOURCE: JCHC staff analysis of DSS VACIS and DOLPHIN data.

The number of ALFs in Virginia decreased over the last 20 years



SOURCE: JCHC analysis of DSS VACIS and DOLPHIN data.

DSS recorded the highest total capacity of ALFs in FY21



SOURCE: JCHC analysis of DSS VACIS and DOLPHIN data.

Resident needs within ALFs vary and include adults with physical and BH needs

47%	Adults assessed through the public UAI had a behavioral health diagnosis
55%	Assisted living staff reported caring for a resident with at least one mental health or substance use disorder
38%	Assisted living staff reported caring for at least one resident with an intellectual or developmental disability

NOTE: Data on private pay UAIs are not collected in any case management system or repository, and the majority of ALF residents are private pay.
BH = Behavioral Health
UAI= Universal Assessment Instrument

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Findings

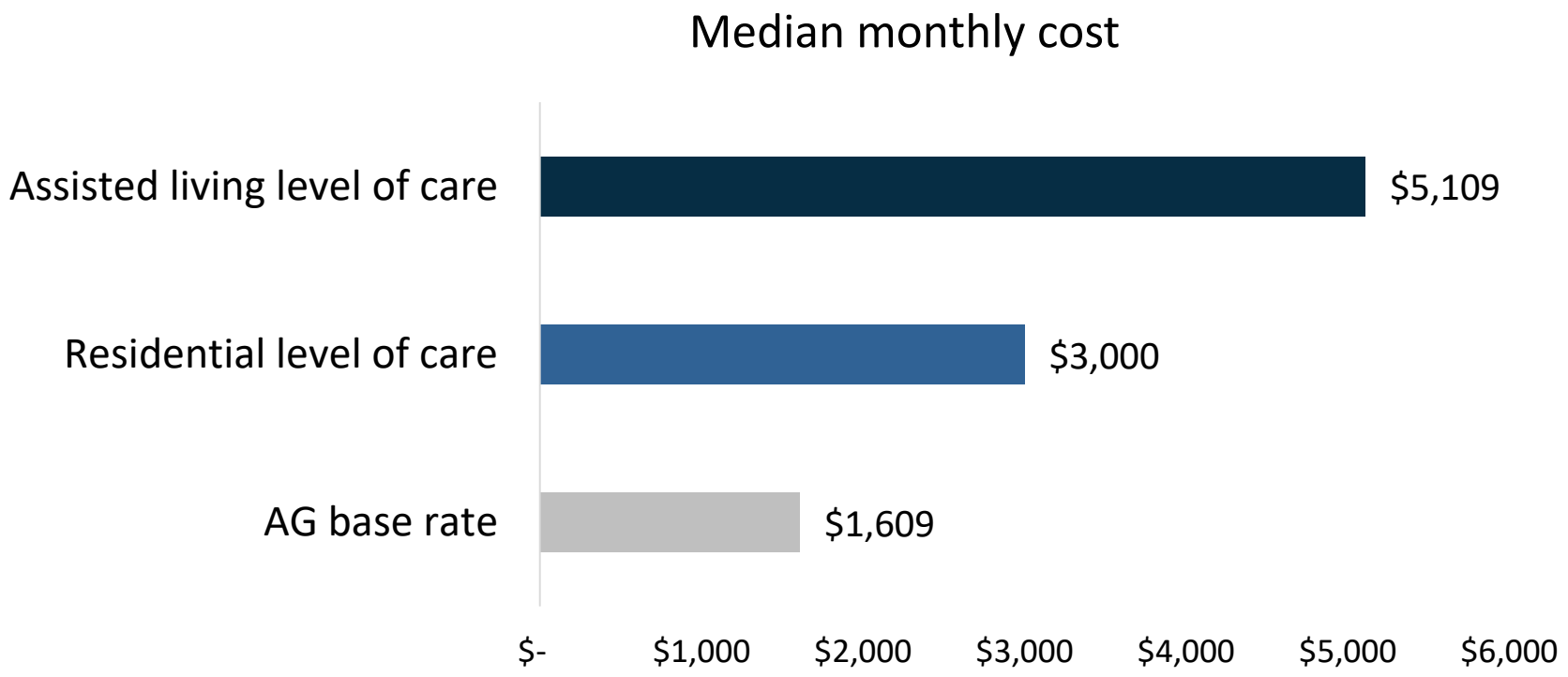
The median monthly assisted living cost varies between $3,000 and $5,100, depending on level of care

The AG rate has been significantly lower than the total cost of care in Virginia for over a decade

The number of available AG beds has decreased steadily due to the insufficient AG rate

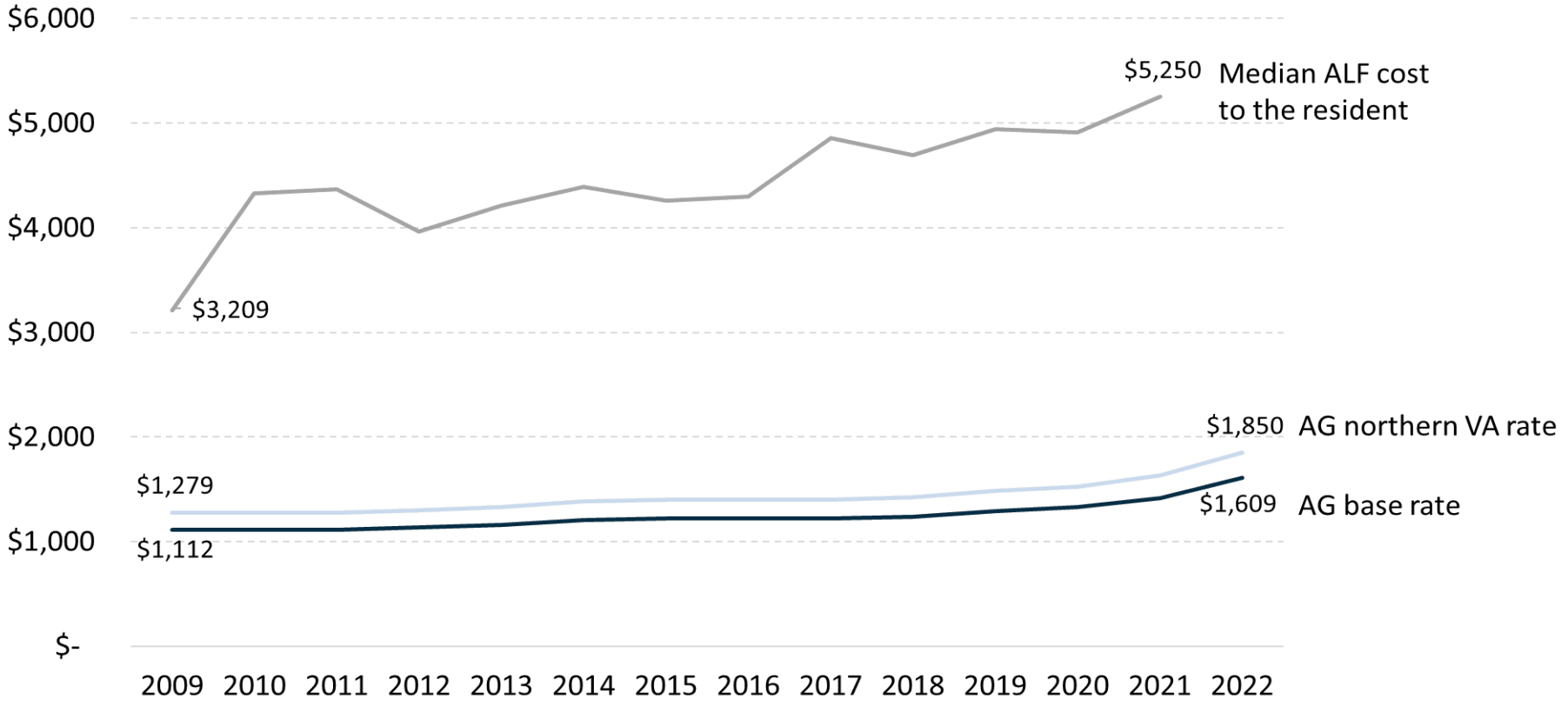
The most direct strategy to increase AG beds is to increase the rate closer to the cost of care

The monthly assisted living cost varies between $3,000-5,000 depending on level of care



SOURCE: JCHC survey of assisted living facilities.

AG rate significantly lower than the total cost of care for over a decade



SOURCE: JCHC Analysis of the Virginia Department for Aging and Rehabilitative Services Auxiliary Grant Annual Reports adjusted for inflation and 2009-2022 Genworth Cost of Care Surveys. NOTE: Genworth Cost of Care Survey with 2022 rates is not yet available

The AG rate typically increases to comply with federal requirements

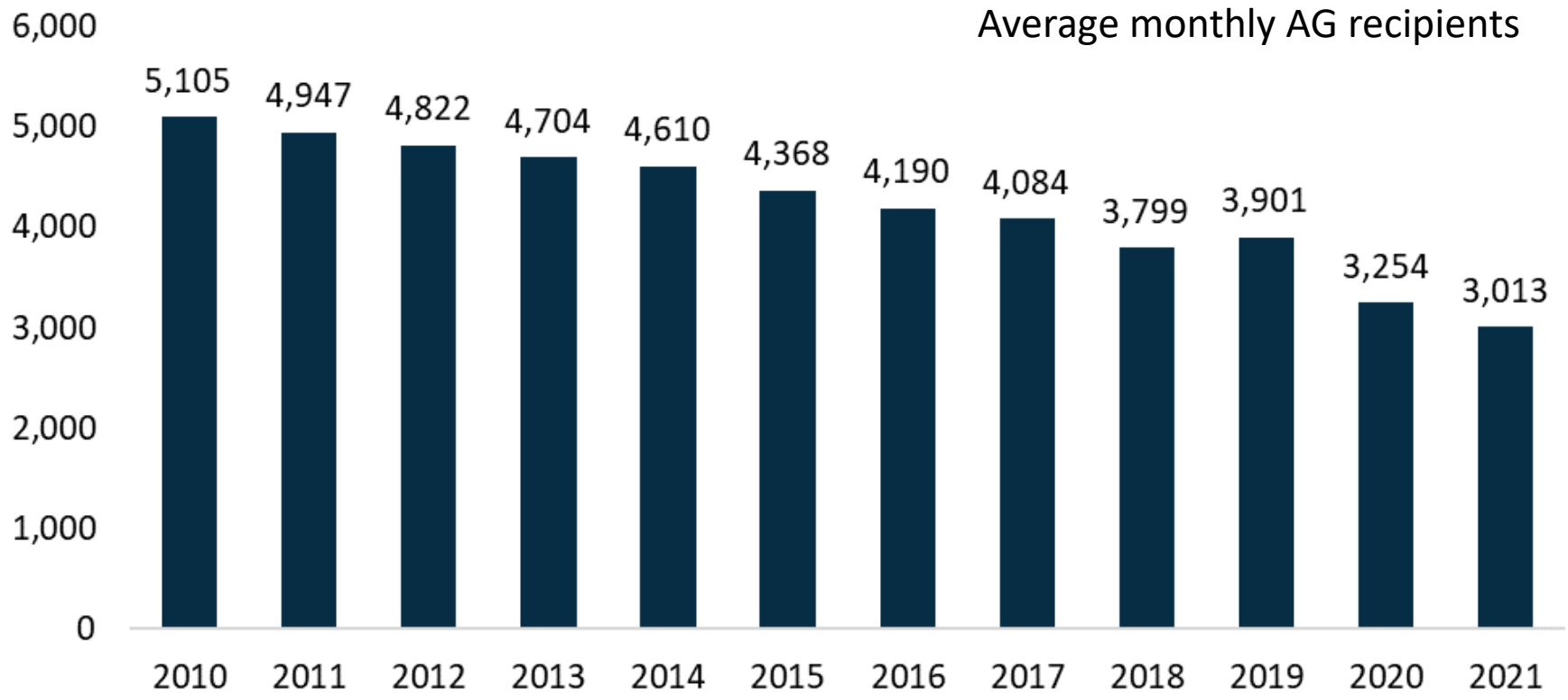
- The federal MOE provision requires the AG rate to increase when the federal SSI benefit increases
- Virginia is only required to ensure the total state expenditures for the program don't decrease
- As a result, full federal cost of living increases are not carried through to the AG rate

MOE = Maintenance of effort
SSI = Supplemental Security Income

AG participation decreased 41% since 2010

- 72% of ALFs cited the AG rate being too low to cover the cost of care
- ALF providers cite rises in operating costs including insurance, utilities, groceries, facility upkeep, and requirements to meet state regulations
- As a result, the number of AG recipients has declined steadily over this time period

The number of available AG beds has decreased steadily, due to the insufficient rate



SOURCE: JCHC staff analysis of LASER reports from VDSS.

ALF closures can negatively impact other ALFs that accept AG recipients

- When an ALF closes other ALFs that accept the AG will be contacted to help residents find a new placement
- ALF must decide to either accept the resident or wait for an individual who can afford the facility private pay rate
- ALF may accept more AG residents than they can financially accommodate when other ALFs close

Some AG beds are only available if resident starts as private pay

- About 12% have a policy requiring residents to enter as private pay prior to transitioning to AG funding
  - Median 24 month private pay requirement
- Over 43% of ALF providers reported accepting an AG resident that initially entered ALF as private pay
- This further limits the availability of AG beds to individuals who need assisted living care for the first time

ALFs accepting AG residents are typically smaller

- There were approximately 221 ALFs accepting AG residents in FY21
- About 52% of these ALFs reported 9 or fewer AG residents in their facility

“AG-ALFs” use several strategies to stay financially viable

- Merging with a larger ALF to pool finances with revenue generating private pay facilities
- Receiving large monetary or food donations from private organizations
- Leveraging Medicaid-funded day services
- Taking small business loans or home equity loans to afford facility maintenance required for licensure

NOTE: “AG-ALFs” is meant to identify any ALF that serves at least one AG resident.

Case Study: Small, central Virginia ALF

- Serving 13 residents, all of them on AG
- During the day, most residents attend a day program, eliminating the need for daytime staff
- Administrator is running the ALF after retiring from her other full-time job, and does not take a salary
- Most of the food is non-perishable and previously frozen

SOURCE: JCHC site visit.

AG-ALFs have more licensing violations than private pay ALFs

	ALFs reviewed	Complaint-Related Violations	Administrative Violations
Private Pay ALFs	25	26	592
“AG-ALFs”	25	56	738

SOURCE: JCHC staff analysis of DSS Office of Licensure inspection reports.

Increasing the AG rate is the most direct way to increase access

- ALFs indicated $2,500/month would incentivize them to accept one more AG resident (median from JCHC survey)
- This would increase total AG expenditures by $32.2 million annually for current recipients
  - 80% of the AG expenditures are from state funds, 20% local
- Increased rate would increase number of recipients, but volume of the increase is unknown

Policy Option 1

The JCHC could introduce a budget amendment to increase the base Auxiliary Grant rate to $2,500 per month.

One-time incentives could increase access with a lower cost to the state

- Providing a lump sum could incentivize ALFs to accept AG residents, similar to individuals entering as private pay
- The amount of the incentive payment will have to be sufficient enough to offset the loss in revenue that could occur when taking on a new AG resident
- A $21,000 one-time payment would provide similar funding to a private pay resident for 24 months

A one-time incentive has a number of implementation considerations

- The AG payment is funded with 20% local dollars, a lump sum payment could be entirely state funded
- Actual payments would need to be based on many factors and reassessed over time
  - Total number of AG recipients in the state
  - AG resident population within an individual ALF
  - Total capacity of the facility
- Ensuring payment goes to new AG recipients

Policy option 2

The JCHC could introduce a budget amendment to provide a one-time, lump sum payment to ALFs that serve a new AG resident, above the number of AG residents that they currently serve.

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Findings

ALFs would have to meet federal criteria as a home and community-based setting for residents to be eligible for Medicaid-funded LTSS services

Limited number of ALF residents would be eligible for Medicaid-funded services, unless eligibility criteria are expanded

LTSS = long-term services and supports

Medicaid can pay for services in an ALF but not room and board

- Any strategy to enable Medicaid payments for residents in an ALF would have to supplement the AG program
- CMS allows states to implement a number of Medicaid authorities to cover services in assisted living
- Virginia does not currently cover services to recipients in an ALF because it is not an approved HCBS setting

CMS= Centers for Medicare and Medicaid Services
HCBS = home and community-based setting

Medicaid coverage would require ALFs meet federal HCBS requirements

- CMS first released guidelines on what is an appropriate HCBS setting in 2014
  - This was to ensure that individuals receiving LTSS in their home or community are truly integrated in the community
- DMAS assessed compliance of all HCBS waivers to test for compliance, including the AAL waiver (covering ALFs)
  - AAL waiver was found not to be in compliance

CMS = Centers for Medicare and Medicaid Services
DMAS = Department of Medical Assistance Services
AAL = Alzheimer's Assisted Living waiver

HCBS assessment found varying levels of compliance

HCBS settings requirement	DMAS findings
Provide opportunities to control resources; choice between services and providers; optimizing interaction; autonomy and independence; choice of roommates; control over schedules; access to food at any time; physical accessibility; and modifications made in the person-centered service plan	***Partial compliance***
Settings are integrated into the community and individual participation in activities or services outside the setting	***Non-compliance***
Opportunities to engage in community life, freedom from coercion and restraint; allowing visitors at any time; and rooms with lockable entrance doors and individual keys	Varying degrees of ***compliance***, ***partial compliance*** and ***non-compliance***

SOURCE: JCHC analysis of Virginia's Statewide Transition Plan for Compliance with Home and Community-Based Services (HCBS) Final Regulation's Settings Requirements.

Prior non-compliance does not mean ALFs couldn't meet HCBS rule

- AAL waiver was for Alzheimer's residents and required self-contained, secure special care units
- An individual living with Alzheimer's is at risk for wandering, which provided justification for having locked units at the time
- Therefore, it is possible that ALF compliance with the HCBS settings rule could be re-evaluated in the future

Limited number of ALF residents currently meet Medicaid LTSS criteria

- Virginia's functional criteria for LTSS require a high level of need and support with ADLs
- It's possible for an ALF resident to meet the LTSS functional criteria
  - Higher income residents can choose to stay in an ALF and add services
  - Limited number of AG recipients are likely eligible for Medicaid LTSS

LTSS = long term services and supports
ADL = activities of daily living

Serving large numbers of ALF residents would require eligibility changes

- Many other states cover some form of assisted living services through Medicaid
- Many of these states have lower, or tiered, level of care requirement for LTSS
- Virginia would need to expand its LTSS eligibility criteria to reach ALF residents, requiring financial investment

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Funding community-based services could meet the needs of the AG population with lower functional needs

Other states provide supplemental SSI payment (similar to the AG program) in different community living arrangements, with benefits varying by setting

Individuals with behavioral health needs could be served in the community with the appropriate supports

Other community settings can meet the needs of those seeking AG in an ALF

- ALFs are unlikely to increase the number of AG beds if the AG rate continues to insufficient to cover costs
- Funding community-based services could meet the needs of the AG population with lower functional needs
- Home care and housing supports are the biggest unmet needs for older Virginians

Adult foster care is already allowed for AG, but availability is limited

- AFC is for low-need individuals
- AFC is available in only 11 of the 120 LDSS
  - In FY21, only 56 people received these services across Virginia
- AFC could resemble other, existing community-based living arrangements such as living independently or with a family member

LDSS = Local Department of Social Services
AFC = Adult Foster Care

Similar programs in other states cover community living arrangements

- Other states offer their OSSP (similar to the AG program) in community settings
- Benefit levels often vary to account for the differing cost of living between settings

OSSP = optional state supplementation program

Virginia could expand AG program to community while limiting costs

- Expanding AG to community settings would increase the number of eligible Virginians and costs
- The General Assembly could cap the number of slots for community AG recipients
- Community AG slots could be limited by functional eligibility criteria (aged, disabled, blind)

JCHC Policy Option 3

The Joint Commission on Health Care could introduce legislation amending the Code of Virginia to expand the list of eligible living arrangements for the Auxiliary Grant program to allow AG recipients to remain in the community and coordinate their own care as needed.

ALF residents with behavioral health needs could be served in community

- About 47% of individuals screened for public adult services, including assisted living, have a documented behavioral health need
- Expanding AG funding to those in home and community based settings is similar to the existing AG supportive housing program

AGSH is an allowable AG setting but availability is limited

- AG supportive housing is only available in 7 of the 40 CSB service areas
  - A total of 65 individuals participated in the program in FY21
- Program benchmark is for no more than 50% of AG recipient income going toward rent, to enable sufficient money for other expenses (utilities, food, etc.)

AGSH = auxiliary grant supportive housing
CSB = community services board

AGSH is only available in localities with low cost of living

- AG rate must support rent, utilities, food, and other necessities to be a viable option
- AG rate would need to be increased to make AGSH a viable option in more localities
  - Nearly half of localities where rent is <40% of AG rate offer AGSH
  - No localities where rent is >50% of AG rate offer AGSH

AGSH = Auxiliary grant supportive housing

JCHC policy option 4

The Joint Commission on Health Care Direct DBHDS and DARS to develop a plan to create a separate increased rate for AGSH.

DAP program supports individuals discharged from state hospitals

- DBHDS funds local CSBs to find placements for individuals leaving state hospitals through DAP
- DAP is intended to be a temporary funding source that can be combined with other funding sources
- Individuals are typically referred to ALFs when structured community services are not available because they provide 24-hour supervision

DAP= Discharge Assistance Program
DBHDS = Department of Behavioral Health and Developmental Services

DAP is a significant payer of ALF services

- 1,386 individuals received DAP funding in FY21
- Those on DAP who went to a private or CSB-run ALF spent a total of $26.2 million
- This represents 83% of total DAP funds, and is larger than total AG expenditures for assisted living

DAP structure and low AG rate creates disincentive for ALFs to accept AG

- DAP intended to cover supplemental services, but covers full cost if no other payment sources is available
- ALFs accepting AG for a DAP resident would receive significantly lower reimbursement because AG is intended to cover all basic services
- Residents with AG and DAP are more likely to lose DAP, leaving the ALF with a low rate for a high need resident

DAP reimbursement is much higher than the AG rate

- In some instances, an individual may become eligible for AG funding and use DAP funds for the additional services the client may need
- Due to increased facility costs and working with a higher need population, ALFs indicate it is better financially to refuse prospective residents leaving state hospitals with any form of AG payment

DAP payments are less burdensome to administer

- DAP payments, unlike AG payments, go directly to the facility from a local CSB, which is easier to manage
- If care needs increase, ALF providers can submit a new rate sheet to their local CSB to cover the increased costs

DBHDS has allocated funds to conduct a rate study in FY23

- Goal is to provide recommendations for an assessment and rate structure for services covered by DAP
- The rate study has already outlined the need to use the auxiliary grant rate and services as a baseline
- These services include primarily supportive residential services not covered by Medicaid, such as assisted living

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Increased personal funds would improve quality of program for current recipients

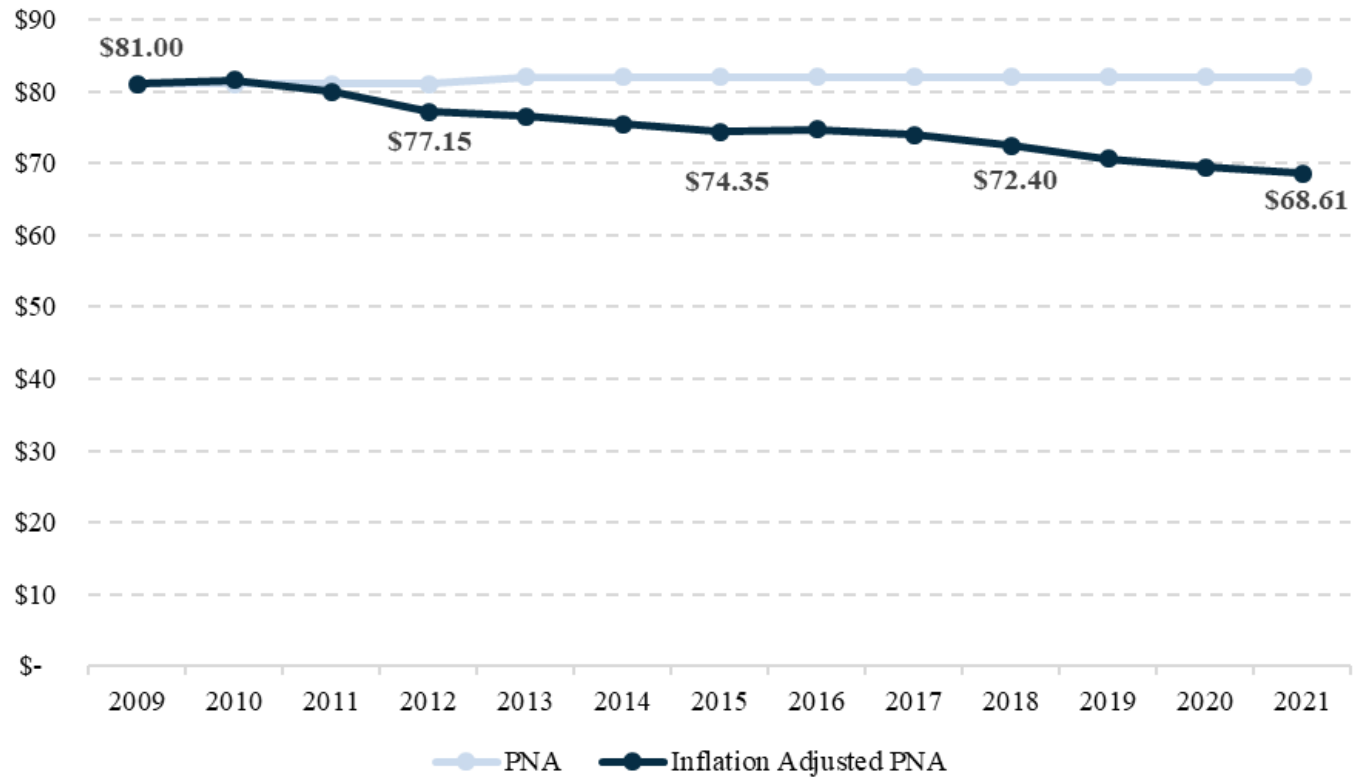
Improved state agency coordination can help with finding ALF placements more quickly

AG personal needs allowance is a resident's only personal funds

- AG recipients receive $82 per month for needs not covered by the ALF
- An individual may use their PNA to cover grooming, laundry services, additional food, or other needs
- All other income or AG payment goes to the ALF

PNA = personal needs allowance

Personal needs allowance has not kept up with cost of resident needs



SOURCE: JCHC staff analysis of personal needs allowance. Inflation adjustment used CPI-W.

JCHC policy option 5

The Joint Commission on Health Care could introduce a budget amendment providing funds to increase the personal needs allowance for AG recipients, and include language that the AG personal needs allowance will increase at the same rate as future, federal SSI cost of living increases.

Multiple agency staff identified challenges to find resident placement in an ALF

- When a facility closes, the ALF provider, DARS APS staff and other local staff coordinate to find a new ALF placement for individuals
- DSS regulations requires an ALF to notify a licensing administrator of at least 60 days prior to closure, but this requirement does not extend to the local staff who may be responsible for resident placement

JCHC policy option 6

The Joint Commission on Health Care could introduce a Chapter 1 bill directing DSS to update ALF regulations to require an ALF administrator to notify appropriate DARS and local CSB staff at least 60 days prior to closure, if they have residents who are either AG or DAP-funded.

Program staff cite delays in receiving current DSS licensing records

- The Virginia DSS maintains all licensing records for assisted living facilities
- DARS staff are responsible for ensuring ALFs participating in AG program maintain a current license
- Staff have challenges identifying which facilities remain eligible for the program and where AG residents can go when they need a placement

DSS = Department of Social Services

JCHC policy option 7

The Joint Commission on Health Care could introduce a Chapter 1 bill directing the Virginia Department of Social Services to share access to assisted living facility licensing data with Auxiliary Grant program staff at the Department of Aging and Rehabilitative Services to enable real-time access to the licensing status of ALFs across the state.

Summary of policy options

Options to increase AG bed availability	• Increase AG rate • Provide one-time incentive payments
Options to serve AG population in the community	• Expand AG eligibility to community settings • Increase rate for AG supportive housing
Options to improve the current AG program	• Increase personal needs allowance • Improve information sharing about ALF licensure and closures

Opportunity for public comment

- Submit written public comments by close of business on Friday, October 21st

  Email: jchcpubliccomments@jchc.virginia.gov

  Mail: 411 E. Franklin Street, Suite 505
  Richmond, VA 23219

NOTE: All public comments are subject to FOIA and must be released upon request.

Joint Commission on Health Care

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