Department of Health Care Services
Proposed Trailer Bill Legislation

Nursing Facility Financing Reform

FACT SHEET

Issue Title: Nursing Facility Financing Reform. This proposal would extend the nursing facility financing methodology from December 31, 2022, to December 31, 2026, make modifications that better balance distribution of the annual rate increase to focus on stabilizing the workforce, and create a system that further incentivizes quality services and can operate under the Medi-Cal managed care environment. This proposal also provides the Department of Health Care Services (DHCS) the ability to sanction skilled nursing facilities that do not meet the standards established by DHCS in order to hold them accountable for high quality services.

Background: The Medi-Cal Long-Term Care Reimbursement Act, originally established by AB 1629 (Frommer, Chapter 875, Statutes of 2004) and last extended by AB 81 (Committee on Budget, Chapter 13, Statutes of 2020), requires DHCS to implement a facility specific rate methodology for freestanding skilled nursing facilities level-B and freestanding skilled adult subacute nursing facilities level-B and establishes a Quality and Accountability Supplemental Payment (QASP) program to incentivize quality of care improvements by providing supplemental payments for facilities that achieve various quality metrics. Currently, the annual weighted increase across these facilities, not including add-ons, is capped at 2.4 percent. The methodology also imposes a Quality Assurance Fee equivalent to approximately six percent of all facility revenue which offsets a portion of the General Fund cost for the rate increases. This current methodology is set to expire on December 31, 2022.

Justification for the Change: This proposal will build on the existing financing framework by implementing reforms that incentivize quality patient care, emphasize the critical role of workforce, hold skilled nursing facilities accountable for quality of care through both a new Workforce & Quality Incentive Program and new quality sanctions, better balance distribution of annual rate increases, and result in the long-term financial viability of these providers in the Medi-Cal managed care environment. The proposed framework will require approval by the federal Centers for Medicare & Medicaid Services and all rate increases listed below would be subject to the federal Upper Payment Limit (UPL) which is bound by the aggregate audited cost of the facilities. This proposal was developed to incentivize quality and value of care with a focus on stabilizing the workforce and accounts for carve-in for institutional long-term care services into the Medi-Cal managed care delivery system, effective January 2023 (Welfare and Institutions Code (WIC) 14184.201).

Timeframes *WIC Sections 1324.29, 1324.30, 14126.33(e), 14126.036 and Health and Safety Code 1324.29*
The proposal will extend the nursing facility financing methodology, including the Quality Assurance Fee and General Fund offset, from December 31, 2022, to December 31, 2026.

Annual Rate Framework *WIC Section 14126.033(c)(15)*
This proposal would do the following:

- Establish separate rate components and growth limits for labor costs and non-labor costs.
- Provide annual rate increases of up to 5 percent for labor costs and 2 percent for non-labor costs. The Medi-Cal Estimate projects a weighted average rate increase of approximately 4 percent.
- Beginning in calendar year 2024, allocate half of the annual increase for non-labor costs to base rates and half to increasing Workforce & Quality Incentive Program payments.

Creates a New Workforce & Quality Incentive Program *WIC Sections 14126.024*

The proposal creates a new Workforce & Quality Incentive Program directed payment under the Medi-Cal managed care delivery system.

Specifically, the proposed trailer bill would:

- Establish Workforce & Quality Incentive Program directed payment targeted funding amount of $280 million in calendar year 2023 which will grow annually in calendar years 2024, 2025, and 2026 by an amount equal to half of the annual rate increase for non-labor costs (see above).
- Require DHCS, in consultation with representatives from the long-term care industry, organized labor, consumer advocates, and Medi-Cal managed care plans, to establish the methodology or methodologies, parameters, and eligibility criteria for the Workforce & Quality Incentive Program directed payments. This shall include, but is not limited to, the milestones and metrics that skilled nursing facilities must meet in order to receive a directed payment from a Medi-Cal managed care plan, with at least two of these milestones and metrics tied to workforce measures. DHCS's preliminary program design proposal is described below.
- Continue to exclude freestanding pediatric subacute facilities and special program services for the mentally disordered from the directed payments, as specified.
- Require the Workforce & Quality Incentive Program directed payments to be in accordance with federal regulations and implemented to the extent federal financial participation is available and is not otherwise jeopardized.

In consultation with stakeholders, DHCS will consider the following design elements for the new Workforce & Quality Incentive Program:

- Using a benchmark and threshold qualifying criteria. This would ensure that all facilities are eligible to receive a quality increase if they meet an established threshold of quality in each measure and facilities that meet the higher quality benchmark receive a greater per diem award.
- Using a fixed set of five core metrics and an additional set of variable metrics. All possible metrics and milestones would be identified prior to start of quality measurement period.
    - At least two core metrics and milestones would be tied to workforce measures that would be utilized each performance year.

  - Each performance period, a subset of the variable measures will be utilized to calculate performance for the period. However, facilities would not know which of the variable metrics or milestones would be utilized so they are incentivized to perform on all possible metrics or milestones.
- Setting benchmark measure thresholds based on prior year Statewide or Nationwide 50th / 75th percentiles to start and graduated in future years.
- Awarding partial points for metrics when facilities come close to, but don't reach the benchmark on certain metrics allowing for facilities to earn a proportionate increase so all facilities are incentivized to improve quality.

New Accountability: Financial Sanctions *WIC Section 14126.025*

This proposal would provide DHCS with authority to hold skilled nursing facilities providing services to Medi-Cal beneficiaries accountable for the quality of their services by sanctioning facilities that do not meet the standards established by DHCS.

- Establishes a per Medi-Cal bed per day sanction for failure to meet established standards.
- Provides DHCS the ability to deduct sanctions from Medi-Cal payments so long as facility receives prior written notice.
- Requires that all outstanding sanctions be paid in full upon effective date of any merger, acquisition, or change in ownership of a skilled nursing facility.
- Allows DHCS to waive all or portion of sanction upon facility petition if a facility demonstrates:
  - Sufficient corrective action to remediate underlying deficiency; or
  - Undue financial hardship or creates difficulty in providing services to Medi-Cal beneficiaries.
- Provides that funds collected shall be used to improve quality of skilled nursing facility services under the Medi-Cal program.
- Clarifies that a sanction under this authority does not prohibit any other state or federal enforcement action.
- Limits implementation of this section to the extent it does not jeopardize federal financial participation.

Summary of Arguments in support:
- Allows DHCS to better align payment methodology with quality goals while focusing on stabilizing the workforce.
- Increases the incentive for facilities to achieve quality goals by establishing benchmarks rather than by percentile, which provide incentives all facilities to make investment in quality.
- Allows DHCS to hold facilities accountable for providing quality services to Medi-Cal beneficiaries.

Estimate Issue # and Title: PC 263: Nursing Facility Financing Reform