

## **Table of Contents**

**State/Territory Name: CA**

**State Plan Amendment (SPA) #: CA-21-0059**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S3-14-28  
Baltimore, Maryland 21244-1850



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**Financial Management Group**

May 23, 2024

Tyler Sadwith  
State Medicaid Director  
California Department of Health Care Services  
P.O. Box 997413, MS 0000  
Sacramento, CA 95899-7413

RE: California State Plan Amendment Transmittal Number 21-0059

Dear State Medicaid Director Sadwith:

The Centers for Medicare & Medicaid Services (CMS) has reviewed the proposed California state plan amendment (SPA) to Attachment 4.19-D CA-21-0059, which was submitted to CMS on September 28, 2021. This plan amendment updates the rate setting methodology for freestanding pediatric subacute facilities, effective August 1, 2021.

We reviewed your SPA submission for compliance with statutory requirements, including in sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903 as it relates to the identification of an adequate source for the non-federal share of expenditures under the plan, as required by 1902(a)(2), of the Social Security Act and the applicable implementing Federal regulations.

Based upon the information provided by the state, we have approved the amendment with an effective date of August 1, 2021. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Mark Wong at 415-744-3561 or via email at [mark.wong@cms.hhs.gov](mailto:mark.wong@cms.hhs.gov).

Sincerely,



Rory Howe  
Director

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION:

TO: REGIONAL ADMINISTRATOR  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

7. FEDERAL BUDGET IMPACT

a. FFY \_\_\_\_\_ \$ \_\_\_\_\_  
b. FFY \_\_\_\_\_ \$ \_\_\_\_\_

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

pages 12, 15, 15.1a, 15.1b, 15.4b, 37

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (*If Applicable*)

pages 12, 15, 15.1, 15.4b, 37

10. SUBJECT OF AMENDMENT

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT  
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED

12. SIGNATURE OF STATE AGENCY OFFICIAL

16. RETURN TO

13. TYPED NAME

14. TITLE

15. DATE SUBMITTED  
September 28, 2021

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED  
September 28, 2021

18. DATE APPROVED  
May 23, 2024

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL  
August 1, 2021

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME  
Rory Howe

22. TITLE  
Director, Financial Management Group

23. REMARKS

Pen-and-ink changes made to Boxes 8 and 9 by CMS with state concurrence.

requirements of state or federal laws or regulations including the costs of special programs,

C. Change in service provided since cost report period.

Adjustments to reported costs of facilities will be made to reflect changes in state or federal laws and regulations which would impact upon such costs. The adjustments are necessary to account for costs associated with changes in state or federal laws and regulations which are not included in cost reports used to set rates nor in cost inflation factors that may be otherwise applied during the rate setting process pursuant to the State Plan. These adjustments will be reflected as an "add-on" to the rates for these costs. To the extent not prohibited by federal law or regulations, "add-ons" to the rate may continue until such time as those costs are included in cost reports used to set rates under this state plan.

For example, state or federal mandates may include such costs as changes to the minimum wage or increases in nurse staffing requirements. An example of other extraordinary costs might include unexpected increases in workers compensation costs or other costs which would impact facilities ability to continue to provide patient care.

D. Updates.

Updates to reported costs will reflect economic conditions of the industry. The following economic indicators will be considered where the Department has not developed other indicators of cost:

1. California Consumer Price Index, as determined by the State Department of Finance.
2. An index developed from the most recent historical data in the long term care industry as reported to OSHPD by providers.

The update factors used by the Department shall be applied to all classes from the midpoint of each facility's fiscal period to the midpoint of the State's rate year in which the rates are effective.

E. Cost-of-Living Update

Adjusted costs for each facility are updated from the midpoint of the facility's report period through the midpoint of the State's Medi-Cal rate year.

Adjusted costs are divided into categories and treated as follows:

9. ICF/DDs (except state operated facilities), ICF/DD-H and ICF/DD-N facilities will be reimbursed at the 65<sup>th</sup> percentile, instead of the median, in recognition of the fact that they serve a disproportionate share of low income patients with special needs.
10. Subacute services which are provided in both distinct parts of acute care hospitals and freestanding NFs shall be reimbursed at the lesser of costs as projected by the Department or the prospective class median rate, broken down by ventilator and non-ventilator and DP or freestanding NF.
  - 10.1 For the August 1, 2021 to July 31, 2022 rate year, and each rate year thereafter, Freestanding Pediatric Subacute (FS/PSA) reimbursement rates will be established at the lesser of the facility's costs as projected by the Department, or the rate based on the class median rates, broken down by ventilator and non-ventilator, including the projected cost of complying with new state or federal mandates. The facility's costs as projected by the Department are calculated using the historical model FS/PSA rates inflated to the current rate year. Class median rates are based on the most recently available audited cost report data, inflated to midpoint of the rate year for which the class median rate is being calculated. For fiscal years in which the facility receives the supplemental payment described on page 37 of this Attachment, the supplemental payment amount will not be paid in addition to and concurrently with the base per diem rate as described in paragraph 2 on page 37, and instead will be accounted for and included in the reimbursement rate described in this paragraph. No adjustment will be made to increase the computed reimbursement rate by the supplemental payment amount.
  - 10.2. For the August 1, 2021 to July 31, 2022 rate year, and each rate year thereafter, FS/PSA Ventilator Weaning and Rehab Therapy ancillary reimbursement rates will be established at the lesser of the facility's costs as projected by the Department, or the rate based on the class median rates. Ancillary services are not eligible to receive the supplemental payments described on page 37 of this Attachment.
  - 10.3 For rate years in which there is insufficient audited cost data to calculate a cost based class median rate, FS/PSA reimbursement rates will be established at the facility's cost as projected by the Department, including the projected cost of complying with new state or federal mandates. For fiscal years in which the facility receives the supplemental payment described on page 37 of this Attachment, the supplemental payment amount will not be paid in addition to and concurrently with the base per diem rate as described in paragraph 2 on page 37, and instead will be accounted for and included in the non-ancillary reimbursement rate described in this paragraph. No adjustment will be made to increase the computed reimbursement rate by the supplemental payment amount.
  - 10.4 The per diem rates for FS/PSA are the rates established by the Department of Health Care Services, as published on the Medi-Cal website: <https://www.dhcs.ca.gov/services/medi-cal/Pages/AB1629/LTC.aspx>
11. The subacute rate includes additional ancillary costs. Where available, the facility's projected cost is based on the audited ancillary cost data. In the event that audited ancillary costs are not available, the facility's projected cost is based on the median of the projected subacute ancillary costs of the facilities in the study that have audited ancillary costs.

TN: 21-0059

Supersedes

TN: 05-18Approval Date: May 23, 2024 Effective Date: August 1, 2021

12. For purposes of setting the DP/NF or subacute prospective class median rate, the Department shall use the facility's interim projected reimbursement rate when their audit report is not issued as of July 1<sup>st</sup>.
13. For the rate year 2005-06, and each rate year thereafter, a DP/NF subacute facility that experiences a reduction in costs in the previous rate year, which would result in a reduced reimbursement rate for the current rate year, will have its prospective reimbursement rate for the current rate year established at the reimbursement rate for the previous rate year. For example, if a DP/NF subacute facility's 2006-07 prospective reimbursement rate was less than the DP/NF subacute's 2005-06 prospective reimbursement rate, the DP/NF subacute's reimbursement rate for the 2006-07 rate year will be established at its 2005-06 prospective reimbursement rate. This subparagraph shall not apply to facilities with an interim rate established pursuant to Section IV.H of this Attachment.

14. (a) For NF-A facilities with licensed bed capacities of 100 beds or more as of August 2, 2003, each facility shall receive a rate of \$89.54 (without additional add-ons) until the prospective county rate (inclusive of applicable add-ons and accounting for the rate freeze but not the payment reduction in paragraph K.1 as long as the rate freeze in that paragraph remains in effect) for their geographic location based on the categories listed in Section 1.1.4 exceeds that amount. At that time, those facilities shall receive the prospective county rate for all facilities within that geographic location. The reimbursable rate, whether it be the \$89.54 or the higher prospective county rate, is further subject to the payment reduction in paragraph K.1 as long as that provision remains in effect.
15. (a) Nursing facilities and other specified facilities as identified in Section. 14110.65 of the Welfare and Institutions Code, will be eligible to request and receive a supplemental rate adjustment when the facility meets specific requirements.
- (b) In order to qualify for the rate adjustment, the facility must have a verifiable written collective bargaining agreement or other legally binding, written commitment to increase non-managerial, non-administrative and non-contract salaries, wages and/or benefits that complies with Section 14110.65 of the Welfare and Institutions Code and regulations adopted pursuant thereto.
- (c) Except as provided in subparagraph (d) below, the rate adjustment will be equal to the Medi-Cal portion (based on the proportion of Medi-Cal paid days) of the total amount of any increase in salaries, wages and benefits provided in the enforceable written agreement referenced in subparagraph (b). This amount will be reduced by an increase, if any, provided to that facility during that rate year in the standardized rate methodology for labor related costs (see Section I.E of this state plan) attributable to the employees covered by the commitment. A rate adjustment made to a particular facility pursuant to this subparagraph 15 will only be paid for the period of the non-expired, enforceable, written agreement. The Department will terminate the rate adjustment for a specific facility if it finds the binding written commitment has expired and does not otherwise remain enforceable.
- (d) A rate adjustment under this subparagraph 15 will be no more than the greater of 8 percent of that portion of the facility's per diem labor costs, prior to the particular rate year (August 1<sup>st</sup> through July 31<sup>st</sup>, attributable to employees covered by the written commitment, or 8 percent of the per diem labor costs of the peer

4. Freestanding Pediatric Subacute Care Unit

<b>Freestanding Pediatric Subacute</b>		
Period	Reduction	With Respect to:
08/01/09 – 07/31/21	Set at Prospective rate for 2008/09	

5. Pediatric Subacute Care Units that are, or are parts of, Distinct Parts of General Acute Hospitals (DP/NF Pediatric Subacute)

<b>Distinct Part Pediatric Subacute</b>		
Period	Reduction	With Respect to:
07/01/08 - 07/31/08	10%	Prospective rate for 2007/08
08/01/08 - 02/28/09	10%	Prospective rate for 2008/09
03/01/09 - 04/05/09	5%	Prospective rate for 2008/09
08/01/09 - 02/23/10	Set at Prospective rate for 2008/09	

6. Intermediate Care Facilities for the Developmentally Disabled (ICF/DD)

<b>ICF/DD</b>		
Period	Reduction	With Respect to:
08/01/09 – 07/31/21	Set at Prospective rate for 2008/09	

7. Intermediate Care Facilities for the Developmentally Disabled - Habilitative (ICF/DD-H)

<b>ICF/DD-H</b>		
Period	Reduction	With Respect to:
08/01/09 – 07/31/21	Set at Prospective rate for 2008/09	

## **Time- Limited Supplemental Payment Program for Freestanding Pediatric Subacute Facilities**

This program provides a time-limited supplemental payment for eligible Freestanding Pediatric Subacute (FS/PSAs) facilities for services rendered beginning August 1, 2018 through December 31, 2021. The supplemental payments will be provided in addition to the base per diem rate in effect for FS/PSA facilities, which will remain unchanged through this amendment.

### **Methodology**

1. The supplemental payment amount is a fixed amount of \$132.92 for each Medi-Cal fee-for-service patient day furnished during each rate year ending July 31, 2019; July 31, 2020; July 31, 2021; and in the 2021-22 rate year for each patient on or before December 31, 2021.
2. The supplemental payments will be in addition to and paid concurrently with the FS/PSA per diem rate. The current reimbursement methodology used to develop the FS/PSA per diem rate, as described in page 15.4b of the State Plan Amendment 4.19-D, will remain unchanged. Thus, the total reimbursement amount will be the sum of the facility's per diem rate under the current reimbursement methodology and the supplemental payment amount.
3. The per diem rates for FS/PSA are the rates established by the Department of Health Care Services, as published on the Medi-Cal website:  
  
<https://www.dhcs.ca.gov/services/medi-cal/Pages/AB1629/LTC.aspx>
4. The supplemental payment amounts, as set forth in this Attachment, are inclusive of Federal Financial Participation.
5. Providers eligible for the supplemental payments under this section do not include Distinct Part Pediatric Subacute facilities, Freestanding Adult Subacute facilities, or Distinct Part Adult Subacute facilities.
6. Notwithstanding paragraph 2, effective August 1, 2021, for fiscal years when the FS/PSA facilities receive the supplemental payments described above, the supplemental payments will not be paid in addition to the FS/PSA per diem rate. The reimbursement rates for FS/PSA facilities will account for, and be inclusive of, the supplemental payments. No adjustment will be made to increase the computed reimbursement rate by the supplemental payment amount.