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State/Territory Name: CA

State Plan Amendment (SPA) #: CA-23-0032

This file contains the following documents in the order listed:

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

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Financial Management Group

May 29, 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 23-0032

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-23-0032, which was submitted to CMS on September 29, 2023. This plan amendment shifts the rate year for various long term care facilities to a calendar year rate year.

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, 2023. 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.

Sincerely,

[redacted]

Rory Howe
Director

Enclosures

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER
2 3 — 0 0 3 2

2. STATE
CA

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
August 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION
Title 42 § CFR 447 Subpart B & C

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2023 $ 0
b. FFY 2024 $ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Attachment 4.19-D, pages 1, 12, 13, ~~15.1~~, and 15.4c.1
15.1b

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*
Attachment 4.19-D, pages 1, 12, 13, ~~15.1~~, and 15.4c.1
15.1b

9. SUBJECT OF AMENDMENT
Shift Reimbursement for Specified Long-Term Care Facilities to a Calendar Rate Year

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
[redacted]

12. TYPED NAME
Jacey Cooper

13. TITLE
State Medicaid Director

14. DATE SUBMITTED
September 29, 2023

15. RETURN TO
Department of Health Care Services
Attn: Director's Office
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

FOR CMS USE ONLY

16. DATE RECEIVED
September 29, 2023

17. DATE APPROVED
May 29, 2024

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
August 1, 2023

19. SIGNATURE OF APPROVING OFFICIAL
[redacted]

20. TYPED NAME OF APPROVING OFFICIAL
Rory Howe

21. TITLE OF APPROVING OFFICIAL
Director, Financial Management Group

22. REMARKS

Pen-and-ink change made to Boxes 7 and 8 by CMS with state concurrence.

STATE PLAN UNDER TITLE XIX OF SOCIAL SECURITY ACT
STATE: CALIFORNIA

REIMBURSEMENT FOR ALL CATEGORIES OF NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

The purpose of this State Plan is to (1) establish the principles of the State of California's reimbursement system for providers of long-term care services to assure compliance with the requirements of Title XIX of the Federal Social Security Act and the Code of Federal Regulations, and (2) describe the procedures to be followed by the single State agency, the Department of Health Services (herein called the Department), in determining long-term care reimbursement rates.

Beginning with the 2005/06 rate year, the reimbursement rate methodology applicable to long-term care freestanding nursing facilities level-B and subacute facilities is described in Supplement 4 to Attachment 4.19-D. Assembly Bill (AB) 1629 (Statutes 2004, Chapter 875) mandates a facility-specific reimbursement methodology to be effective on August 1, 2005. Subsequent legislation extended the current rate methodology established by AB 1629. Pursuant to AB 119 (Statutes 2015, Chapter 17), the rate methodology was extended to July 31, 2020. Pursuant to Assembly Bill (AB) 81 (Chapter 13, Statutes of 2020) the rate methodology was amended and extended to December 31, 2022. Pursuant to AB 118 (Chapter 42, Statutes of 2023), beginning January 1, 2024, the rate year shall be the calendar year for distinct part nursing facilities level B, distinct part adult subacute facilities, distinct part and freestanding pediatric subacute facilities, nursing facilities level A, and intermediate care facilities for the developmentally disabled, including habilitative and nursing. Reimbursement rates for these facilities will be established pursuant to the methodology applicable to each facility type as stated within the State Plan for the August 1, 2023 through December 31, 2023 rate period, for the January 1, 2024 through December 31, 2024 rate period, and for each calendar rate year thereafter.

I. GENERAL PROVISIONS

A. The State shall set prospective rates for services by various classes of facilities, including special programs.

B. Reimbursement shall be for routine per diem services, exclusive of ancillary services, except for state-owned facilities where an ancillary per diem rate shall be developed by another State agency, and for county facilities operating under a special agreement with the Department. These ancillary rates are reviewed and audited by the Department and, together with the routine service per diem, form an all-inclusive rate. The routine service per diem shall be based on Medicare principles of reimbursement. Ancillary services for all other facilities are reimbursed separately on a fee for service basis as defined in the California Code of Regulations (CCR), except for facilities providing subacute and pediatric subacute care.

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. For the rate period of August 1, 2023 through December 31, 2023, the midpoint will be October 15, 2023. For calendar rate year beginning January 1, 2024 and each calendar rate year thereafter, the midpoint of the State's rate year will be July 1st.

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. For the rate period of August 1, 2023 through December 31, 2023, the midpoint will be October 15, 2023. For calendar rate year beginning January 1, 2024 and each calendar rate year thereafter, the midpoint of the State's rate year will be July 1st. Adjusted costs are divided into categories and treated as follows:

1. Fixed or Capital-Related Costs - These costs represent depreciation, leases and rentals, interest, leasehold improvements, and other amortization. No update is applied.

2. Property Taxes - These costs, where identified, are updated at a rate of 2 percent annually, converted to 0.1652 percent per month. Some facilities do not report property taxes---either because they are nonprofit and exempt from such tax or because they have a lease or rental agreement that includes those costs.

3. Labor Costs - A ratio of salary, wage, and benefits (SWB) costs to the total costs of each facility is used to determine the amount of the labor cost component to be updated. The ratio is determined by using the overall ratio of salaries and wages to total costs from data extracted by OSHPD from the labor report, and adding costs that represent all wage-related benefits, including vacation and sick leave.

   The labor costs for ICF/DD-Hs and ICF/DD-Ns are facility- specific, obtained directly from each cost report in the study. Labor costs for each facility are updated from the midpoint of its cost reporting period to the midpoint of the State's rate year. For the rate period of August 1, 2023 through December 31, 2023, the midpoint will be October 15, 2023. For calendar rate year beginning January 1, 2024 and each calendar rate year thereafter, the midpoint of the State’s rate year will be July 1st.

4. All Other Costs - These costs are the total costs less fixed or capital-related costs, property taxes, and labor costs. The update for this category utilizes the California Consumer Price Index (CCPI) for "All-Urban Consumers" and figures projected by the State Department of Finance.

F. The reimbursement rate per patient day shall be set at the median of projected costs for the class, as determined above, except that:

   1. NF-B services, excluding subacute and pediatric subacute, which are provided in distinct parts of acute care hospitals, shall be reimbursed at the lesser of costs as projected by the Department or the prospective class median rate.

   2. NF-A services provided in distinct parts of acute care hospitals shall be reimbursed at the applicable NF-A rate for freestanding facilities in the same geographical area location.

   3. Rural hospitals are identified each year by OSHPD. For those rural hospitals with Medi-Cal distinct part nursing facility days, their rates, as determined for the DP/NF-B level of care, are arrayed and the median rate is applied to all rural swing bed days. Facilities that report no Medi-Cal days, have an interim rate, or

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.l 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 attributable to employees covered by the written commitment, or 8 percent of the per diem labor costs of the peer

M.1. (a) Effective August 1, 2022, reimbursement rates for Intermediate Care Facilities for the Developmentally Disabled (ICF/DD), ICF/DD- Habilitative (ICF/DD- H), and ICF/DD- Nursing (ICF/DD- N) will be established at the 65th percentile projected for the facility's respective peer group (licensed facility type and bedsize category) in accordance with IV.A through IV.F of this Attachment. For rate years and rate periods prior to January 1, 2024, DHCS will utilize reported or audited costs with fiscal periods ending in the calendar year that is two years prior to the beginning of the rate year (August 1) to establish each facility's projected rates (e.g., facility's cost report ending on or within January 1, 2020, through December 31, 2020 will be used to calculate the rates for the period from August 1, 2022, through July 31, 2023). For rate years beginning January 1, 2024, DHCS will utilize reported or audited costs with fiscal periods ending in the calendar year that is three years prior to the beginning of the rate year (January 1) to establish a facility's projected rates (e.g., facility's cost report ending on or within January 1, 2021, through December 31, 2021 will be used to calculate the rates for the period from January 1, 2024 through December 31, 2024).

(b) Effective August 1, 2022 through the last day of the COVID-19 Public Health Emergency, the reimbursement rate for ICF/DDs, ICF/DD- Hs, and ICF/DD- Ns shall be the greater of the: (1) reimbursement rate established pursuant to paragraph (a), or (2) the reimbursement rate in effect for the facility on July 31, 2022, inclusive of the temporary rate increase in accordance with pages 90g – 90l of Section 7.4 of the State Plan (COVID-19 Medicaid Disaster Relief) and any supplemental payment received as described in pages 35 – 35a of this Attachment.

(c) For dates of service after the last day of the COVID-19 Public Health Emergency, the reimbursement rate for ICF/DDs, ICF/DD- Hs, and ICF/DD- Ns shall be the greater of the: (1) reimbursement rate established pursuant to paragraph (a); or (2) the reimbursement rate in effect for the facility on the last day of the COVID-19 Public Health Emergency, inclusive of the temporary rate increase in accordance with pages 90g – 90l of Section 7.4 of the State Plan (COVID-19 Medicaid Disaster Relief) and any supplemental payment received as described in pages 35 – 35a of this Attachment.

(d) The reimbursement rates resulting from the application of this Paragraph M.1 will be published on the DHCS website at the following link: http://www.dhcs.ca.gov/services/medi-cal/Pages/LTCRU.ICF_DD.aspx.

2. DHCS will audit ICF/DDs, ICF/DD- H and ICF/DD-N facility cost reports in accordance with III.A, IV.A 1, and IV.A.2 of this Attachment (at pages 9 and 10, respectively). Each ICF/DD, ICF/DD- H, and ICF/DD- N will retain its supporting financial and statistical records for a period of not less than three years following the date of submission of its cost report and will make such records available upon request to authorized state or federal representatives, as described in Welfare and Institutions Code, section 14124.1.