



March 8, 2023

THIS LETTER SENT VIA EMAIL

Mr. James G. Scott, Director
Division of Program Operations
Medicaid and CHIP Operations Group
Centers for Medicare & Medicaid Services
601 East 12th Street, Suite 0300
Kansas City, MO 64106-2898

STATE PLAN AMENDMENT 23-0006: RENEW THE REIMBURSEMENT METHODOLOGY FOR FREESTANDING SKILLED NURSING FACILITY LEVEL-B & FREESTANDING SUBACUTE FACILITIES

Dear Mr. Scott:

The Department of Health Care Services (DHCS) is submitting State Plan Amendment (SPA) 23-0006 for your review and approval. This SPA proposes to renew and modify the existing facility-specific reimbursement methodology for Freestanding Skilled Nursing Facility Level-B (FS/NF-B) and Freestanding Subacute (FSSA) facilities. DHCS seeks an effective date of January 1, 2023 through December 31, 2023 for this SPA.

Assembly Bill (AB) 186 (Chapter 46, Statutes of 2022) requires the annual aggregate increases in the weighted average Medi-Cal reimbursement rate to be calculated separately for labor and non-labor costs for calendar year (CY) 2023. For the labor cost category, the annual aggregate increase will be 5 percent. For each of the indirect care non-labor cost, administrative cost, capital cost, and direct pass through categories, the annual aggregate increase will be 2 percent. In addition, the reimbursement rate will continue to include the projected cost of complying with new state or federal mandates. Within these aggregate cost limits, SPA 23-0006 proposes to guarantee that the facility's rate will not decrease for CY 2023 relative to CY 2022, unless the facility's audited cost reports demonstrate a decrease in costs. Moreover, the rates established for CY, including the COVID-19 10% rate increase, will not be decreased at the expiration of the COVID-19 Public Health Emergency and will continue for the duration of CY 2023.

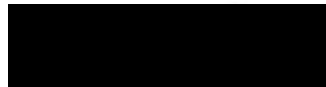
In addition, AB 186 requires that the financial audits for the costs and revenues associated with CY 2023 include an audit of revenues received by a facility that were spent on additional labor costs attributable to the COVID-19 Public Health Emergency.

DHCS is submitting the following SPA documents for review and approval:

- CMS 179 – Transmittal and Notice of Approval of State Plan Material
- Supplement 4 to Attachment 4.19-D, pages 5a, 5b, 17a, and 17b (Clean)
- Supplement 4 to Attachment 4.19-D, pages 5a, 5b, 17a, and 17b (Redline)
- Standard Funding Questions
- Federal Budget Impact Methodology
- Public Notices (December 28, 2022 and January 30, 2023)
- Approval for Request for No Tribal Notice

If you have any questions or need additional information, please contact Alek Klimek, Chief, Fee-For-Service Rates Development Division, at Alek.Klimek@dhcs.ca.gov.

Sincerely,



Jacey Cooper
State Medicaid Director
Chief Deputy Director
Health Care Programs

Enclosures

cc: Alek Klimek, Chief
Fee-For-Service Rates Development Division
Department of Health Care Services
Alek.Klimek@dhcs.ca.gov

Lindy Harrington
Deputy Director
Health Care Financing
Department of Health Care Services
Lindy.Harrington@dhcs.ca.gov

Saralyn M. Ang-Olson, JD, MPP
Chief Compliance Officer
Office of Compliance
Department of Health Care Services
Saralyn.Ang-Olson@dhcs.ca.gov

Aaron Toyama
Senior Advisor
Health Care Programs
Department of Health Care Services
Aaron.Toyama@dhcs.ca.gov

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

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL SECURITY ACT

XIX

XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY _____ \$ _____
b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

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

9. SUBJECT OF AMENDMENT

10. 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:
Please note: The Governor's Office does not wish to review the State Plan Amendment.

11. SIGNATURE OF STATE AGENCY OFFICIAL

15. RETURN TO

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED
March 8, 2023

FOR CMS USE ONLY

16. DATE RECEIVED

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

21. TITLE OF APPROVING OFFICIAL

22. REMARKS

additional labor costs attributable to the COVID-19 Public Health Emergency including, but not limited to, increased wages or benefits, shift incentive payments, staff retention bonuses, pay differential for workers employed by more than one facility, and overtime payments to nonmanagerial workers, and other appropriate costs that support the delivery of patient care. Other appropriate costs that support delivery of patient care include, but is not limited to, personal protective equipment, COVID-19 testing, infection control measures and equipment, and staff training.

- F. For calendar year 2023, the audit conducted pursuant to paragraph I of this Section shall include an audit of revenues associated with the COVID-19 Public Health Emergency declared pursuant to Section 247d of Title 42 of the United States Code on January 30, 2020, and any renewal of that declaration, and amounts equivalent to the COVID-19 10% per diem rate increase authorized in paragraph R.2 on page 17a, that are received by a facility that were spent on additional labor costs attributable to the COVID-19 Public Health Emergency. Additional labor costs attributable to the COVID-19 Public Health Emergency may include, but is not limited to, increased wages or benefits, shift incentive payments, staff retention bonuses, pay differential for workers employed by more than one facility, and overtime payments to nonmanagerial workers.

Increased wages or benefits, shift incentive payments, staff retention bonuses, pay differential for workers employed by more than one facility, overtime payments to nonmanagerial workers or other additional labor costs shall qualify for purposes of this paragraph if they were either of the following:

1. Implemented prior to January 1, 2023, and continued during the 2023 calendar year, or
2. Implemented on or after January 1, 2023.

If the Department finds that a facility spent less than 85 percent of revenues associated with the COVID-19 Public Health Emergency on additional labor costs during calendar year 2023, the Department will recoup the difference between the amount spent on additional labor costs and 85 percent of Medi-Cal payments received by the facility associated with the COVID-19 10% per diem rate increase authorized in Section 7.4 of the State Plan and amounts equivalent to the COVID-19 10% per diem rate increase authorized in paragraph R.2 on page 17a.

V. Methods and Standards for Establishing FS/NF-B Reimbursement Rates

- A. Effective August 1, 2005, a FS/NF-B's actual reimbursement rate (per diem payment) is the amount the Department will reimburse to a FS/NF-B for services rendered to an eligible resident for one resident day. The per diem payment is calculated prospectively on a facility-specific basis using facility-specific data from the FS/NF-B's most recent cost report period (audited or adjusted), supplemental schedules, and/or other data determined necessary by the Department.

- O. Beginning with the rate period of August 1, 2020, through December 31, 2020, the increase in the weighted average Medi-Cal reimbursement rate shall be 3.62 percent of the weighted average rate from the previous rate year, plus the projected FS/NF-B Medi-Cal cost of complying with new state or federal mandates. Total Medi-Cal reimbursement shall not exceed any applicable federal upper payment limit.
- P. For the calendar year 2021 rate year, the increase in the weighted average Medi-Cal reimbursement rate shall be 3.5 percent of the weighted average rate from the previous rate period, plus the projected FS/NF-B Medi-Cal cost of complying with new state or federal mandates. Total Medi-Cal reimbursement shall not exceed any applicable federal upper payment limit.
- Q. For the calendar year 2022 rate year, the increase in the weighted average Medi-Cal reimbursement rate shall be 2.4 percent of the weighted average rate from the previous rate period, plus the projected FS/NF-B Medi-Cal cost of complying with new state or federal mandates. Total Medi-Cal reimbursement shall not exceed any applicable federal upper payment limit.
- R. For the calendar year 2023 rate year, the increase in the weighted average Medi-Cal reimbursement rate shall be calculated separately for labor and non-labor costs, plus the projected FS/NF-B Medi-Cal cost of complying with new state or federal mandates. For the labor cost category, the annual aggregate increase shall be 5 percent of the weighted average rate attributed to labor costs from the previous year. For the non-labor cost categories, including indirect care non-labor cost, administrative cost, professional liability insurance, capital cost, and direct pass through categories, as specified in Section V, paragraph B on page 6 of this Supplement, the annual aggregate increase shall be 2 percent of the weighted average rate attributed to non-labor costs from the previous year. Total Medi-Cal reimbursement shall not exceed any applicable federal upper payment limit.
1. Within the aggregate cost category increase limits, a facility's rate will not decrease for calendar year 2023 relative to calendar year 2022, unless the facility's audited cost reports demonstrate a decrease in costs.
 2. The facility-specific rate will include the COVID-19 10% per diem rate increase authorized on pages 90g – 90l of Section 7.4 of the State Plan. In the event the COVID-19 Public Health Emergency expires prior to December 31, 2023, the rates established for the calendar year 2023 rate year, including the COVID-19 10% rate increase, will not be decreased and will continue for the duration of calendar year 2023.
 3. The COVID-19 10% per diem rate increase authorized on pages 90g – 90l of Section 7.4, or the amounts equivalent to the COVID-19 10% per diem rate increase authorized in paragraph 2 above, whichever remains in effect on

TN 23-0006

Supersedes

TN 22-0012

Approval Date _____

Effective Date January 1, 2023

December 31, 2023, shall be discontinued for dates of service on or after January 1, 2024.

TN 23-0006
Supersedes
TN None

Approval Date _____

Effective Date January 1, 2023