A Comparison of the Nursing Home Reform Consensus Proposal and HCCI Allegations

Assessing Potential Reductions in Nursing Facility Net Income

Analysis by the Illinois Department of Healthcare and Family Services

Timeline of Nursing Facility Payment Reform

Fall 2020: HFS began a comprehensive and transparent reform process with the nursing home industry, labor representatives, and other stakeholders.[1] The collaborative objective was to **promote patient-centered care, improve quality, and address understaffing**.

Spring 2021: As a result of that process, reform legislation was introduced in spring 2021. Reform was not passed, but HFS was asked to produce a report.

September 2021: HFS submitted a comprehensive review of nursing home payment and proposed reforms to the General Assembly on September 30, 2021.

November 2021: After further discussion, stakeholders coalesced around an updated set of reforms. That new agreement is reflected in SB 2995.

[1]For more information see Nursing Home Payment Update | HFS (illinois.gov)

Where things stand now

After the conceptual agreement was reached, one of three associations, HCCI, expressed concerns and identified 50 facilities (‘the 50’) that would potentially experience reduced net income under the consensus reform proposal.

In January 2022, without consulting with other stakeholders, HCCI introduced competing legislation no longer reflective of the conceptual agreement. HFS and other stakeholders are opposed to this legislation.

To address HCCI's concerns about the 50 facilities alleged to face hardship in the consensus proposal, the following analysis assesses the overall impact of reform on those 50 facilities.

The analysis **1) describes characteristics of the HCCI-identified list of facilities associated with potential losses under HFS' reform proposal 2) addresses HCCI's concerns about the transition period into reform, and 3) identifies the effects of individual elements of reform on the list of 50 facilities.**

Defining 'The 50':
HCCI's critique of consensus reforms, and their resulting alternative, centers on four facility types projected to lose net income

1. Facilities in the 3 highest proposed Medicaid tax categories (tax is stratified into 6 tiers)
   - HOWEVER, 'the 50' include disproportionately *FEW* in the first of these three tax brackets -- tier 2 (5,001-15,000 Medicaid days per year)

2. High-Medicaid facilities (at least 70% of residents funded by Medicaid)
   - HOWEVER, reform's impact generally *improves* net income at higher levels of Medicaid utilization.

3. Facilities experiencing negative financial impact from the switch to a Patient Driven Payment Model (PDPM)
   - HFS' analysis confirms this as one of reform's ***intended*** effects

4. "Subpart S" facilities (meeting specific criteria associated with residents experiencing mental illness)
   - HOWEVER, no facilities carry this classification
   - 'The 50' have *fewer* associated staffing hours than other comparable facilities (i.e., non-nurse social workers and psychiatric care workers) so adding other staff hours will not help respectively.

- 'The 50' list from HCCI almost exclusively represents homes that should be influenced by reforms to improve staffing levels and/or improve facility coding and Medicaid billing.

HFS' step-by-step analysis of the consensus reform proposal compares 'the 50' to other similar facilities:

- For-profit facilities
- In the same Medicaid tax category
- With at least 70% Medicaid utilization

Note: In additional analyses not shown below HFS (i) further narrowed the comparisons to facilities in either East St. Louis or the Chicago region and (ii) looked separately at the fourth tax bracket (results below focus on the third). Results were not materially different. Please contact HFS for more detail on these deep dives.

HFS Analysis of Reform's Impact on 'the 50'

HFS' analysis demonstrates that:

- 'The 50' were significantly more profitable than other similar facilities *prior* to reform
- 'The 50' have significantly lower staffing than other similar facilities
- ***Neither* the proposed Medicaid tax brackets nor high Medicaid utilization separate reform's impact on 'the 50' from its impact on other similar facilities.**
  - Middle tax bracket NFs end up with modestly lower predicted net income, BUT the same is true for NFs that are NOT among 'the 50'
  - HFS' comparisons were limited to high-Medicaid facilities (and, not shown below, geographically narrowed to E STL and Chicago)
  - Ergo, the proposed tax brackets don't explain why an NF is one of 'the 50'
- Instead, the switch to PDPM and the new staffing incentive DO identify 'the 50'

In other words:

- 'The 50,' as a group, are *intended* targets of reform
  - high levels of unnecessary coding for rehabilitative services
  - excessive profit-taking at the expense of staffing
- Yet even 'the 50' can earn a profit with a reasonable management response to reform

HFS' Consensus Proposal is Designed to Support 'Transition'

HFS already made changes to the earlier proposal to get HCCI agreement to help 'transition' into reform

- HFS' proposal heavily subsidizes step-wise increases in staffing, the principal cost of transition, through substantial staffing-related incentives tied to federal STRIVE staffing metric.
  - Through negotiations, HFS lowered the minimum qualifying percentage to 70% of STRIVE (originally 85%), providing some funding at that level as a potential interim step, but setting the incentive in the 70-79% range in a way that maintains the facility's incentive to continue increasing staffing levels.
  - Between 80 and 100% of STRIVE, **HFS' proposal would fund Medicaid's share of the expected costs of increasing nurse staffing levels.**
  - HCCI's proposed nurse staffing incentives would begin the incentive at 0% of the Federal STRIVE target but are the same as HFS's above 70% -- basically payment for doing nothing.
  - By nearly eliminating the differential between the level of incentive at 70% of STRIVE v. the level of incentive below 70%, **HCCI's proposal nearly eliminates the worst-staffed facilities' incentive to increase staffing at all.**
    - Paying more for a transition's *starting point* (i.e., current very low staffing levels) doesn't support transition.
    - Paying more for care in the lowest-staffed facilities doesn't improve the long run impact of reform for 'the 50' *unless they never hire more staff.*
    - **This is unacceptable** and mitigates a major principle of reform.

HFS' Consensus Proposal is Designed to Support 'Transition'

Do owners and nurse coders need more time?

- **HCCI implies that the biggest remaining 'transition' issue for facilities under the new payment methodology is time to learn to accurately record the needs of their residents**
- **However, does waiting really aid in 'transition'?**
  - NFs have **already** been afforded an extended 'transition' or learning period due to the nearly 2-year discussion and debate over PDPM's adoption by Illinois Medicaid.
  - The questions associated with both PDPM and RUGs have both been on the resident needs surveys that facility nurses have been filling out for years (on the form since 2016; required for reimbursement since 10.1.2019)
  - Medicare has been paying against the new PDPM resident needs 'grouper' for over a year.
  - Recent JAMA article (new research) shows that Medicare use of PDPM has had positive effect on quality.
  - It is unclear what remains to be 'learned' by facilities and/or their nursing staff in order to accurately record the needs of their residents.
  - HFS expects rapid adaptation by nursing staff due to the incentive for facilities to accurately record resident needs since they generally impart a lower target staffing level. (And this is reflected in HFS' estimate of 'management response,' which is significantly larger for facilities like those on the list of 50 due to their current reliance on unnecessary coding for rehab services, which are paid by Medicare).

HFS' Consensus Proposal is Designed to Support Staffing

Changes to HFS' earlier proposal address a deepening crisis

- **HFS' proposal would disburse all quality incentives ($70M) beginning immediately**
  - The $70M quality improvement program in HFS' consensus proposal reflects a $50M reduction compared with HFS' earlier proposal, a concession necessary to address the rising costs of labor since the reform effort began (see enlarged staffing incentive on previous page and increased base rate below)
  - 'The 50' would, on average, be net winners based on historic quality scores
  - Quality incentives would change over time but could include language that all must pay out yearly or quarterly.

- **HFS' consensus proposal increases the base nursing rate by $5 per day vs. HFS' earlier proposal to maintain that rate at $85.25.**
  - This increase would cost $90M per year and was introduced to reflect rising costs of staffing across all types of labor.
  - Many of 'the 50' would benefit by *more than $5/day* since upstate facilities also receive a regional wage multiplier applied to the base rate.

- **HFS' consensus proposal would <u>disburse CNA experience pay subsidies effective immediately.</u>**
  - Higher-Medicaid facilities (like 'the 50') benefit most, since Medicaid's share of the tenure bumps are subsidized.
  - Combined with the $360M nurse staffing incentive and the $90M base rate increase, the $85M package of investments in CNA pay and training represents a combined $535M increase in nursing facility payment targeted at Illinois' significant and growing staffing crisis.

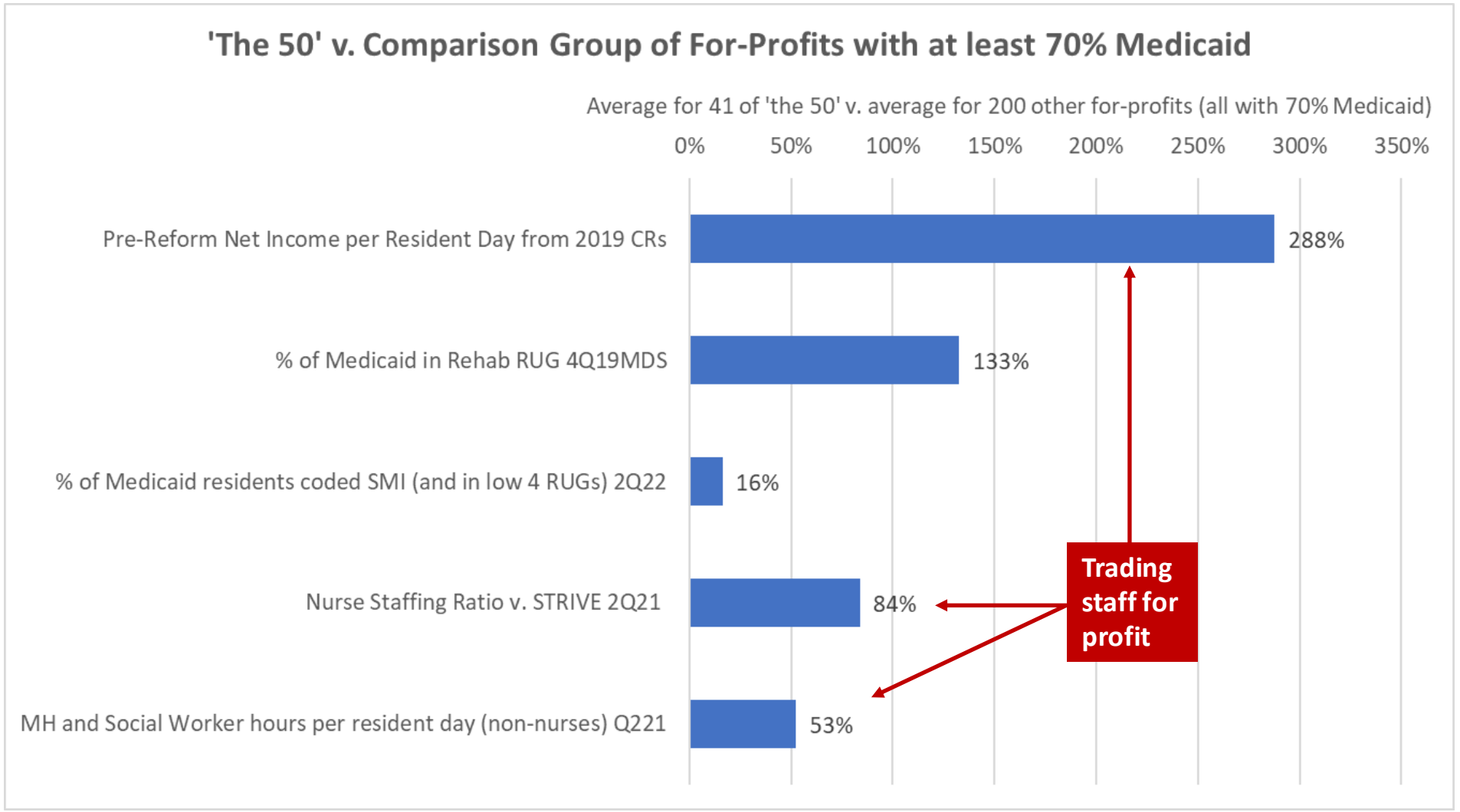
HFS' Analysis Examined Characteristics of Nursing Facilities at Each Level of Impact on Net Income

Impact on Net Income per (total) resident day	# of Facilities	Total resident days in year ending 9.30.2020	Medicaid resident days in year ending 9.30.2020	% Medicaid Utilization	Hours per resident day for non-nurse mental health or social worker staffing	Pre-Reform Net Income per Total resident Day	Average of Staffing Ratio v. STRIVE 2Q21	Estimated cost of budget-neutral PDPM adoption per Medicaid resident day	Impact of Reform on Net Income per (total) resident day
0. At least $20 PRD loss	10	330,795	404,736	85%	0.09	$ 27.22	0.56	$ (16.20)	$ (64.13)
1. $10-$19.99 PRD loss	16	619,281	503,917	74%	0.15	$ 17.03	0.70	$ (10.11)	$ (13.84)
2. $5-$9.99 PRD loss	14	556,097	429,521	78%	0.11	$ 12.29	0.68	$ (9.12)	$ (7.56)
3. $0-$4.99 PRD loss	35	1,064,441	671,036	59%	0.11	$ 61.87	0.89	$ (10.24)	$ (2.28)
4. 0-$4.99 PRD gain	106	3,599,829	1,791,327	45%	0.12	$ 49.36	1.06	$ (1.09)	$ 2.64
5. $5-$9.99 PRD gain	134	4,372,070	2,316,093	53%	0.11	$ 20.36	1.06	$ (1.58)	$ 7.56
6. $10-$19.99 PRD gain	242	8,593,107	5,283,154	62%	0.11	$ 9.07	0.99	$ 2.36	$ 14.82
7. $20 or more PRD gain	105	3,379,370	2,887,351	73%	0.11	$ (4.41)	1.02	$ 7.94	$ 39.98
Grand Total	662	22,514,990	14,287,135	60%	0.11	$ 19.02	1.00	$ 0.42	$ 12.13

Summary: Facilities with the largest potential reductions in net income under reform:

- Generally had *above*-average net income prior to reform.
- Are lower-staffed.
- DO rely more heavily on upcoding (high levels of unnecessary coding for rehabilitative services without staffing appropriately to meet those purported needs)
- Do NOT always have higher Medicaid utilization.
- Do NOT rely more heavily on mental health or social worker staffing.
- Represent a small percentage of resident days.

HFS Analysis of 'the 50' vs. Comparison Group of For-Profit Facilities

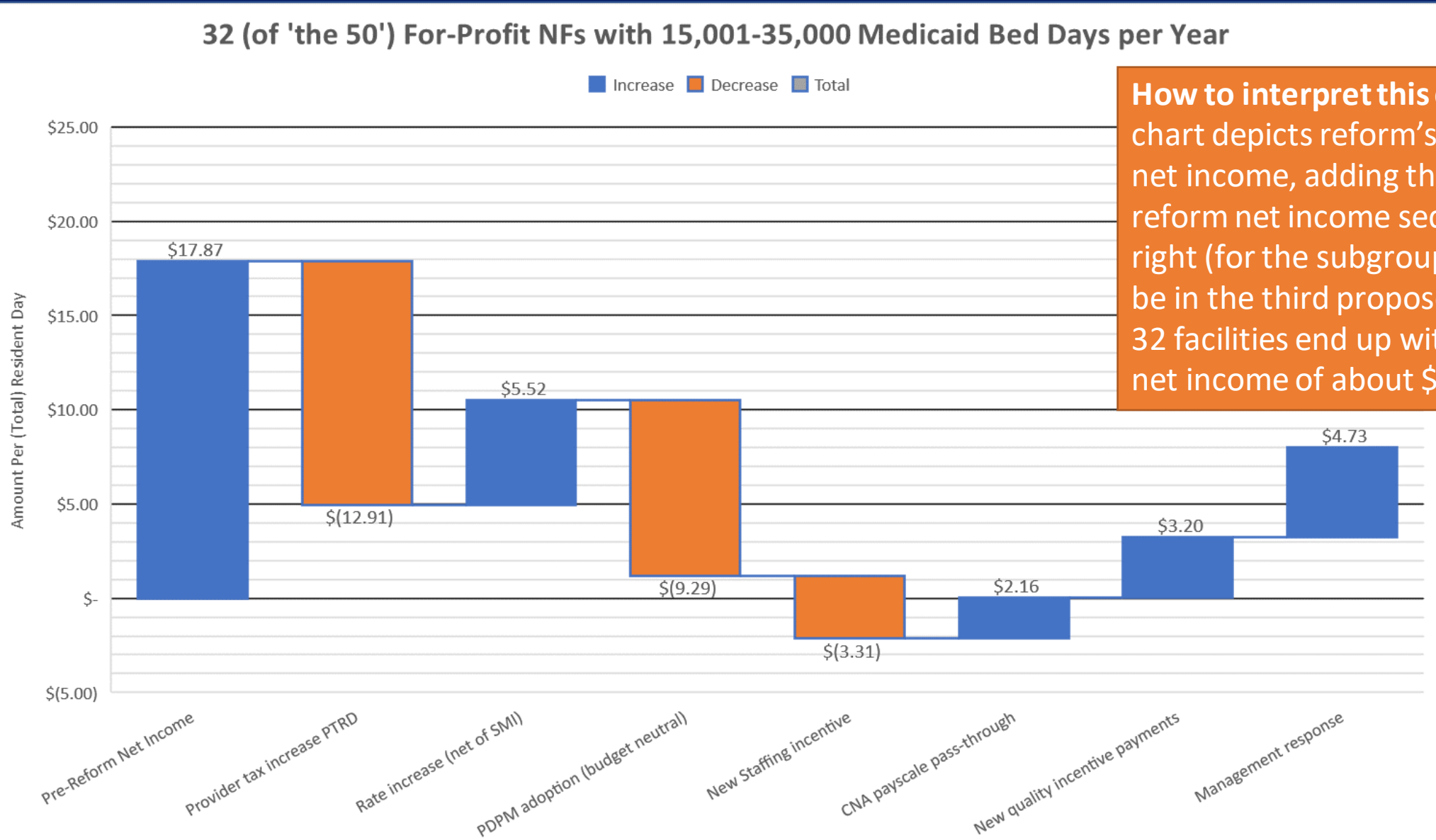


Summary:

- High-Medicaid homes among 'the 50' have an average nurse staffing ratio that is *84% of the average ratio for other for-profit high-Medicaid homes*
- …and 288% of the average profit level.

They are not doing as much as similarly-situated homes and want to be subsidized more.

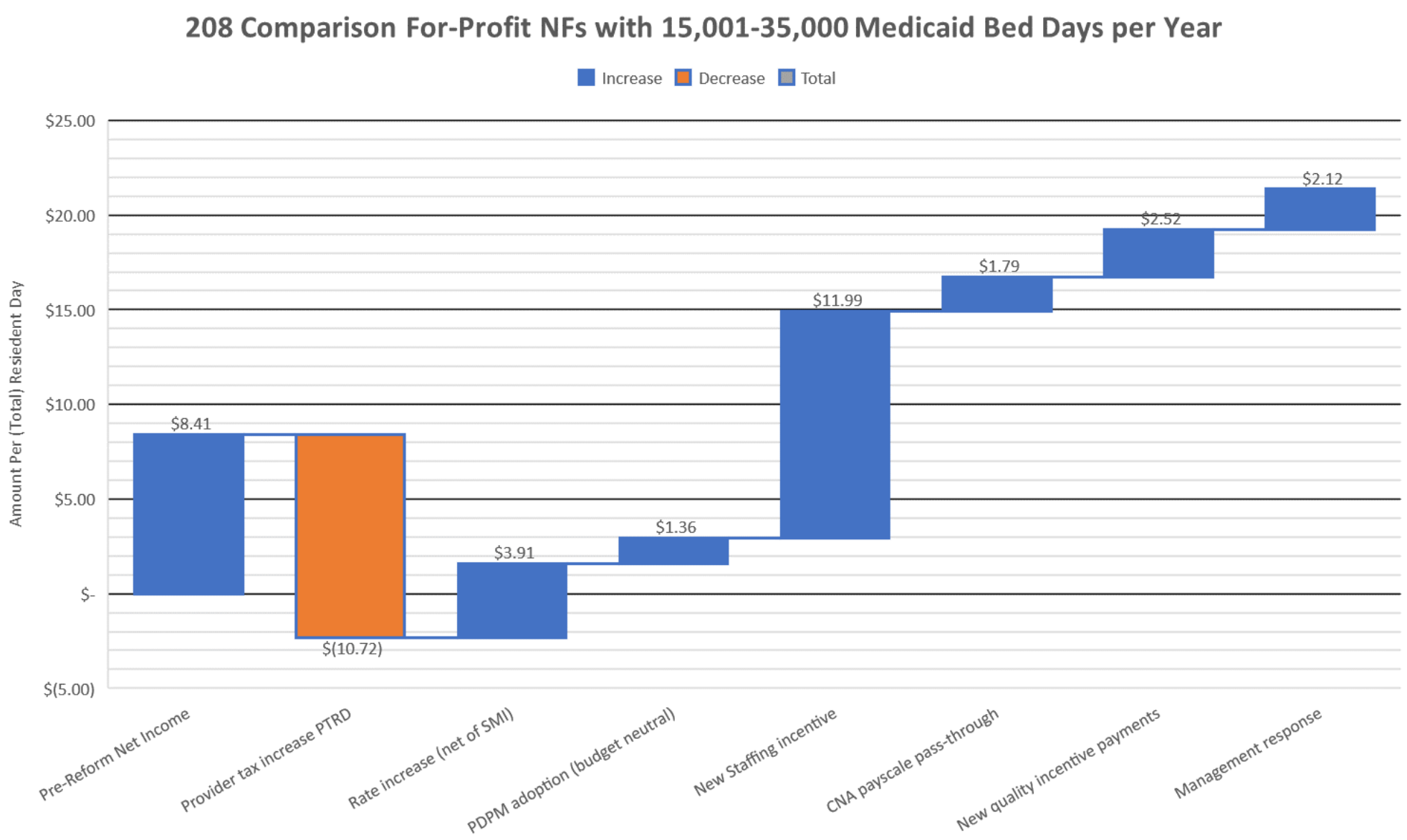
HFS Analysis of 'the 50' vs. Comparison Group of For-Profit Facilities



How to interpret this diagram. This waterfall chart depicts reform's step-wise effects on net income, adding those effects to pre-reform net income sequentially from left to right (for the subgroup of 'the 50' that would be in the third proposed tax bracket). These 32 facilities end up with an average modeled net income of about $8 per resident per day.

Note: A comparison group of for-profit facilities in that same tax bracket is shown on the next page

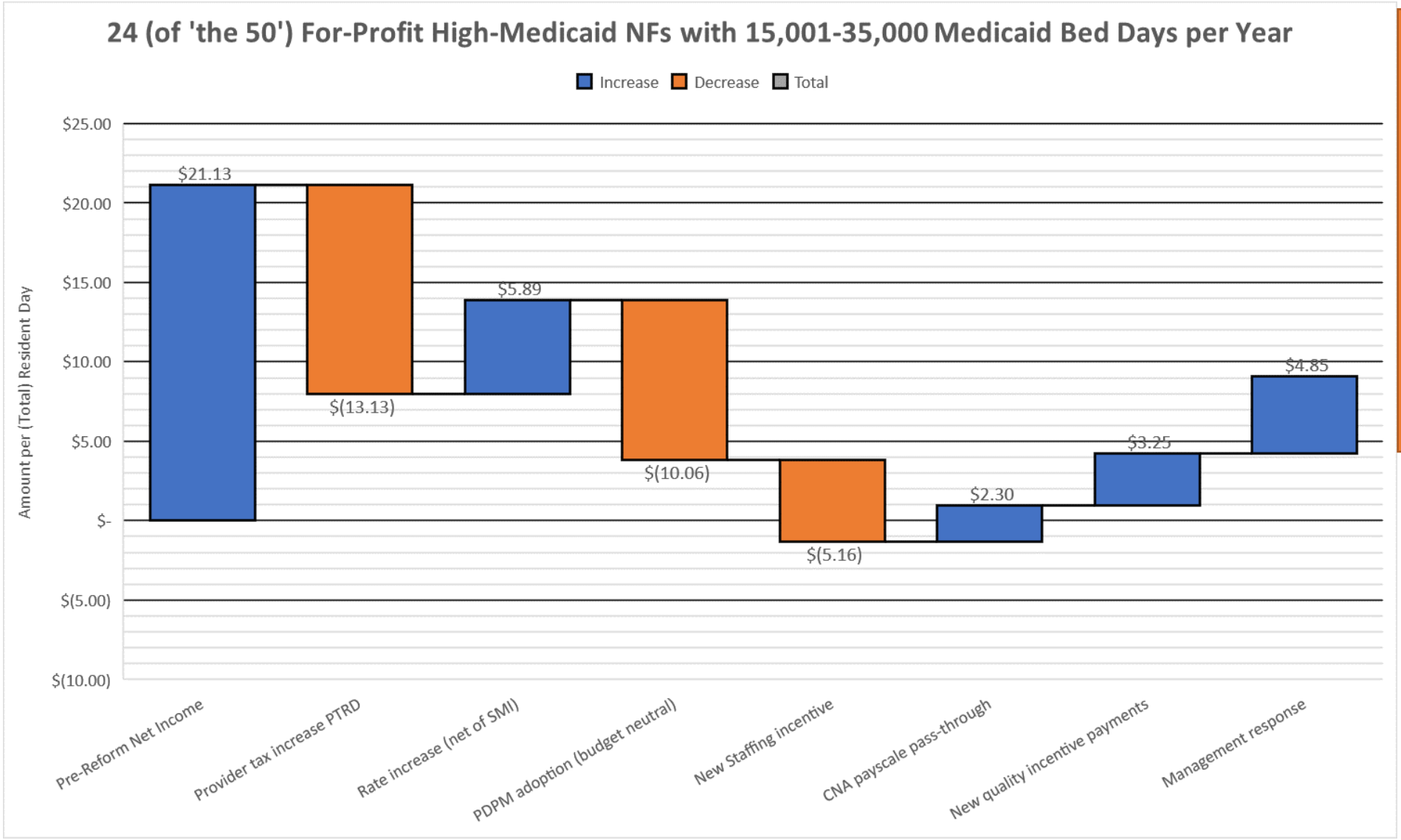
HFS Analysis of 'the 50' vs. Comparison Group of For-Profit Facilities



Compared to 'the 50' in the previous chart, this comparison group of facilities in the same tax bracket:

- Has *lower* pre-reform net income
- Ends up with *higher* net income (~$21/day)
- *Benefits* from both PDPM adoption and (especially) the new staffing incentive, because 'the 50' code more residents for rehab needs and will have to hire more staff to qualify for the incentive.

HFS Analysis of 'the 50' vs. Comparison Group of For-Profit Facilities (deeper dive)

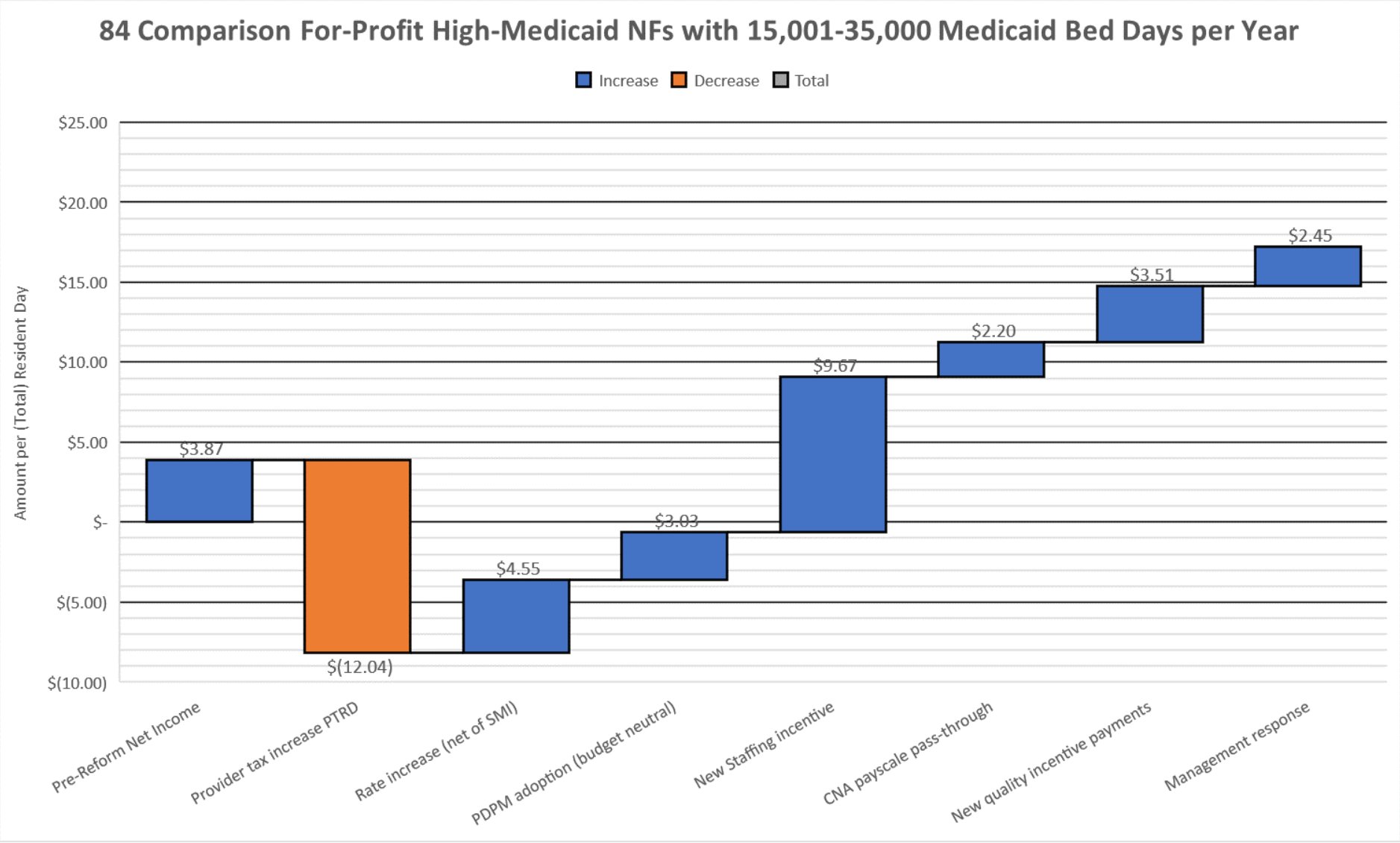


This page and the next further narrows the comparison of 'the 50' to other for-profits by including only those facilities with at least 70% Medicaid utilization.

...the results are essentially the same.

Note: A comparison group of high-Medicaid for-profit facilities in that same tax bracket is shown on the next page

HFS Analysis of 'the 50' vs. Comparison Group of For-Profit Facilities (deeper dive)



Compared to 'the 50' facilities, this comparison group of high-Medicaid facilities in the same tax bracket:

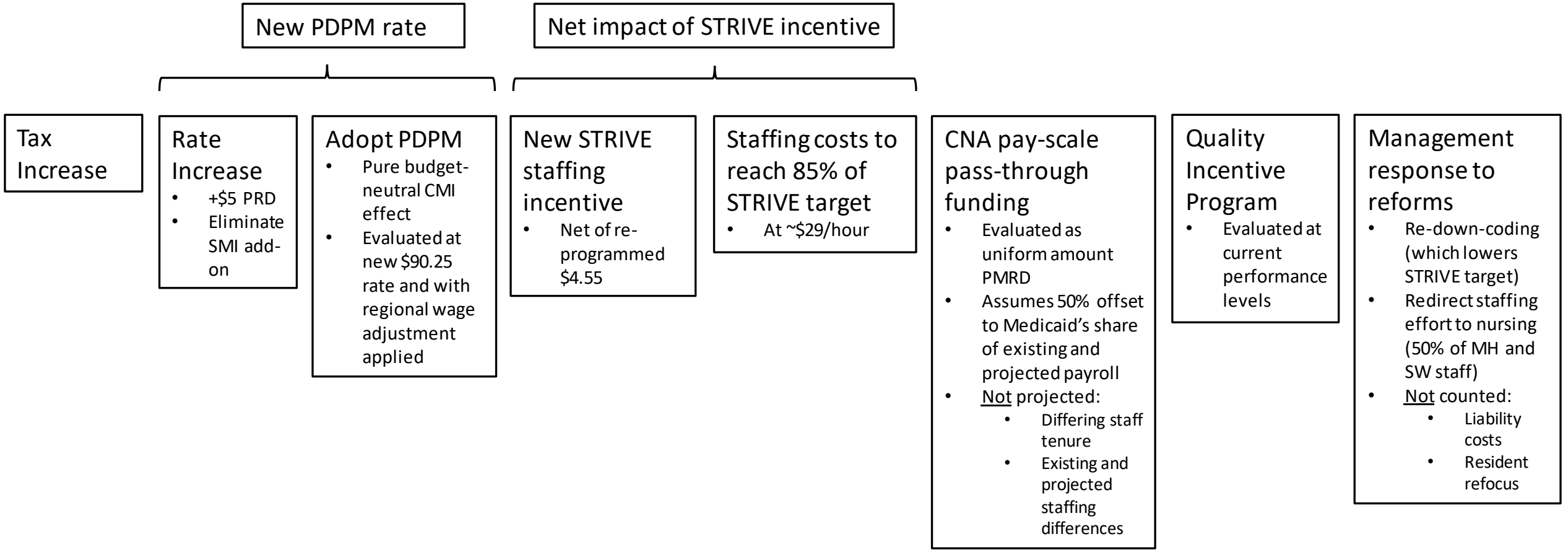
- Has *lower* pre-reform net income
- Ends up with *higher* net income (~$17/day)
- *Benefits* from both PDPM adoption and (especially) the new staffing incentive, because 'the 50' code more residents for rehab needs and will have to hire more staff to qualify for the incentive.

In Summary:

HCCI's list of 50 is almost exclusively a list of facilities that this reform is intended to improve: Facilities that over-code to charge Medicaid and then and under-staff.

HCCI's concerns about transition are specious and already met by the consensus proposal.

The '50' could respond to reform with better staffing and other improvements to make up for the net income loss from no longer being able to over-code and under-staff.



Appendix: How HFS Assessed Reform's Impact Step-by-Step

The categories above were used in the waterfall analyses on the previous slides to isolate reform's impact