

**DATE:** December 12, 2024

**TO:** FREESTANDING SKILLED NURSING FACILITIES

SNF ASP POLICY LETTER 24-002

**SUBJECT:** Skilled Nursing Facility Accountability and Sanctions Program (SNF ASP),  
Overview for Measurement Year 2025

**PURPOSE:**

The purpose of this Skilled Nursing Facility Accountability Sanctions Program (SNF ASP) Policy Letter is to provide guidance to Freestanding Skilled Nursing Facilities (FS/SNFs) regarding the sanctions requirements pursuant to Welfare and Institutions (W&I) Code section 14126.026. This policy letter provides FS/SNFs with an overview of the SNF ASP for Measurement Year 2025, as well as the appeal and waiver processes pursuant to W&I Code section 14126.026.

**BACKGROUND:**

Assembly Bill (AB) 186 (Chapter 46, Statutes of 2022)<sup>1</sup> amended the Medi-Cal Long-Term Care Reimbursement Act to reform the financing methodology applicable to Freestanding Skilled Nursing Facilities Level B and Adult Freestanding Subacute Facilities Level B.

W&I Section 14126.026 authorizes the Department of Health Care Services (DHCS) to implement SNF ASP, which imposes monetary sanctions on FS/SNFs that fail to meet one or more quality measures established by DHCS.

W&I Section 14126.026(b) states that for each measure a FS/SNF fails to meet in a single rating period, DHCS may assess a sanction of five dollars (\$5) for each Medi-Cal bed day

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<sup>1</sup> [W&I Section 14126.026](#)

(MCBD) within the rating period. For each measure, the aggregate sanction assessed shall not exceed one hundred fifty thousand dollars (\$150,000) in a single rating period.

**POLICY:**

In accordance with the W&I Code section 14126.026 requirements, DHCS will sanction FS/SNFs that fail to meet the minimum performance benchmarks of measures established by DHCS. DHCS reserves the right to modify and adjust the established measures used for sanctions as a part of SNF ASP with prior notice to the FS/SNFs.

Measures

For Measure Year (MY) 2025 (January 1, 2025 - December 31, 2025), DHCS has established the following set of quality measures.

*Clinical Measures:*

- Percent of Residents Experiencing One or More Falls with Major Injury, Long Stay (MDS)<sup>2</sup>
- Percent of Residents Who Received an Antipsychotic Medication, Long Stay (MDS)<sup>2</sup>
- Percent of Residents Who Lose Too Much Weight, Long Stay (MDS)<sup>2</sup>

DHCS may sanction FS/SNFs that fail to meet the established minimum performance benchmarks set forth below.

Given that the collection of resident race and ethnicity data is now a required component of MDS 3.0 reporting, the following measure will not be included in MY 2025:

- Racial and Ethnic Data Completeness (MDS)<sup>3</sup>

Instead, "Residents Who Lose Too Much Weight, Long Stay (MDS)" is now included as a quality measure for MY 2025.

Data Collection and Analysis

The following data will be used for SNF ASP sanction determination:

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<sup>2</sup> [MDS 3.0 Quality Measures USER'S MANUAL \(v16.0\) \(cms.gov\)](#)

<sup>3</sup> [Centers for Medicare & Medicaid Services \(CMS\) Minimum Data Set \(MDS\) 3.0 Technical Information](#)

**MDS 3.0 Data**

Data from the MDS 3.0 national database will be used to evaluate facility performance on these measures. These data will be used to calculate the MDS Clinical Measures.

More information on the MDS 3.0 Data can be found at [MDS 3.0 Quality Measures USER'S MANUAL \(v16.0\) \(cms.gov\)](#).

**Care Compare Metrics Data**

As a part of the Care Compare tool, the Centers for Medicare and Medicaid Services (CMS) calculates a set of quality ratings and staffing rates for nursing homes. These data were used to determine national minimum performance benchmarks for Clinical Measures. More information on the Care Compare tool can be found at [Nursing Home Compare Technical Users' Guide \(cms.gov\)](#).

Sanction Determination Methodology

For MY 2025, facility performance in clinical measures will be measured by CMS Care Compare national benchmarks in calendar year 2023 (Q1 2023-Q4 2023), shown below.

Sanctions will be determined based on the following percentiles set forth below, reflecting percentage updates based on the CY 2023 data:

*Benchmarks for Measures and Sanctions:***Percent of Residents Experiencing One or More Falls with Major Injury, Long Stay (MDS)**

| Minimum Performance Benchmark           | 15 <sup>th</sup> Percentile | 10 <sup>th</sup> Percentile | 5 <sup>th</sup> Percentile |
|---|-----------------------------|-----------------------------|----------------------------|
| National Benchmark Percentage (CY 2023) | 5.74%                       | 6.57%                       | 7.85%                      |
| Base Tier Sanction (per MCBF)           | \$1.00                      | \$3.00                      | \$5.00                     |

**Percent of Residents Who Lose Too Much Weight, Long Stay (MDS)**

| Minimum Performance Benchmark           | 10 <sup>th</sup> Percentile | 7.5 <sup>th</sup> Percentile | 5 <sup>th</sup> Percentile |
|---|-----------------------------|------------------------------|----------------------------|
| National Benchmark Percentage (CY 2023) | 10.46%                      | 11.21%                       | 12.29%                     |
| Base Tier Sanction (per MCBF)           | \$1.00                      | \$3.00                       | \$5.00                     |

**Percent of Residents Who Received an Antipsychotic Medication, Long Stay (MDS)**

| Minimum Performance Benchmark                  | 10 <sup>th</sup> Percentile | 7.5 <sup>th</sup> Percentile | 5 <sup>th</sup> Percentile |
|--|-----------------------------|------------------------------|----------------------------|
| <b>National Benchmark Percentage (CY 2023)</b> | <b>26.15%</b>               | <b>28.37%</b>                | <b>31.69%</b>              |
| <b>Base Tier Sanction (per MCBF)</b>           | \$1.00                      | \$2.00                       | \$3.00                     |

For SNF ASP MY 2025, facilities with Special Treatment Programs (STP) authorized pursuant to Title 22 of the California Code of Regulations, Sections § 72443-72475 will continue to be exempt from sanctions on this measure given the additional licensure to care for populations with behavioral health needs. However, starting in MY 2026 SNF-STP facilities may not be exempt from sanctions on this measure. DHCS will provide additional details on changes to benchmarking this measure prior to MY 2026.

Calculation of Sanction Amounts

For measures established by DHCS for MY 2025, a **continuous model**, which factors in the specific level of facility measure performance, will be used to calculate the sanction amount, based on the following formula:

Sanction Amount =

$$\left( \text{Base Tier Sanction} + \left( \frac{\text{Facility Performance Rate} - \text{Upper Benchmark Rate}}{\text{Lower Benchmark Rate} - \text{Upper Benchmark Rate}} \right) \times (\text{Upper Tier Sanction} - \text{Lower Tier Sanction}) \right) \times \text{MCBD}$$

Pursuant to W&I Code section 14126.026(b), DHCS reserves the right to sanction a FS/SNF five dollars (\$5) per Medi-Cal bed day per DHCS measure. For each measure a FS/SNF fails to meet or exceed, DHCS will not assess an aggregate sanction that exceeds one hundred fifty thousand dollars (\$150,000.00) per measure in a single rating period. For example, if a FS/SNF has a percentage greater than 12.29% for the measure of Percent of Resident Who Lose Too Much Weight, Long Stay, that FS/SNF would be subject to sanction of \$5 per MCBF up to \$150,000 per measurement year. Accordingly, the maximum sanction that DHCS may sanction a FS/SNF for these three DHCS measures for MY 2025 will not exceed four hundred fifty thousand dollars (\$450,000.00).

DHCS reserves the right to modify the methodologies used for sanctions as a part of SNF ASP with prior notice to the FS/SNFs.

Sanction Payments

If DHCS determines that a FS/SNF is subject to monetary sanctions under ASP, DHCS will provide a written Notice to the FS/SNF. The FS/SNF must respond to DHCS in accordance with the instructions and deadlines specified in the Notice.

Pursuant to W&I Code section 14126.026(d), 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. DHCS reserves the right to take into account the financial condition of the FS/SNF and may apply that deduction over a period of time.

If there is a merger, acquisition, or change of ownership involving a FS/SNF that has an outstanding sanction under ASP, the successor FS/SNF must be responsible for paying to DHCS the full amount of the outstanding sanction attributable to the FS/SNF for which it was assessed, upon the effective date of that transaction.<sup>4</sup>

#### Appeal Process

Pursuant to W&I Section 14126.026(h), if a FS/SNF disputes any sanction assessed under ASP, the FS/SNF must submit a request for appeal to DHCS within 30 calendar days of the FS/SNF's receipt of the Notice. The request must include a detailed statement describing the reason for appeal and include all supporting documents the FS/SNF will present at the hearing.

Within 30 calendar days of DHCS' receipt of the FS/SNF's request for appeal, DHCS will provide to the FS/SNF all responsive arguments and supporting documents that DHCS will present at the hearing.

DHCS will hear a timely appeal and issue a decision as follows:

- (1) The hearing shall commence within 60 calendar days from the date of receipt by DHCS of the facility's timely request for appeal.
- (2) DHCS shall issue a decision within 120 calendar days from the date of receipt by DHCS of the facility's timely request for appeal.
- (3) The decision of DHCS' hearing officer, when issued, shall be the final decision of DHCS.

If the decision is in favor of DHCS, the FS/SNF must pay the sanctions to DHCS within 30 calendar days of the FS/SNF's receipt of the decision.

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<sup>4</sup> [W&I 14126.026 \(e\)](#)

Waivers

Per W&I Code section 14126.026 (f), DHCS may waive all or a portion of a FS/SNF's assessed sanction if the facility petitions for a waiver and DHCS determines, in its sole discretion, that the petitioning facility meets both of the following:

- (1) The facility has demonstrated to DHCS' satisfaction that sufficient corrective action has been taken to remediate the underlying deficiency.
- (2) The facility has demonstrated to DHCS' satisfaction that imposing the full amount of the sanction under ASP 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.

DHCS will issue more detailed policies and procedures on the SNF ASP Sanction appeals and waivers in a future Policy Letter.

If you have any questions regarding this Policy Letter, please contact us at [SNFASP@dhcs.ca.gov](mailto:SNFASP@dhcs.ca.gov).

Sincerely,

Original signed by Palav Babaria

Palav Babaria  
Deputy Director, Chief Quality and Medical Officer  
Quality and Population Health Management  
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