AB 186 Nursing Facility Financing Reform

October 13, 2023
Stakeholder Meeting

DHCS
CALIFORNIA DEPARTMENT OF
HEALTH CARE SERVICES

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: 506 226 233#.
- Please visit www.dhcs.ca.gov/AB186 for meeting materials and information on how to join upcoming meetings.

Introductions

- Alek Klimek, Chief, Fee-For-Service Rates Development Division, Health Care Financing
- Jeff Norris, M.D., Chief, Value-Based Payments, Quality and Population Health Management
- Thomas Mahoney, M.D., Chief, Quality & Health Equity Measurement Monitoring, Quality and Population Health Management
- Christie Hansen, Chief, LTC Rates, Fee-For-Service Rates Development Division, Health Care Financing
- Samantha Schradle, Health Program Specialist II, LTC Rates, Fee-For-Service Rates Development Division, Health Care Financing

Agenda

1. COVID-19 PHE Audits
2. Workforce & Quality Incentive Program
3. Accountability Sanctions Program
4. Workforce Standards Program
5. Next Steps & Public Comment

COVID-19
Public Health Emergency (PHE)
Audits

DHCS

COVID-19 PHE Audits

- AB 81 requires DHCS to audit Freestanding Skilled Nursing / Subacute Facilities Level-B costs and revenues associated with the COVID-19 PHE to determine whether a facility adequately used increased Medi-Cal payments associated with the COVID-19 PHE to support the delivery of patient care.
- Pursuant to AB 186, for CY 2023, facilities must use at least 85% of the increased Medi-Cal payments on additional labor costs.

COVID-19 PHE Reporting Schedules

- Audit reports for the fiscal period ending December 31, 2022, were due September 30, 2023. DHCS will continue to accept submissions past September 30, 2023, but will deem these submissions late.
- If a complete submission is not received by December 31, 2023, DHCS reserves the right to take any available remedial actions, including but not limited to initiating recoupments.

Next Steps & Contact Information

- DHCS will publish guidance for Change of Ownership facilities and Frequently Asked Questions (FAQs).
- More information on the COVID-19 PHE audits can be found online at https://www.dhcs.ca.gov/services/medi-cal/Pages/COVID-19PHEAudits.aspx.
- For questions, please contact PHEaudits@dhcs.ca.gov.
- Instructions for the CY 2023 reporting period are forthcoming.

Workforce & Quality Incentive Program (WQIP)

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WQIP Program Data Sharing

- The Tableau portal was closed end of September 2023
- DHCS recognizes need for SNFs to access WQIP data on an on-going basis
- Similar to QASP, DHCS will begin posting unblinded facility-level data to the Open Data Portal before the end of 2023
  - Interim and Final WQIP reports will be posted to the Open Data Portal
  - Interim WQIP reports will indicate rates are not finalized (given Final report indicates final rates)

WQIP Pressure Ulcer Metric

- *Percent of High-Risk Residents with Pressure Ulcers (Long Stay)* retired by CMS as of 10/1/23
- CMS will replace prior measure with new *Percent of Residents with Pressure Ulcers (Long Stay)*, but the measure won't be available in time for 2024 WQIP
- DHCS still determining how this will impact the WQIP program and welcomes stakeholder feedback.

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)
- DHCS has not made any changes to the CY 2024 WQIP program at this time, but we continue to evaluate the feedback

Accountability Sanctions Program (ASP)

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Objectives

- Today's presentation overviews a framework for the Accountability Sanctions Program (ASP) of AB 186, based on stakeholder feedback. It also identifies areas for further policy development.
- DHCS will implement ASP for measurement year 2024. DHCS is developing a Skilled Nursing Facility (SNF) Policy Letter to implement the ASP before the beginning of the measurement year.

Stakeholder Feedback Highlights

- Only target consistently low performing facilities
- Have clear levels that trigger sanctions
- Balance self-report measures with claims measures
- Take facility resident population into account

Final Sanction Measure Considerations

- High impact/priority areas
- Readily available data with established metric definitions
- Use of baseline data to set reasonable thresholds
- Strategically align with but not duplicate California Department of Public Health (CDPH) oversight authority

Measures Under Consideration – All MDS Metrics

- Percent of Residents Experiencing One or More Falls with Major Injury, Long Stay
- Percent of Residents Who Received Antipsychotic Medications, Long Stay
- Racial and Ethnic Data Completeness

ASP Timeline

July 2023	August – November 2023	December 2023	January 2024
Initial Stakeholder Meeting	ASP Measurement and Sanction Threshold Development	SNF Policy Letter	Implementation

Next Steps

- Finalize sanction thresholds
- Updates at next stakeholder meeting
- Publish SNF Policy Letter in December

Workforce Standards Program (WSP)

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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.

Workforce Rate Adjustment

- AB 186 requires DHCS to calculate a facility-specific workforce rate adjustment by "rebasing" audited costs within the labor cost category trended for inflation to CY 2024 without applying historic cost growth limits.
- If a facility does not meet the workforce standards, AB 186 limits the Medi-Cal rate increase for the labor cost category to five percent in CY 2024 over CY 2023.
- The SNF COVID-19 PHE 10 percent temporary rate increase is set to expire on December 31, 2023. The workforce rate adjustment is broadly intended to supplant this funding while holding facilities accountable for investing these funds in the workforce.

Workforce Standards Guiding Principles

DHCS has articulated the following guiding principles for the WSP program design:

- Hold SNFs accountable for using increased Medi-Cal funding to provide fair compensation and benefits to workers. Fair compensation and benefits will enable SNFs to recruit and retain a workforce that will provide high quality care to Medi-Cal beneficiaries.
- Focus the Workforce Standards primarily on lower-wage workers who are the core of the SNF workforce and have less economic power.
- Encourage the development of fair compensation and benefits through labor-management cooperation and collective bargaining in furthering the above goals.
- Develop policies that align with and build on existing practices in the SNF industry, and which maintain the fiscal sustainability of SNFs.

Inflation Forecast Methodology

- AB 186 requires the Workforce Rate Adjustment to be calculated by rebasing audited costs inflated to CY 2024. Because a cost growth limit is not applied to the labor cost category if a facility meets the workforce standards, the inflation index will have a more significant impact than in past years.
- Previously, DHCS used an index that regressed historic trends in SNF wage data reported to HCAI. However, this forecast does not incorporate forward looking assumptions about the economy and has not reliably predicted inflation due to PHE impacts on the labor market.
- We performed a literature review and analysis of various inflation forecasts to identify an index that is specific to California, health care sector wages, and that utilizes broader prospective economic factors.

DOF Economic Forecast (May 2023)

- DHCS proposes to adopt the Department of Finance (DOF) California Economic Forecast for Health Services Average Wages.
- This index is produced by DOF as part of an econometric model of the entire California economy and is the basis of state revenue forecasts. The index is specific to California and wage trends in the health care sector.
- DHCS requests stakeholder feedback on the proposed inflation index.

	Actuals		Forecast	
	2021	2022	2023	2024
Health Services Avg. Wage	$61,876	$63,879	$66,006	$68,569
Percent Change		3.24%	3.33%	3.88%

Source: https://dof.ca.gov/forecasting/economics/economic-forecasts-u-s-and-california/

Workforce Standards Pathways

Facilities may qualify for the workforce standards program through one of two pathways:

- Labor-Management Cooperation Pathway: Either:
  - Maintain a collective bargaining agreement (CBA).
  - Participate in a statewide multi-employer labor-management committee (LMC) with at least 200 facilities in California and one or more labor organizations that are certified or recognized as the exclusive bargaining representative of workers at a combined total of 100 facilities in California.

- Basic Wage and Benefit Pathway: Meet all the following requirements:
  - Pay at least a basic wage to indirect and direct care workers, based on regional median wages for comparable occupations.
  - Offer health care benefits to full-time employees with a minimum actuarial value of 85 percent and employer share of 80 percent of the premium.
  - Provide paid sick leave totaling 10 days (including the three days required by state law).
  - Provide paid time and tuition for CNA continuing education requirements.

Additional WSP Requirements

Additionally, facilities qualifying through either pathway must:

- Meet all existing minimum wage and wage pass through requirements.
- Report wage and benefit data to DHCS as part of the annual audit or through a supplemental reporting schedule. DHCS will begin collecting data for CY 2023 in CY 2024 for informational purposes only.

Wage and Benefit Standard Evaluation

- DHCS received 752 submissions in the 2023 SNF Wage & Benefit Survey in June. Submissions were reviewed for reasonableness but were not audited.
- DHCS used the data collected in the survey along with US Bureau of Labor Statistics (BLS) wage and the inflation index to evaluate the impact of the proposed workforce standards.
- DHCS has determined that the impact of meeting these standards is reasonable within the funding projected to be provided by the workforce rate adjustments.
- The amount of the workforce rate adjustment will be facility-specific and may vary greatly between facilities. Generally, facilities in higher cost regions will have higher reported labor costs and will thus receive a higher workforce rate adjustment.

Wage Standard Development

- The wage standard will be set based on the regional median wage using BLS data for a proxy Standard Occupational Classification (SOC).
  - For direct care workers, use SOC 31-1130 Nursing Assistants
  - For indirect care workers, use SOC 37-2011 Janitors and Cleaner
- Wage standards will be set regionally based on 29 metropolitan and non-metropolitan statistical areas utilized by BLS.
- The most recent BLS data is published for May 2022. The values are inflated to the midpoint of CY 2024.

CY 2024 Wage Standards

» Draft CY 2024 wage standards for all 29 MSAs are posted on http://www.dhcs.ca.gov/AB186. The file includes county cross walks.

	Direct Labor Wage Standard	Indirect Labor Wage Standard
Lowest Cost Region	$18.90	$17.50
Statewide Weighted Average	$20.76	$18.68
Highest Cost Region	$24.50	$20.80

Wage Standard Fiscal Methodology

1. We reviewed facilities' reported survey data for usability and accepted 606 out of 752 submissions. Wage data is representative of over 44,000 total workers.
2. We inflate each employee's reported wage to July 2023 or the $16 minimum wage ($16.20 for CNAs) effective January 1, 2024.
3. We compute the average baseline wage of employees making less than Wage Standard applicable to the facility and worker class weighted by hours worked.
4. We compute the difference between #2 and #3.
5. We compute the annualized FTEs (2080 hours) making less than Wage Standard applicable to the facility and worker class.
6. We compute the total number of audited days for facilities with usable survey data.
7. We calculate a per diem cost by multiplying (#4 × #5 × 2080) / # 6

Wage Standard Fiscal Model

	Wage Standard (#2)	Baseline Wage (#3)	Difference (#4)	FTEs (#5)	Days (#6)	Per Diem Cost
Direct Labor	$20.76	$19.45	$1.31	7,487	16,664,809	$1.22
Indirect Labor	$18.68	$17.43	$1.25	9,286	16,664,809	$1.45
				TOTAL		$2.67

Health Benefit Data Overview

- We reviewed facilities' reported survey data for usability and accepted 469 out of 752 submissions.
- Reported data was compared to Covered California premium health plan costs to ensure reasonability.
- Health benefit data is representative of over 16,000 total workers.

Health Benefit Standard Survey Results

Actuarial Value	% of Reported Employees	Average Premium	Average Employer Share
90-99%	23.8%	$743.24	69.9%
80-89%	32.1%	$671.01	67.9%
70-79%	28.0%	$644.34	73.7%
60-69%	16.2%	$496.22	74.4%
All	**100.0%**	**$652.47**	**71.0%**

Health Benefit Standard Survey Results

Facility Size	% of Reported Employees	Average Premium	Average Employer Share
1-59	10.4%	$657.58	75.5%
60-99	34.9%	$660.09	73.2%
100+	54.7%	$646.28	69.1%
All	**100.0%**	**$652.47**	**71.3%**

Health Benefit Fiscal Methodology

1. We reviewed facilities' reported survey data for usability and accepted 469 out of 752 submissions. Health benefit data is representative of over 16,000 total workers. Reported data was compared to Covered California premium health plan costs to ensure reasonability
2. We calculated the weighted average health plan premium and employer share of the premium cost across all reported health plans with actuarial values between 60% and 90% and inflated it by 9.6% based on Covered California projected inflation for CY 2024.
3. We calculated the weighted average health plan premium with an 85% actuarial value using health plans with reported actuarial values between 80% and 89% and inflated it by 9.6%.
4. We computed the current cost of the employer share with the data from #2.

Health Benefit Fiscal Methodology

5. We computed the proposed cost of the employer share with the data from #3, with an assumed 80% employer cost share of the premium.
6. Calculated the difference between #4 and #5.
7. We calculated the % of FTEs with health care coverage from the facility and multiplied this by the total # of FTEs for all facilities.
8. We pulled the total number of audited days for all facilities.
9. Calculated the per diem cost by multiplying (#6 × 12 × #7) / #8

Health Benefit Fiscal Model

Current Premium (#2)	Inflated Current Premium (#2)	Employer Share (#2)	Current Employer Cost Share (#4)
$650.09	$712.50	71%	$507.72

85% Actuarial Value Premium (#3)	Inflated 85% Actuarial Value Premium (#3)	Proposed Employer Share (#3)	Proposed Employer Cost (#5)
$671.01	$735.43	80%	$588.34

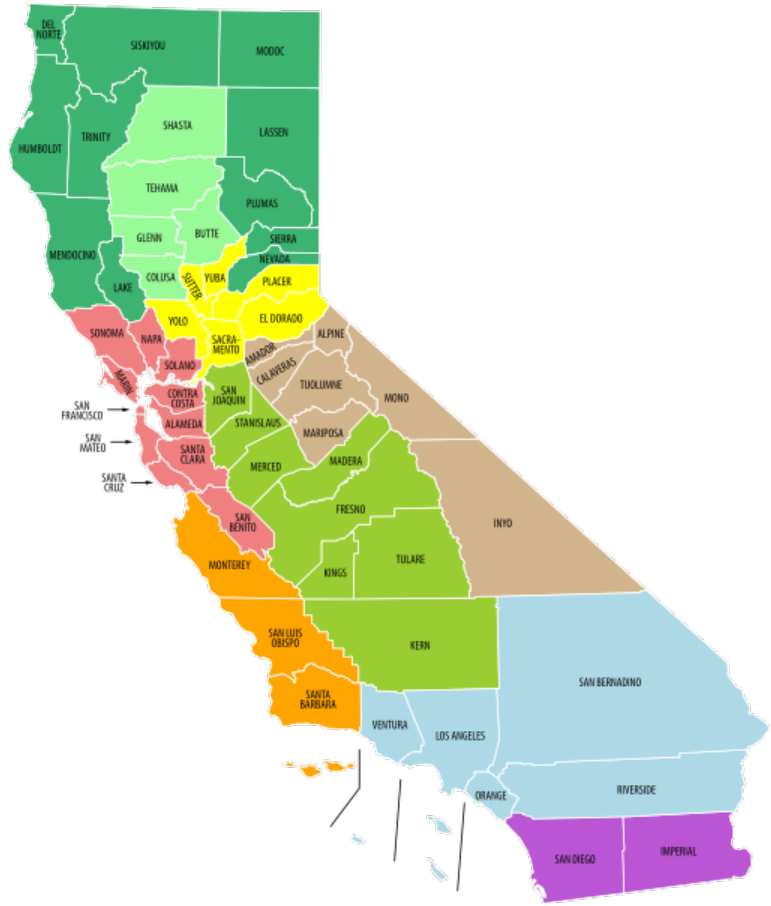
Difference (#6)	Coverage % of FTEs (#7)	# of FTEs (#7)	Audited Bed Days (#8)	Per Diem Cost
$80.62	52%	74,348	25,959,266	$1.44

Peer Groups

- SNF ratesetting peer groups do not currently align with MSAs that are used by BLS for median wage reporting. Furthermore, peer groups are currently not geographically contiguous.
- DHCS is exploring updating the peer groups for CY 2024 to be geographically contiguous and align with the MSAs used for the wage standards to streamline and rationalize program administration. MSA regions also align with Medicare ratesetting for SNFs.

Regional Peer Group Concept

- We are analyzing grouping the 29 MSAs into approximately 10-15 regions.
- We are developing geographically contiguous regions beginning with the California Economic Regions developed by the California Economic Strategy Panel.
- We will further refine regions so that counties within each region have similar median wages, per diem costs, and a minimum number of facilities.
- DHCS requests stakeholder feedback on factors to consider in updating peer groups.



California Economic Regions

WSP Opt-In Timeline

- For CY 2024 program year, facilities may opt-into WSP by the later of:
  - 60 days after DHCS publishes tentative CY 2024 rates (displaying rates with and without Workforce Adjustment).
  - June 1, 2024
- Facilities in the wages and benefit pathway will be required to:
  - Begin paying higher wages/benefits within 30 days of opting into WSP.
  - Issue back pay retroactive to January 1, 2024 within 90 days of opting into WSP.
- For facilities in the CBA or LMC pathways, the labor agreement will govern retroactive application.

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 and submit to federal approval in December.
- 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 additional stakeholder meetings in November and December.
- Please provide any written feedback related to today's presentation by **October 27, 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.