

AB 186 Nursing Facility Financing Reform

**November 17, 2023
Stakeholder Meeting**

Call-in Number

- » In addition to the Microsoft Teams webinar, members of the public may call in to +1 279-895-6425 and enter phone conference ID: 768 918 284#.
- » Please visit www.dhcs.ca.gov/AB186 for meeting materials and information on how to join upcoming meetings.

Introductions

- » Alek Klimek, Assistant Deputy Director, Health Care Financing
- » Thomas Mahoney, Measurement Monitoring Section Chief, Quality and Population Health Management
- » Samantha Schradle, Health Program Specialist II, Fee-For-Service Rates Development Division, Health Care Financing
- » Kate Bravo, Health Program Specialist II, Quality and Health Equity Division, Quality and Population Health Management

Skilled Nursing Facility Accountability Sanctions Program (SNF ASP)

Objectives

- » Today's presentation provides an update on the Skilled Nursing Facility Accountability Sanctions Program (SNF ASP).
- » We begin to provide an overview of sanction requirements and methodology as well as appeals and waivers process of SNF ASP.

What is the Accountability Sanctions Program?

- » Assembly Bill (AB) 186 added [Welfare & Institutions Code Section 14126.026](#) authorizing DHCS to assess sanctions on SNFs that fail to meet or exceed one or more of the accountability measures developed by the department.
- » For each measure a skilled nursing facility fails to meet in a single rating period, the department may, per metric, assess a sanction of \$5 for each Medi-Cal bed day within the rating period up to a maximum of \$150,000 in a single rating period. The rating period is a calendar year.

Measures for SNF ASP MY 2024

» Clinical Measures:

- Percent of Residents Experiencing One or More Falls with Major Injury, Long Stay (MDS)
- Percent of Residents Who Received Antipsychotic Medications, Long Stay (MDS)

» Equity Measures:

- Racial and Ethnic Data Completeness (MDS)

Sanction Methodology

- » **Facility level performance data** will be collected from **MDS 3.0**.
- » FS/SNF level performance data for **MY 2024** will be measured against **national benchmarks** established from **2023 Care Compare data**
 - DHCS will provide any necessary updates to the 2023 national data as it becomes available.
 - Minimum performance benchmarks will be set at certain percentiles as demonstrated in the following slides.
- » Sanctions for SNF ASP MY 2024 are anticipated to be issued mid-year 2025

Percentage of Long-Stay Residents Experiencing One or More Falls with Major Injury (MDS)

Minimum Performance Benchmark (Percentile)	≤ 5.00 th Percentile	10 th Percentile	15 th Percentile
Sanction Amount	\$ 5.00	\$ 3.00	\$ 1.00

Rates for minimum performance benchmarks will be forthcoming when data is available.

Percentage of Long-Stay Residents Who Received Antipsychotic Medications (MDS)

Minimum Performance Benchmark (Percentile)	≤ 5.00 th Percentile	7.5 th Percentile	10 th Percentile
Sanction Amount	\$ 3.00	\$ 2.00	\$ 1.00

Per CMS, long stay SNF residents with schizophrenia, Tourette's syndrome or history of Tourette's syndrome, and Huntington's Disease are excluded from this measure

Rates for minimum performance benchmarks will be forthcoming when data is available.

Racial and Ethnic Data Completeness

Benchmark Rate (Percentage)	Data Completeness ≤ 70%	Data Completeness 75%	Data Completeness 80%	Data Completeness 85%	Data Completeness 89.99%
Sanction Amount	\$ 5.00	\$ 4.00	\$ 3.00	\$ 2.00	\$ 1.00

Responses, including "Resident unable to respond" and "Resident declines to respond", will be counted towards data completeness for evaluation of this measure.

Sanction Calculation Formula

- Sanctions will be calculated using a continuous model that takes into account a FS/SNF's specific performance level in relation to the national minimum performance benchmarks, using the following formula:

Sanction Amount =

$$\left(\text{Base Tier Fine} + \frac{\text{Facility Performance Rate} - \text{Upper Benchmark Rate}}{\text{Lower Benchmark Rate} - \text{Upper Benchmark Rate}} \right) \times \text{Medi} - \text{Cal Bed Days}$$

Sanction Calculation Example

If a FS/SNF with 5,000 Medi-Cal Bed Days (MCBDs) has a rate of 6.2% for **Percentage of Long-Stay Residents Experiencing One or More Falls with Major Injury**, and the national benchmark rates corresponding to the 15th and 10th percentile for this measure are 5.8% and 6.6%, respectively, then the components of the equation would be as follows :

- **Base tier fine:** \$1, as the facility rate of 6.2% falls between the 15th and 10th percentile minimum performance benchmarks.
- **Facility Performance Rate:** 6.2%
- **Upper Benchmark Rate:** 5.8% (15th percentile)
- **Lower Benchmark Rate:** 6.6% (10th percentile)
- **MCBDs:** 5,000

This data in this example is meant to be illustrative only and does not depict any actual facility or performance benchmarks.

Sanction Calculation Example

Sanction Amount =

$$\left(1 + \frac{6.2 - 5.8}{6.6 - 5.8}\right) \times 5,000 = (1 + 0.5) \times 5,000$$

$$= \$1.50 \times 5,000 = \$7,500$$

Sanction
Fine
Amount

Medi-Cal
Bed Days

This data in this example is meant to be illustrative only and does not depict any actual facility or performance benchmarks.

Sanction Payments

- » If DHCS determines that a FS/SNF is subject to monetary sanctions under ASP, DHCS shall provide prior written notice to the facility.
- » With prior written notice, DHCS reserves the right to deduct the amount of the assessed sanction for a FS/SNF from any Medi-Cal payments to that FS/SNF until the sanction is paid in full.

General Sanctions Process Outlined in AB 186




SNF - Day 0	SNF - 30 Days receipt of Sanction Notification
SNF receives DHCS Notification of Sanction	SNF either pays Sanction or submits a request for appeal to DHCS within 30 days

Appeals and Waivers

- » There will also be a process for appeals and waivers of sanction determinations.
- » Further details regarding the protocols and policies for SNF ASP Sanction Appeals and Waivers are forthcoming.

Appeals Process



SNF - Day 0	SNF - 30 Days Receipt of Sanction Notification	DHCS - 30 Days of Receipt of Appeal Request	DHCS - 60 Days of Receipt of Appeal Request	DHCS - 120 Days of Receipt of Appeal Request	SNF - 30 Days of Receiving Upheld Sanction Decision
SNF receives DHCS Notification of Sanction	SNF either pays Sanction or submit a request for appeal to DHCS within 30 days	DHCS submits to the SNF its responsive arguments and all supporting documents that the department will present at the hearing	Hearing shall commence within 60 days from the date of receipt by the department of the facility's timely request for appeal	DHCS shall issue a decision within 120 days from the date of receipt by the department of the facility's timely request for appeal	SNF shall pay the sanctions to the department within 30 days of the facility's receipt of the decision.

Waivers

» The department may waive all or a portion of the sanction assessed under this section if a facility petitions for a waiver and the department determines, in its sole discretion, that the petitioning facility meets **both of the following**:

- The facility has demonstrated to the department's satisfaction that sufficient corrective action has been taken to remediate the underlying deficiency

AND

- The facility has demonstrated to the department's satisfaction that imposing the full amount of the sanction under this section has a high likelihood of creating an undue financial hardship for that facility or creates a significant difficulty in providing services to Medi-Cal beneficiaries.

Next Steps

- » Updates at next stakeholder meeting
- » Publish SNF ASP Policy Letter in December 2023
 - There will be period for public comment

ASP Timeline



December 2023	January – December 2024	Jan- June 2025	July 2025
Issue SNF ASP Policy Letter	SNF ASP Measurement	Data analysis for MY 2024	Sanctions Issued

Workforce & Quality Incentive Program (WQIP)

WQIP Program Data: Open Data Portal

- » **DHCS is working to post the most recent quarterly WQIP report to the Open Data Portal before the end of the year**
- » As previously announced in October, each quarterly and the final annual reports will be posted to the Open Data Portal

Pressure Ulcer Changing to Urinary Catheter Measure

- » *Percent of High-Risk Residents with Pressure Ulcers (Long Stay)*
 - Retired by CMS as of October 1, 2023
 - Does not affect WQIP PY1 since the measurement period for PY1 MDS measures was July 1, 2022 to June 30, 2023
- » **For PY2, DHCS plans to replace measure with MDS measure *Catheter Inserted and Left in Their Bladder (Long Stay)***

Antipsychotic Measure

- » DHCS has received feedback from some stakeholders that this measure might disincentive SNFs from taking complex patients or participating in the Special Treatment Program (STP)
- » For a variety of reasons, **DHCS has decided not to make changes to this measure for PY2:**
 - Measure represents 5.88% of total WQIP incentives a SNF could earn
 - There is a wide spread of performance (from low to high) on this measure across all SNFs, including Special Treatment Programs (STPs)
 - EQRO (External Quality Review Organization) reports have flagged this measure as one with room for improvement in California
 - This measure is a high priority for CMS

PY2 Updates

» **DHCS is considering the addition of improvement (PY1 vs. PY2 performance) in addition to achievement for claims-based clinical metrics**

- If added, points would likely be awarded for better of achievement vs. improvement
- Provides more opportunities for SNFs to earn points in WQIP
- Mirrors the methodology used by DHCS for MDS clinical metrics in PY 1

PY2 Timing of Payments

- » DHCS will **direct MCPs to make initial and final payments to facilities based on the managed care utilization** reported to DHCS by specified dates

	Timing of Payment	Utilization reported by
Initial Payment	2025 Quarter 1	December 31, 2024
Final Payment	2025 Quarter 4	June 30, 2025

Workforce Standards Program (WSP)

Workforce Standards Overview

- » AB 186 requires DHCS to establish a Workforce Standards Program (WSP) for Freestanding Skilled Nursing / Subacute Facilities Level-B. Facilities that meet the standards will receive a workforce rate adjustment starting in CY 2024.
- » The workforce rate adjustment will be made to base Fee For Service (FFS) Per Diem rates via a State Plan Amendment. Managed Care Plans (MCPs) will be required to pay the workforce adjustment through the FFS Equivalent Directed Payment.
- » Facilities may participate in WSP via the Labor-Management Cooperation Pathway or the Basic Wage and Benefit Pathway.

Health Benefit Standard Overview

- » DHCS has reviewed all feedback submitted for the Health Benefit Standard and proposes to update this part of the Wage and Benefit Pathway.
- » According to industry stakeholders, an 85% actuarial value (AV) health plan is considered non-standard and may place increased administrative burdens on facilities and limit the health plans that are willing to work with the facility.
- » According to industry stakeholders, facilities have generally completed health benefit open enrollment for CY 2024 and need at least several months of lead time to change the AV of their health plans.

Health Benefit Standard Updates

DHCS requests stakeholder feedback on the following changes to the Health Benefit Standard:

- » Require facilities, effective for health benefit plan benefit periods beginning on or after July 1, 2024 to offer a benchmark plan with at least an 80 AV.
- » Require facilities to make a standard employer contribution effective January 1, 2024 (subject to WSP opt-in and retroactive compliance timeline) for every employee enrolled in a health plan. The required contribution will be based on the gross premium and actuarial value of the facility's benchmark plan for a single employee. The benchmark plan is the lowest premium plan offered by the facility with at least an 80 AV.
- » For health benefit plan periods beginning before July 1, 2024, if the facility does not offer an 80 AV plan, the benchmark plan is the highest cost plan for a single employee offered by the facility. This may result in stipends for some employees where the contribution exceeds 100%.

Employer Contribution Calculation

» The employer contribution will be calculated as follows:

$$\text{Required Contribution} = 80\% \times (1 + (85 \text{ AV} - \text{Benchmark AV}) / \text{Benchmark AV})$$

Benchmark AV	Required Contribution
90	72%
85	80%
80	85%
75 *	91%
70 *	97%
65 *	105%
60 *	113%

*Only applicable in health benefit plan years beginning before July 1, 2024

Peer Group Overview

- » State law requires DHCS to periodically review and revise the SNF peer groups. Peer groups were last updated for CY 2020. As discussed at the October stakeholder meeting, DHCS is considering updating the SNF peer groups for CY 2024 to be geographically contiguous and to more closely align with federal statistical areas used by the Bureau of Labor Statistics (BLS) and for SNF reimbursement in the Medicare program.
- » Peer groups are used to benchmark peer group cost limits in the SNF rate development process. Peer grouping will impact the calculation of the CY 2024 Workforce Rate Adjustment which will be limited by the peer group's 95th percentile for the labor cost category. Weighted average peer group rates are also used to reimburse new facilities until audited cost data is available.
- » The BLS data for federal statistical areas was used to develop the basic wage standard applicable to each county. DHCS received stakeholder feedback that having different geographic areas for the wage standards and ratesetting would be confusing.
- » Furthermore, geographically contiguous regions can be more readily leveraged for benchmarking and comparisons in the SNF WQIP and SNF ASP in future program years.

Peer Group Development

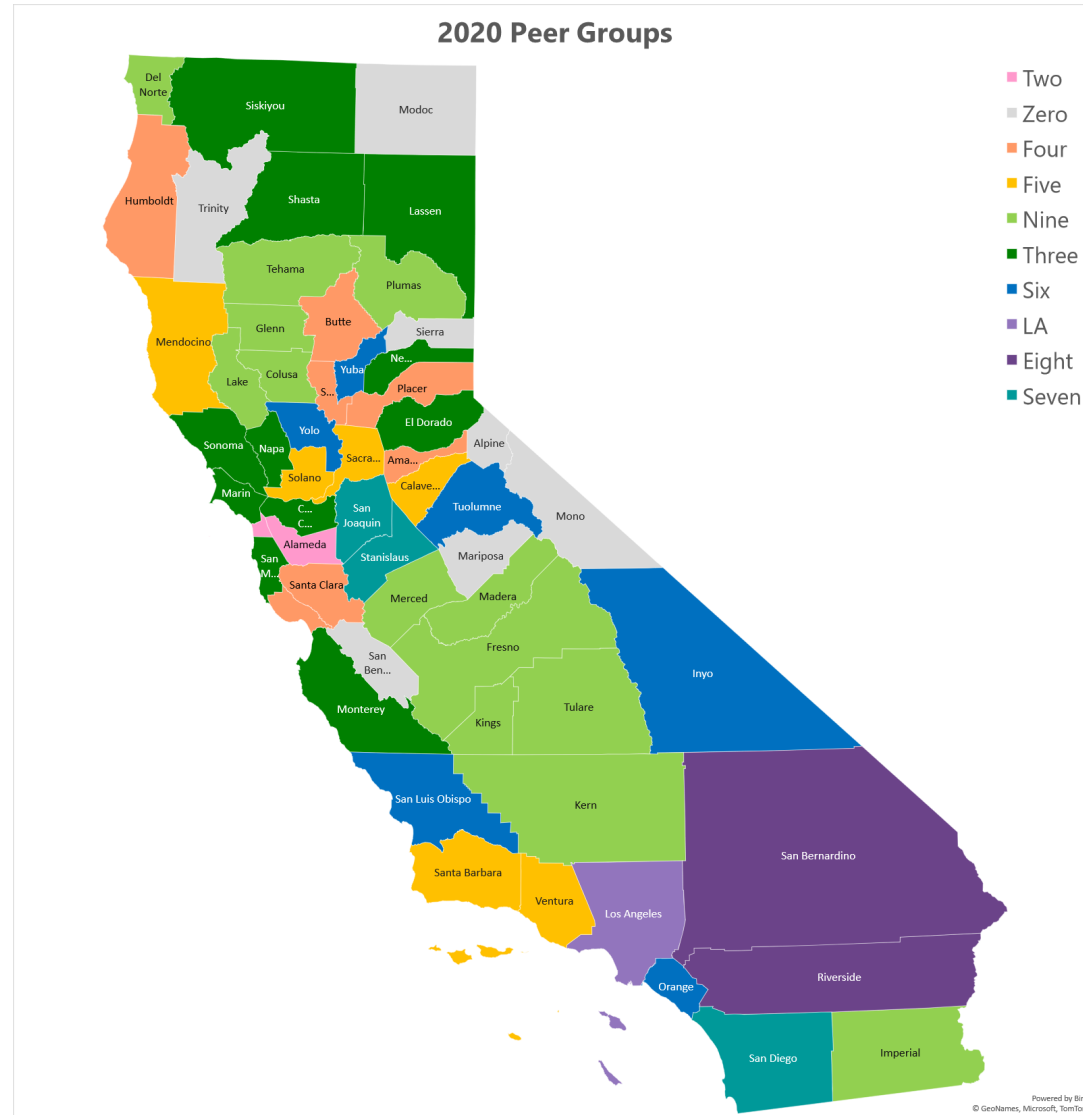
DHCS developed draft geographically contiguous peer groups for CY 2024:

- » As peer groups are intended to group facilities that experience similar economic conditions, we began by grouping counties based on the California Economic Regions established by the California Regional Economies Project. We then cross walked counties between the California Economic Regions and the federal statistical areas.
- » We reviewed SNF workforce median wage data and SNF weighted average cost component per diem data for each county in order to identify counties that significantly varied from their economic regions, and grouped these counties with geographically contiguous counties that had more similar wage and cost data.
- » Furthermore, we combined several rural regions to ensure that the resulting peer group had a minimum number of facilities.

Peer Group Development

- » We reviewed the weighted average standard deviations for cost component by peer group. The draft peer groups have similar weighted average standard deviations to the prior peer groups.
- » Because of its large number of facilities, Los Angeles County is currently split into three peer groups by CDPH district office. DHCS is not proposing changes to the Los Angeles County peer groups at this time.

Peer Group Maps



Draft CY 2024 Peer Groups

Proposed Peer Groups	# of Facilities	SNF Medi-Cal Days	Direct Labor Per Diem	Indirect Labor Per Diem
North State - Sierras	58	987,760	\$162.20	\$38.16
Greater Sacramento	55	956,025	\$177.37	\$37.60
Bay Area	189	3,149,765	\$173.95	\$42.44
Central Coast	47	750,263	\$161.53	\$39.83
San Joaquin Valley	67	1,147,133	\$130.68	\$34.18
Stockton-Modesto	41	771,339	\$158.87	\$37.86
Los Angeles *	326	6,314,213	\$148.49	\$38.65
Orange - San Diego	121	2,317,211	\$151.67	\$33.51
Southern Inland	93	1,468,371	\$142.97	\$34.92

* DHCS is currently not proposing changes to the three Los Angeles County peer groups by CDPH district office.

Peer Group Stakeholder Feedback

- » A detailed crosswalk of counties, current peer groups, and proposed peer groups is posted on [DHCS.ca.gov/AB186](https://dhcs.ca.gov/AB186)
- » DHCS requests stakeholder feedback on the general structure of the draft peer groups and the proposed assignment of counties to draft peer groups.

State Plan Amendment

- » DHCS will publish the final program design in a draft State Plan Amendment (SPA).
- » Stakeholders will have 30 days to publicly review the draft SPA before it is submitted for federal approval.
- » DHCS is aiming to publish the draft SPA in November or early December and submit to federal approval in December or early January.
- » The Centers for Medicare & Medicaid Services (CMS) has 90 days to review the SPA upon submission by DHCS. CMS may extend this timeline if additional information is necessary from the state

Next Steps & Public Comment

Next Steps

- » DHCS will schedule a final stakeholder meetings in December.
- » Please provide any written feedback related to today's presentation by December 1, 2023:
 - Workforce and Quality Incentive Program (WQIP) -- SNFWQIP@dhcs.ca.gov
 - Accountability Sanctions Program (ASP) -- SNFASP@dhcs.ca.gov
 - Workforce Standards Program (WSP) -- SNFWSP@dhcs.ca.gov

Public Comment

- » DHCS welcomes public comment. DHCS staff may briefly respond to requests for clarification on this presentation.
- » Speakers are requested to introduce themselves and their organization.
- » Audience members are muted until they are called on by the moderator. Please use the “raise hand” button in Microsoft Teams to be added to the speaker queue. Once you are called on, you must unmute yourself in Microsoft Teams. If you are calling-in please press *5 to raise your hand.