

DATE: November 6, 2024

LTC RATES POLICY LETTER 24-002

TO: DISTINCT PART NURSING FACILITIES

SUBJECT: HEALTH CARE WORKER MINIMUM WAGE (SB 525) WAGE SURVEY &
RATE ADJUSTMENT

PURPOSE:

This Long-Term Care Rates (LTC) Policy Letter requires Distinct Part Nursing Facilities (DP/NFs), including adult subacute units (DP/SAs) and pediatric subacute units (DP/PSAs), to report wage information to inform the development of Calendar Year (CY) 2025 Medi-Cal rates to account for the projected impact of the Health Care Worker Minimum Wage established by Senate Bill (SB) 525 (Chapter 890, Statutes of 2023).

BACKGROUND:

SB 525 added Labor Code (LAB) section 1182.14, which was subsequently amended by SB 828 (Chapter 12, Statutes of 2024) and SB 159 (Chapter 40, Statutes of 2024), establishes a phased-in Health Care Worker Minimum Wage, reaching \$25 over several years, for Covered Health Care Facilities as defined in paragraph (3) of subdivision (b) of LAB section 1182.14. The requirements of LAB section 1182.14 may apply to certain DP/NF, DP/SA, and DP/PSAs that are Covered Health Care Facilities. The phase-in schedule of the Health Care Worker Minimum Wage varies by facility characteristics as specified in subdivision (c) of LAB section 1182.14.

LAB section 1182.15 establishes an additional phase-in schedule for a Health Care Worker Minimum Wage applicable to freestanding skilled nursing facilities which will only take effect if a patient care minimum spending requirement is applicable to such facilities. A patient care minimum spending requirement does not currently apply to these facilities under federal or state law.

Furthermore, LAB section 1182.16 delays the effect of the Health Care Worker Minimum Wage if certain determinations and notifications are made by the California Department of Finance or California Department of Health Care Services. On October 1, DHCS

Director Michelle Baass notified¹ the Joint Legislative Budget Committee that DHCS initiated the data retrieval that is necessary to implement an increase in hospital quality assurance fee revenues for the program period beginning January 1, 2025. The health care minimum wage increases will be effective 15 days after the date of the notification, on October 16, unless a later effective date is specified in statute. Pursuant to paragraph (5) of subdivision (c) of LAB section 1182.14, facilities that are county owned, affiliated, or operated are not required to comply with this subdivision before January 1, 2025.

Pursuant to Attachment 4.19-D of the California Medicaid State Plan, DP/NF, DP/SA, and DP/PSA rates are developed based on facilities' audited cost reports adjusted for inflation and the projected cost of new state and federal mandates that are not otherwise reflected in the facility's cost reports, trended for inflation. DP/NF and DP/SA facilities' rate is set at the lower of the individual facility's projected cost or the median projected cost for the class. DN/NF-B Facilities with less than 20 percent Medi-Cal utilization are excluded from the establishment of the median projected cost.

Welfare & Institutions Code section 14169.81 authorizes DHCS to implement DP/NF, DP/SA, and DP/PSA rates by means of policy 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.

POLICY:

DHCS will provide a facility-specific rate adjustment for DP/NFs, DP/SAs, and DP/PSAs, as applicable for all covered health care employees in CY 2025 and subsequent rate years to reflect the projected costs directly associated with complying with the increased Health Care Worker Minimum Wage that are not otherwise reflected in the facility's cost reports, trended for inflation. DHCS will continue to provide a rate adjustment until such time that costs of the fully phased-in \$25 Health Care Worker Minimum Wage are reflected in cost reports used to set rates.

Although the effective date of the Health Care Worker Minimum Wage is October 16, 2024, DHCS will not amend CY 2024 rates but will instead adjust CY 2025 rates to account for the costs of the Health Care Worker Minimum Wage in CY 2024 as described in paragraph (5) of subdivision (F) of section IV of Attachment 4.19-D of the California Medicaid State Plan.

In order to receive a rate adjustment in CY 2025 and subsequent rate years, DP/NFs, DP/SAs, and DP/PSAs must complete and return the DP/NF Wage Survey no later than December 9, 2024 to LTCReimbursement@dhcs.ca.gov. The DP/NF Wage Survey

¹ <https://www.dhcs.ca.gov/Budget/Documents/Letter-JLBC-Health-Care-Minimum-Wage-Increases-10012024.pdf>

requires each facility to report wage information for CY 2023 and to attest to its status as a covered health care facility as defined in paragraph (3) of subdivision (a) of LAB section 1182.14 and the specific phase-in schedule that applies to the facility pursuant to subdivision (c) of LAB section 1182.14. DHCS will use the reported wage data, adjusted for inflation and other appropriate trend factors, to calculate the add-on that applies to each facility's projected costs for CY 2025 and subsequent rate years. Furthermore, each facility's add-on will factor into the calculation of the projected class median if otherwise applicable. DHCS may audit and adjust reported wage data as necessary to ensure program integrity. The calculation of projected costs for facilities that fail to submit a completed DP/NF Wage Survey by the specified deadline may assume that the facility has no health care minimum wage worker impact that is not otherwise reflected in the facility's cost reports, trended for inflation.

DP/NFs, DP/SAs, and DP/PSAs must only report covered health care employees, as defined in subdivision per subdivision (b) of LAB section 1182.14 who provide direct or indirect services to the distinct part unit. DP/NFs, DP/SAs, and DP/PSAs must allocate each employee's time to the distinct part unit in accordance with the California Department of Health Care Access and Information's (HCAI) Accounting and Reporting Manual for California Hospitals, Second Edition² and the Center's for Medicare & Medicaid Services (CMS) Provider Reimbursement Manual - Part 2 (CMS Pub. 15-2).³ DP/NFs, DP/SAs, and DP/PSAs must maintain, and make available to DHCS upon request, documentation justifying the allocation of employee time to the distinct part unit. DP/NFs, DP/SAs, and DP/PSAs may only report hours that were actually paid, regardless of current employment status, but must not report hours associated with periods that a position was vacant during the reporting period.

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 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

² <https://hcai.ca.gov/data/submit-data/financial-reporting/#accounting-and-reporting-manual-for-california-hospitals-second-edition>

³ <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals-Items/CMS021935>

any questions regarding this Policy Letter, please contact the Medi-Cal Long Term Care Reimbursement Inbox at LTCReimbursement@dhcs.ca.gov.

Sincerely,

ORIGINAL SIGNED BY ADITYA VOLETI

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

Enclosure: DP/NF SB 525 Wage Survey (Microsoft Excel)