

DATE: October 1, 2024

LTC RATES POLICY LETTER 24-001

TO: ALL MEDI-CAL FREESTANDING SKILLED NURSING FACILITIES

SUBJECT: FREESTANDING SKILLED NURSING FACILITY CY 2024 RATES &
WORKFORCE STANDARDS PROGRAM

PURPOSE:

This Long-Term Care (LTC) Rates Policy Letter implements the Medi-Cal reimbursement rate calculation for Freestanding Nursing Facility Level-B (FS/NF-B) and Freestanding Adult Subacute (FS/SA) units for Calendar Year (CY) 2024 rates and begins the opt-in process for the Skilled Nursing Facility Workforce Standards Program (WSP) for CY 2024 and CY 2025, pending final federal approval.

BACKGROUND:

The Medi-Cal Long-Term Care Reimbursement Act (Article 3.8 of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code (WIC), beginning with section 14126) and the California Medicaid State Plan (Supplements 4 and 6 of Attachment 4.19-D) establish a cost-based, facility-specific reimbursement rate methodology for FS/NF-Bs and FS/SAs. Assembly Bill (AB) 186 (Chapter 42, Statutes of 2022) most recently amended the Medi-Cal Long-Term Care Reimbursement Act. WIC section 14126.027 authorizes the Department of Health Care Services (DHCS) to implement the Medi-Cal Long-Term Care Reimbursement Act by means of provider letters or other similar instructions, without taking regulatory action, notwithstanding Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

AB 186 authorized the Workforce Standards Program (WSP) for Freestanding Skilled Nursing Facilities (SNF) Level-B and Adult Freestanding Subacute Facilities Level-B effective for calendar year (CY) 2024. The WSP will provide an enhanced Medi-Cal per diem rate, including a workforce rate adjustment, to facilities that maintain a collective bargaining agreement, participate in a statewide multi-employer labor management committee (LMC), or meet basic wages and benefit standards established by DHCS.

DHCS submitted pending State Plan Amendment (SPA) 24-0004¹ to obtain federal approval of the CY 2024 rates and the WSP from the Centers for Medicare & Medicaid Services (CMS) on March 29, 2024.

As part of the California Advancing and Innovating Medi-Cal (CalAIM) initiative, Medi-Cal institutional Long-Term Care (LTC) services fully carved into the managed care delivery system effective January 1, 2024. Requirements applicable to Managed Care Plans, including payment rates, are described in All Plan Letter (APL) 24-009 and 24-010.²

POLICY:

I. Ratesetting Calculations

DHCS hereby adopts the ratesetting calculations described in the CY 2024 FS/NF-B and CY 2024 FS/NF-B Rate Study Workbooks, which are hereby incorporated by reference, to effectuate the methodologies specified Medi-Cal Long Term Care Reimbursement Act and State Plan. All necessary peer group percentile caps, adjustment factors, growth factors, and weighted average rates are calculated prospectively at the time of the initial rate study as specified in Appendix Tables 1 through 4 of each Rate Study Workbook and will not be recalculated on the basis of any future facility-specific rate recomputations.

AB 186 requires a split aggregate growth limit for labor and non-labor rate components and provides for an enhanced per diem rate for facilities participating in the WSP for the CY 2024 rate year. In CY 2024, the maximum facility-specific annual increase for the basic per diem rate for the labor rate component is 5 percent, and the maximum aggregate annual increase for the non-labor rate component is 1 percent. The aggregate annual increase of the non-labor rate component is demonstrated in Appendix Table 4 of each Rate Study Workbook. Additionally, the maximum annual growth limit is increased for the projected cost of complying with new state or federal mandates as described below. Facilities that opt-into the WSP will receive a facility-specific workforce rate adjustment based on the difference between the facility's pre-growth limit labor rate component and final labor rate component. The Rate Study Workbooks calculate the basic per diem rate for each facility, as well as the enhanced per diem inclusive of the workforce rate adjustment.

¹ <https://www.dhcs.ca.gov/formsandpubs/laws/Documents/SPA-24-0004-Pending.pdf>

² <https://www.dhcs.ca.gov/formsandpubs/Pages/MgdCarePlanPolicyLtrs.aspx>

The California Medicaid State Plan provides for the reimbursement of specified facilities at the peer group weighted average rate. Out of state facilities are reimbursed at the statewide average rate.

Pursuant to the State Plan, payment to facilities for members who are on bed hold for acute hospitalization or who are on an approved leave of absence shall be at the appropriate facility daily rate less a bed hold adjustment for raw food costs. Pursuant to the State Plan, payment for hospice room and board is at 95 percent of the Medi-Cal facility-specific rate where the patient resides.

Special Treatment Programs (STPs) are distinct part units of FS/SNFs that are approved by DHCS to provide mental health services for patients who have a diagnosed chronic psychiatric impairment and whose adaptive functioning is moderately impaired. Pursuant to the State Plan and California Code of Regulations Title 22 § 51511.1, the supplemental payment is \$5.72 per day. Pursuant to subdivision (b) of WIC section 14126.02, facilities that are designated as institutions for mental diseases, as defined in Section 1396d(i) of Title 42 of the United States Code, are excluded from the Medi-Cal Long-Term Care Reimbursement Act methodology.

A. Minimum Wage Adjustments

Senate Bill (SB) 3 (Chapter 4, Statutes of 2016), phased-in an eventual \$15 minimum wage with dollar increases each year with varying schedules by employer size. Beginning in 2024, SB 3 provides for the minimum wage to be annually adjusted for inflation.

DHCS will not provide a separate rate add-on for the inflation adjustment to the statewide minimum wage effective January 1, 2024, as the minimum wage cost increase is already accounted for in the inflation factor used to trend facilities' reported costs to the rate year. However, CY 2024 rates will continue to provide an adjustment for CY 2022 and CY 2023 minimum wage increases because these increases are not reflected in the FYE 2021 cost reports used for ratesetting and exceed inflation.

Cost reports FYE 2021 are adjusted for the projected cost of statewide minimum wage increases effective January 1, 2022 and January 1, 2023. The per diem cost of the minimum wage increases are projected using facility-reported survey data collected by DHCS.

Table 1: Minimum Wage Add-ons

Minimum Wage Effective	Prior Minimum Wage	New Minimum Wage	Projected Per Diem Cost
January 1, 2023	\$15.00	\$15.50	\$0.45
January 1, 2022	\$14.00	\$15.00	\$0.90

B. Senate Bill 616 Adjustment

SB 616 (Chapter 309, Statutes of 2023) increased, effective January 1, 2024, the amount of paid sick leave required under California law from three days to five days. Cost reports FYE 2021 are adjusted for the projected cost of complying with SB 616 by applying a 0.769% adjustment to facilities' projected labor costs in CY 2024. DHCS derived the 0.769% adjustment by determining the ratio of the 16 additional hours of leave required and the 2,080 working hours assumed to be reflected in cost reports. This adjustment applies to total salary, wage, overtime, and benefit costs reported for all workers and is inclusive of inflation adjustments between the cost reporting period and rate year. This adjustment will be provided in subsequent rate years until rates are developed with FYE 2024 cost reports.

C. Changes in Ownership

As initially described in LTC Rates Policy Letter 23-0002, rates for facilities with a pending or recently completed change of ownership or licensed operator (CHOW) are calculated using the regular ratesetting methodology utilizing the latest available audited cost report with the required minimum number of months of cost data. Pursuant to the State Plan and WIC section 14126.023(c)(4), the required minimum number of months of audited Medi-Cal cost data is 12 months for FS/SA units and 6 months for all other FS/NF-Bs. Once a CHOW is completed, DHCS will consider a facility's rate to be "newly established" for the application of the ratesetting calculation once the prospective rate is established using an audited cost report for a reporting period beginning after completion of the CHOW and with the required minimum number of months.

II. Workforce Standards Program Opt-in

The detailed requirements and rules of the WSP are described in Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan in pending SPA 24-0004. Facilities that choose to participate in the WSP for CY 2024 and/or CY 2025 must submit an opt-in form and all required supplemental documents specified on the WSP Website

at <https://www.dhcs.ca.gov/services/medi-cal/Pages/FFSRDD-LTC/SNFWSP.aspx> no later than December 1, 2024. Furthermore, facilities must agree to the terms and conditions of the WSP Opt-in Agreement that is incorporated into the opt-in form. Please note that the required opt-in documentation varies based on the facility's chosen participation pathway.

The opt-in process for CY 2024 and CY 2025 is consolidated, and there will not be a separate opt-in period for CY 2025. However, facilities may switch compliance pathways between 2024 and 2025 as provided in the State Plan and described on the website. Facilities that do not opt-into the WSP for an applicable rate year will default to the basic per diem rate, without the workforce rate adjustment, for the duration of the applicable rate year. Facilities will be required to opt-in for each subsequent rate year to continue in the program, and facilities that did not participate in the WSP in a previous rate year may newly opt-in in subsequent future rate years.

The effectiveness of the WSP opt-in is contingent upon the final federal approval of SPA 24-0004 by CMS. Please note that federal approval of SPA 24-0004 may occur after the opt-in period ends. In this event, DHCS will not extend the opt in period unless DHCS determines, in its sole discretion, that CMS approval required significant modifications to the framework described in proposed SPA 24-0004.

A. Basic Wage and Benefit Pathway Compliance Requirements

Facilities that participate in the WSP through the Basic Wage and Benefit Pathway must submit the *Basic Wage and Benefit Opt-In Compliance Attestation Form* within 105 days of the applicable date. For CY 2024, the applicable date is the day that DHCS publishes the facility's CY 2024 rate on DHCS website reflecting the facility's opt-in decision. DHCS will note the applicable date for CY 2024 in the rate file. For CY 2025, the applicable date is January 1, 2025.

The *Compliance Attestation Form* is required to certify that, in accordance with program requirements, the facility began paying and providing basic wages and benefits prospectively within 30 days of the applicable date and provided payment and credit of the basic wages and benefits retroactive to the first day of the rate year within 90 days of the applicable date.

Facilities may submit a *Basic Wage and Benefit Compliance Extension Request Form* to request an extension for either of these deadlines for good cause. Extensions may be requested in 30-day increments. DHCS expects facilities to submit an *Extension Request Form* before the expiration of any required deadline or previously requested extended deadline. Facilities must provide clear and convincing evidence of good cause, such as documentation of communications with Managed Care Plans. The approval of extension

requests is in DHCS's sole direction. Facilities that receive an approved extension for either compliance deadline are required to submit the *Opt-In Compliance Attestation Form* no later than 15 days after the extended deadline.

Facilities that fail to submit the *Compliance Attestation Form* or a *Compliance Extension Request Form* by the required deadlines may be removed from the Workforce Standards Program and will default to the basic per diem rate without the workforce rate adjustment.

III. Policy Letter Adoption

This Policy Letter supersedes all prior guidance, bulletins, instructions, and regulations issued by DHCS on the matters described herein. DHCS reserves the right to modify, waive, or rescind any provision of this Policy Letter. This methodology described in this Policy Letter is contingent upon, and may be revised to obtain, final federal approval of pending SPA 24-0004. This Policy Letter is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

A copy of this Policy Letter is posted on the Medi-Cal Long Term Care Reimbursement website at <https://www.dhcs.ca.gov/services/medi-cal/Pages/LTCRU.aspx>. If you have any questions regarding this Policy Letter, please contact the Medi-Cal Long-Term Care Reimbursement Inbox at AB1629@dhcs.ca.gov for rate issues and the SNF WSP Inbox at SNFWSP@dhcs.ca.gov for WSP issues.

Sincerely,

ORIGINAL SIGNED BY ADITYA VOLETI

Aditya Voleti, Division Chief
Fee-For-Service Rates Development Division

Enclosures: CY 2024 FS/NF-B Rate Study (Microsoft Excel Workbook)
CY 2024 FS/SA Rate Study (Microsoft Excel Workbook)