

**DEPARTMENT OF HEALTH CARE SERVICES  
NOTICE OF GENERAL PUBLIC INTEREST  
RELEASE DATE: DECEMBER 28, 2022**

**PROPOSED STATE PLAN AMENDMENT TO RENEW THE REIMBURSEMENT  
METHODOLOGY FOR FREESTANDING SKILLED NURSING FACILITY  
LEVEL-B & FREESTANDING SUBACUTE FACILITIES**

This notice is to provide information of public interest about a proposed State Plan Amendment (SPA) by the Department of Health Care Services (DHCS). The proposed SPA 23-0006 is intended to renew and modify the existing facility-specific reimbursement methodology for Freestanding Skilled Nursing Facility Level-B (FS/NF-B) and Freestanding Subacute (FSSA) facilities, effective January 1, 2023 through December 31, 2023, in accordance with Assembly Bill (AB) 186 (Chapter 46, Statutes of 2022).

SPA 23-0006 proposes to provide for calendar year (CY) 2023 annual aggregate increases in the weighted average Medi-Cal reimbursement rate calculated separately for labor and non-labor costs, plus the projected cost of complying with new state or federal mandates, in accordance with Welfare & Institutions Code (WIC) Section 14126.033(c)(16). For the labor cost category, the annual aggregate increase shall be 5 percent. For each of the indirect care non-labor cost, administrative cost, capital cost, and direct pass through categories as specified in paragraphs (2) to (5), inclusive, of subdivision (a) of WIC Section 14126.023, the annual aggregate increase shall be 2 percent. Within these aggregate cost limits, SPA 23-0006 will propose to hold facilities harmless so that the facility's rate will not decrease for CY 2023 relative to CY 2022, unless the facility's audited cost reports demonstrate a decrease in costs.

In addition, SPA 23-0006 proposes to continue the COVID-19 Public Health Emergency (PHE) temporary rate increase authorized by pages 90g – 90l of Section 7.4 of the State Plan (“PHE Rate Increase”) for the duration of CY 2023 should the COVID-19 PHE expire prior to December 31, 2023. Furthermore, SPA 23-0006 proposes to discontinue the PHE Rate Increase on December 31, 2023 should the COVID-19 PHE be renewed past that date.

For CY 2023, SPA 23-0006 proposes to require facilities to use at least 85 percent of the amount of the PHE Rate Increase on additional labor costs, including, but not limited to, increased wages or benefits, shift incentive payments, staff retention bonuses, pay differential for workers employed by more than one facility, and overtime payments to nonmanagerial workers. Such increased wages or benefits, shift incentive payments, staff retention bonuses, pay differential for workers employed by more than one facility, overtime payments to nonmanagerial workers

or other additional labor costs shall qualify for this purpose if they were either of the following: (i) Implemented prior to January 1, 2023, and continued during the 2023 calendar year or (ii) Implemented on or after January 1, 2023. For CY 2023, this new requirement will be added to the audit of COVID-19 costs and revenues as described in pending SPA 22-0012.

Further, SPA 23-0006 proposes revisions to remove certain obsolete or inactive language from the State Plan.

DHCS estimates that the annual aggregate Medi-Cal expenditures for FS/NF-B and FSSA facilities will increase by an estimated \$162.7 million in total funds for Federal Fiscal Year (FFY) 2023, and \$54.2 million in total funds for FFY 2024. .

The effective date of the proposed SPA is January 1, 2023. All proposed SPAs are subject to approval by the Federal Centers for Medicare and Medicaid Services (CMS).

## **PUBLIC REVIEW AND COMMENTS**

Upon submission to CMS, a copy of proposed SPA 23-0006 will be published at the following internet address:

<https://www.dhcs.ca.gov/formsandpubs/laws/Pages/PendingStatePlanAmendments.aspx>

If you would like to view proposed SPA 23-0006 in person once it becomes available, please visit your local county welfare department. You may also request a copy of proposed SPA 23-0006 using the mailing or email addresses listed below.

Written comments may be sent to the following address:

Department of Health Care Services  
Fee-For-Service Rates Development Division  
Attn: Alek Klimek  
1501 Capitol Avenue, MS 4600  
Sacramento, California 95899-7417

Comments may also be emailed to [PublicInput@dhcs.ca.gov](mailto:PublicInput@dhcs.ca.gov). Please indicate SPA 23-0006 in the subject line or message. A copy of submitted public comments to SPA 23-0006 may be requested in writing to the mailing or email addresses identified above.