



JENNIFER KENT
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

MAY 17 2016

Ms. Kristin Dillon
Acting Associate Regional Administrator
Division of Medicaid and Children's Health Operations
Centers for Medicare & Medicaid Services
San Francisco Regional Office
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

Dear Ms. Dillon:

STATE PLAN AMENDMENT (SPA) 16-013: Revision to current language regarding Nursing Facilities – Level A (NF-A), Distinct Part Nursing Facilities – Level B (DP/NF-B) and DP/NF Adult Subacute Units.

The Department of Health Care Services (DHCS) is revising current language in Attachment 4.19-D of the State Plan Amendment per direction from the Centers for Medicare & Medicaid Services regarding the application of the hold harmless provision and the median rate that are used in the rate setting methodology for DP/NF-Bs and DP/NF Adult Subacute units.

Also, DHCS is adding language to describe the rate setting methodology for NF-As with 100 beds or more.

If you have any questions or concerns regarding the proposed provisions, please contact Ms. Connie Florez, Chief of the Fee-For-Service Rates Development Division, at (916) 552-9600.

ORIGINAL SIGNED

Chief Deputy Director
Health Care Programs & State Medicaid Director

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 16-013	2. STATE CALIFORNIA
FOR: HEALTH CARE FINANCING ADMINISTRATION	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	

TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE August 1, 2016
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5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: Title 42 CRF 447 Subpart C	7. FEDERAL BUDGET IMPACT: No impact
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D, Pages 14, 15.1, 15.2, 15.2a, 15.4	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-D, Pages 14, 15.1, 15.2, 15.2a, 15.4
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10. SUBJECT OF AMENDMENT:
The Department of Health Care Services (DHCS) is revising current language in Attachment 4.19-D of the State Plan Amendment, per direction from the Centers for Medicare & Medicaid Services, regarding the application of the hold harmless provision and median rate that are used in the rate setting methodology for Distinct Part Nursing Facilities (DP/NF) – Level B and DP/NF Adult Subacute units. DHCS is also adding language regarding the rate setting for Nursing Facilities - Level A with 100 beds or more.

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED The Governor's Office does not
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL wish to review the State Plan Amendment.

ORIGINAL SIGNED
ORIGINAL SIGNED

14. TITLE: **MAY 17 2016**
Chief Deputy Director
Health Care Programs & State Medicaid Director

15. DATE SUBMITTED:

16. RETURN TO:

**Department of Health Care Services
Attn: State Plan Coordinator
1501 Capitol Avenue, Suite 71.326
P.O. Box 997417
Sacramento, CA 95899-7417**

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED:	18. DATE APPROVED:
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL:	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME:	22. TITLE:
23. REMARKS:	

submit only a partial year cost report are excluded from the swing bed rate calculation.

4. NF services provided in a facility which is licensed together with an acute care hospital under a single consolidated license, yet fails to meet the definition of a DP/NF, shall be reimbursed at the applicable rate for freestanding facilities.
5. As long as there is a projected net increase in the California Consumer Price Index during the State's fiscal year previous to the new rate year, no prospective class median for DP/NF-Bs and DP/NF Subacute units, shall be decreased solely because the class median projected cost is less than the existing class median.

In the event the existing prospective class median is adopted as the maximum median of reimbursement for DP/NF-Bs providers with projected costs below the existing class median shall be reimbursed their projected costs as determined in the most recent rate study.

In the event there are components in the previous rate study that increased the reimbursement rate to compensate for time periods prior to the effective date of the rates, the rates shall be adjusted (for purposes of determining the existing rate) to reflect the actual per diem cost without the additional compensation. As an example, assume that the per diem cost of a new mandate was \$.10. The new mandate was effective June 1, 1997, but the rates were not implemented until August 1, 1997. The rates would include an add-on of \$.117 (\$.10 times 14 months, divided by 12 months) to compensate 14 months add-on over a 12 month rate period.

6. If a DP, formerly licensed as a freestanding facility, has costs less than the freestanding median rate for their group, their rate will not be reduced to less than the median solely because of the change to distinct part licensure.
7. DPs in areas where there are excess freestanding beds may accept patients at the area's highest NF-B rate to assure greater access to Medi-Cal patients and to provide a savings to the program.
8. State operated facilities shall be reimbursed their costs as reflected in their cost reports, in accordance with the provisions of this plan, using individual audit data for adjustments. These costs are not to be included in the calculation of the class median rate for all other DP/NF level Bs.

- 14. For facilities with licensed bed capacities of 100 beds or more, effective August 2, 2003, each facility shall receive a rate of \$89.54 until the prospective county rate for their geographic location based on the categories listed above exceeds that amount. At that time, those facilities shall receive the rate for all facilities within that geographic location.

- 15. (a) Nursing facilities and other specified facilities as identified in Section 14110.65 of the Welfare and Institutions Code, will be eligible to request and receive a supplemental rate adjustment when the facility meets specific requirements.

(b) In order to qualify for the rate adjustment, the facility must have a verifiable written collective bargaining agreement or other legally binding, written commitment to increase non-managerial, non-administrative and non-contract salaries, wages and/or benefits that complies with Section 14110.65 of the Welfare and Institutions Code and regulations adopted pursuant thereto.

(c) Except as provided in subparagraph (d) below, the rate adjustment will be equal to the Medi-Cal portion (based on the proportion of Medi-Cal paid days) of the total amount of any increase in salaries, wages and benefits provided in the enforceable written agreement referenced in subparagraph (b). This amount will be reduced by an increase, if any, provided to that facility during that rate year in the standardized rate methodology for labor related costs (see Section I.E of this state plan) attributable to the employees covered by the commitment. A rate adjustment made to a particular facility pursuant to this subparagraph 15 will only be paid for the period of the non-expired, enforceable, written agreement. The Department will terminate the rate adjustment for a specific facility if it finds the binding written commitment has expired and does not otherwise remain enforceable.

(d) A rate adjustment under this subparagraph 15 will be no more than the greater of 8 percent of that portion of the facility's per diem labor costs, prior to the particular rate year (August 1st through July 31st), attributable to employees covered by the written commitment, or 8 percent of the per diem labor costs of the peer group to which the facility belongs, multiplied by the percentage of the facility's per diem labor costs attributable to employees covered by the written commitment.

(e) The payment of the rate adjustment will be subject to certification of the availability of funds by the State Department of Finance by May 15 of each year and subject to appropriation of

such funds in the State's Budget Act.

(f) This subparagraph 15 will become effective as of the first day of the month following the date that this provision is approved by the Centers for Medicare and Medicaid Services.

16. (a) Hospice care rates apply to four basic levels of care: Routine Home Care, Continuous Home Care, Inpatient Respite Care, and General Inpatient Care. Each year after the end of the Federal fiscal year (September 30), the Centers for Medicare & Medicaid Services provides the Department of Health Services with the new Medicare rates and the wage indices for the various groupings of California counties. Each Medicare rate for the services referenced above consists of a wage and non-wage component. The wage component of each Medicare rate is multiplied by the wage index for each county grouping and the result is added to the non-wage component to arrive at the reimbursement rate for hospice care services rendered within the particular county grouping. These rates are effective from October 1 through September 30 of each year.

(b) Effective January 3, 2004, in addition to the reimbursement for the services referenced in (a) above, payment to facilities for room and board services shall be made at 95 percent of the Medi-Cal facility rate where the patient resides, if the facility is classified as one of the following: Nursing Facility Level B, Nursing Facility Level A, Intermediate Care Facility – Developmentally Disabled, Intermediate Care Facility – Developmentally Disabled, Habilitative, Intermediate Care Facility – Developmentally Disabled, Nursing

G. Notwithstanding paragraphs A through E of this Section, in the five situations described below, DP/NF-Bs will receive an interim per diem rate established by the Department. The interim rate will be based on the DP/NF-B's estimate of its total patient days and costs, including the patient days and costs associated with the additional beds that are added. The interim rate established by the Department will not exceed the applicable DP/NF-B median rate for the particular rate year. This provision applies to the following situations:

1. A general acute care hospital (GACH) without a DP/NF-B acquires a previously licensed freestanding NF-B and converts it to newly approved DP/NF-B.
2. A GACH with a DP/NF-B merges with another GACH with a DP/NF-B and consolidates all beds under one existing license.
3. A GACH with a DP/NF-B consolidates a freestanding NF-B into one existing license.
4. Any instance, which results in the creation of a Composite DP/NF-B, as defined in 42 Code of Federal Regulations section 483.5(c) which refers to a facility with one license, one provider agreement, and one provider number.
5. A GACH forms a newly licensed DP/NF-B.

The interim per diem rate and supplementation under Section VIII will be effective upon

TN 16-013
Supersedes
TN 06-004

Approval Date _____ Effective Date _____

the date the Department issues a consolidated license. When DP/NF-B audit report data becomes available, interim rates will be retroactively adjusted to the DP/NF-B's final

- 2. A GACH with a DP/NF-B merges with another GACH with a DP/NF-B and consolidates all beds under one existing license.
- 3. A GACH with a DP/NF-B consolidates a freestanding NF-B into one existing license.
- 4. Any instance, which results in the creation of a Composite DP/NF-B, as defined in 42 Code of Federal Regulations section 483.5(c) which refers to a facility with one license, one provider agreement, and one provider number.

2. A skilled nursing facility that is a distinct part of a general acute care hospital as defined in Section 72041 of Title 22 of the California Code of Regulations.
3. A subacute care program, as described in Section 14132.25 or subacute care unit, as described in Sections 51215.5 and 51215.8 of Title 22 of the California Code of Regulations.

K. Unless otherwise specified in this Section K, the facility types listed below will be reimbursed at the prospective rate for services provided in the particular rate year. The tables below reflect rate reductions at specified percentages (or rates that remain unchanged) with respect to the prospective rate applicable for the particular time period. "Prospective rate" means the prospective rate established for a given rate year in accordance with this Part IV (and other provisions of this Attachment, as applicable). Reductions specified below will only be applied for the dates listed.

1. Nursing Facilities – Level A (NF-A)

Nursing Facilities Level A		
Period	Reduction	With Respect to:
07/01/08 - 07/31/08	10%	Prospective rate for 2007/08
08/01/08 - 02/28/09	10%	Prospective rate for 2008/09
03/01/09 - 05/31/11	5%	Prospective rate for 2008/09
06/01/11 - Present	10%	Prospective rate for 2008/09

- a. NF-A facilities with licensed bed capacities of 100 beds or more, as of August 2, 2003, will be reimbursed the rate set forth in Section IV.F.14.