

51215.6 Participation Requirements for the Adult Subacute Program and Pediatric Subacute Program

(a)

Adult subacute services and pediatric subacute services shall be provided by a licensed general acute care hospital with distinct-part skilled nursing beds or a freestanding certified nursing facility that enters into a contract with the Department.

(b)

Each applicant for an initial contract, contract amendment, or contract renewal to provide adult subacute services or pediatric subacute services, shall submit a completed application, or written request in the case of contract amendment, to the Department containing, but not limited to, evidence of the following: (1) Licensure as a general acute care hospital with or without distinct-part skilled nursing beds, a skilled nursing facility or a Congregate Living Health Facility; (2) Certification as a Medicare and Medi-Cal provider; (3) History as a licensed health care facility for a period of 12 months prior to and during the initial application process, contract amendment, or contract renewal as follows: (A) Maintenance of an uninterrupted Medi-Cal provider agreement; and (B) As applicable to the type of facility, all deficiencies in patient care, or deficiencies of a severity which would impose immediate jeopardy or actual harm to a resident's/patient's health or safety during a facility certification survey, complaint survey or special incident

investigation. The Department may terminate a contract, impose contract penalties, or deny the award of a contract, a contract amendment, or contract renewal in other instances of deficiencies found during a facility certification survey, complaint survey or special incident investigation that would not impose immediate jeopardy or actual harm to a resident's/patient's health or safety, but are determined to be widespread. These deficiencies are determined by the Department or the Center for Medicare and Medicaid Services, and (C) As applicable to the type of facility, all citations as defined by Health and Safety Code Sections 1424(c), (d) and (e) that pertain to patient care. The presence of a citation or citations shall not, in itself, constitute the basis for denial of the contract application, amendment or renewal. A citation or citations shall be evaluated for impact on such areas as patient care, patient safety, fraud and for indications of a pattern of noncompliance. (4) As applicable to the type of facility, documentation that the applicant can comply with one or more of the following: (A) With Section 51215.5 for adult subacute services; (B) With Section 51215.8 for pediatric subacute services. (5) An applicant for an adult subacute or pediatric subacute contract shall, in addition to the requirements of (b) of this section, provide evidence that the location of the proposed subacute unit has a subacute population and a need for subacute services. This evidence shall include a list of potential patients, with each patient's Medi-Cal identification number, current level of care, and the address of each patient's current location. The requirements of this subsection shall also apply to adult subacute and pediatric subacute contract amendments and renewals. (6) An applicant for an adult subacute or pediatric subacute contract that is a general acute care hospital with distinct-part skilled nursing beds shall, in addition to the requirements of (b)(3) of this section, have a history of maintaining the appropriate accreditation for participation in the

Medicare and Medi-Cal programs, and maintaining supplemental authorization by Licensing and Certification for a distinct-part which functions as a skilled nursing facility service. The requirements of this subsection shall also apply to adult subacute and pediatric subacute contract amendments and renewals. (7) Nothing in this section shall preclude a new licensee without a history of providing care in a licensed health care facility from being eligible to enter into a contract with the Department to provide subacute care services to adult or pediatric patients if all other applicable requirements of the subacute care program are met.

(1)

Licensure as a general acute care hospital with or without distinct-part skilled nursing beds, a skilled nursing facility or a Congregate Living Health Facility;

(2)

Certification as a Medicare and Medi-Cal provider;

(3)

History as a licensed health care facility for a period of 12 months prior to and during the initial application process, contract amendment, or contract renewal as follows: (A) Maintenance of an uninterrupted Medi-Cal provider agreement; and (B) As applicable to the type of facility, all deficiencies in patient care, or deficiencies of a severity which would impose immediate jeopardy or actual harm to a resident's/patient's health or safety during a facility certification survey, complaint survey or special incident investigation. The Department may terminate a contract, impose contract penalties, or deny the award of a contract, a contract amendment, or contract renewal in other instances of deficiencies found during a facility certification survey, complaint survey or special incident investigation that would not impose immediate jeopardy or actual harm to a resident's/patient's health or safety, but are determined to be widespread. These deficiencies are determined by the Department or the Center for Medicare and Medicaid

Services, and (C) As applicable to the type of facility, all citations as defined by Health and Safety Code Sections 1424(c), (d) and (e) that pertain to patient care. The presence of a citation or citations shall not, in itself, constitute the basis for denial of the contract application, amendment or renewal. A citation or citations shall be evaluated for impact on such areas as patient care, patient safety, fraud and for indications of a pattern of noncompliance.

(A)

Maintenance of an uninterrupted Medi-Cal provider agreement; and

(B)

As applicable to the type of facility, all deficiencies in patient care, or deficiencies of a severity which would impose immediate jeopardy or actual harm to a resident's/patient's health or safety during a facility certification survey, complaint survey or special incident investigation. The Department may terminate a contract, impose contract penalties, or deny the award of a contract, a contract amendment, or contract renewal in other instances of deficiencies found during a facility certification survey, complaint survey or special incident investigation that would not impose immediate jeopardy or actual harm to a resident's/patient's health or safety, but are determined to be widespread. These deficiencies are determined by the Department or the Center for Medicare and Medicaid Services, and

(C)

As applicable to the type of facility, all citations as defined by Health and Safety Code Sections 1424(c), (d) and (e) that pertain to patient care. The presence of a citation or citations shall not, in itself, constitute the basis for denial of the contract application, amendment or renewal. A citation or citations shall be evaluated for impact on such areas as patient care, patient safety, fraud and for indications of a pattern of noncompliance.

(4)

As applicable to the type of facility, documentation that the applicant can comply with

one or more of the following: (A) With Section 51215.5 for adult subacute services; (B) With Section 51215.8 for pediatric subacute services.

(A)

With Section 51215.5 for adult subacute services;

(B)

With Section 51215.8 for pediatric subacute services.

(5)

An applicant for an adult subacute or pediatric subacute contract shall, in addition to the requirements of (b) of this section, provide evidence that the location of the proposed subacute unit has a subacute population and a need for subacute services. This evidence shall include a list of potential patients, with each patient's Medi-Cal identification number, current level of care, and the address of each patient's current location. The requirements of this subsection shall also apply to adult subacute and pediatric subacute contract amendments and renewals.

(6)

An applicant for an adult subacute or pediatric subacute contract that is a general acute care hospital with distinct-part skilled nursing beds shall, in addition to the requirements of (b)(3) of this section, have a history of maintaining the appropriate accreditation for participation in the Medicare and Medi-Cal programs, and maintaining supplemental authorization by Licensing and Certification for a distinct-part which functions as a skilled nursing facility service. The requirements of this subsection shall also apply to adult subacute and pediatric subacute contract amendments and renewals.

(7)

Nothing in this section shall preclude a new licensee without a history of providing care in a licensed health care facility from being eligible to enter into a contract with the

Department to provide subacute care services to adult or pediatric patients if all other applicable requirements of the subacute care program are met.

(c)

Freestanding certified nursing facilities shall specify in their application that the location of the proposed unit is within close proximity to a general acute care hospital with which the freestanding certified nursing facility has a transfer agreement and with which the physicians who assume responsibility for treatment management of patients receiving transitional inpatient care services have staff privileges.

(d)

The Department shall not be precluded from imposing one or more penalties specified in subsections (1) through (5) below upon a contractor under the provisions of this section as an interim alternative to contract termination. Such action shall apply to a contractor that fails to comply with any term or condition of the initial, amended, or renewed contract and any applicable laws and regulations. Penalties may include, but are not limited to: (1) Suspension of new admissions; (2) Relocation of selected patients; (3) Transfer of selected patients; (4) Reduction in the number of beds under contract; (5) Reduction in the term of the contract.

(1)

Suspension of new admissions;

(2)

Relocation of selected patients;

(3)

Transfer of selected patients;

(4)

Reduction in the number of beds under contract;

(5)

Reduction in the term of the contract.

(e)

A contract entered into under the provisions of this section shall be renewed by the Department unless the Department determines good cause is shown for nonrenewal. Good cause shall include, but not be limited to the following: (1) Failure of the contractor to comply with the terms and conditions of the initial contract and applicable laws and regulations; (2) Failure of the contractor to comply with the provisions of an amended or renewed contract and applicable laws and regulations; (3) The Department's determination, based upon the contractor's past performance under its contract, that the Contractor does not have the ability to fulfill the terms of a renewed contract with the State. The Contractor's remediation of a single or multiple areas of noncompliance shall not be construed as relief from contract nonrenewal.

(1)

Failure of the contractor to comply with the terms and conditions of the initial contract and applicable laws and regulations;

(2)

Failure of the contractor to comply with the provisions of an amended or renewed contract and applicable laws and regulations;

(3)

The Department's determination, based upon the contractor's past performance under its contract, that the Contractor does not have the ability to fulfill the terms of a renewed contract with the State. The Contractor's remediation of a single or multiple areas of noncompliance shall not be construed as relief from contract nonrenewal.

(f)

Contract nonrenewal shall commence following 30 calendar days' written notice of nonrenewal by the Department to the contractor. The contractor shall be responsible for the appropriate and safe disposition of affected patients.

Reimbursement to the contractor for services provided to all affected patients shall continue, unless the contractor fails to actively pursue appropriate, alternative placement for the patients.

(g)

A contract entered into under the provisions of this section shall be terminated by the Department at any time during the contract term when the Department has determined good cause exists, as established in (e) of this section.(1) The Department shall give 30 calendar days' written notice to the contractor prior to the termination of a contract. (2) The contract shall be terminated immediately if the Department determines that there is an immediate threat to the health and safety of Medi-Cal beneficiaries. (3) Upon notice of contract termination, the contractor shall be responsible for the appropriate and safe disposition of affected patients. Reimbursement to the contractor for services provided to all affected patients shall continue, unless the contractor fails to actively pursue appropriate, alternative placement for the patients.

(1)

The Department shall give 30 calendar days' written notice to the contractor prior to the termination of a contract.

(2)

The contract shall be terminated immediately if the Department determines that there is an immediate threat to the health and safety of Medi-Cal beneficiaries.

(3)

Upon notice of contract termination, the contractor shall be responsible for the

appropriate and safe disposition of affected patients. Reimbursement to the contractor for services provided to all affected patients shall continue, unless the contractor fails to actively pursue appropriate, alternative placement for the patients.

(h)

The provider, with 120 calendar days' written notice to the Department, may cancel an adult or pediatric subacute contract with the Department.

(i)

Upon the receipt of an application to provide adult subacute care, or pediatric subacute care, the Department shall: (1) Within 30 calendar days from receipt of the application, inform the applicant in writing whether the application is complete and acceptable or that the application is deficient and what specific information or clarification is necessary. (2) Within 90 calendar days from receipt of a complete application, approve or deny the application. (3) Within 60 calendar days from receipt of any information or clarification necessary to make an application complete, reach a decision to approve or deny the application for participation in the adult subacute program or pediatric subacute program. (4) Within the 90 calendar days after an application is initially received, conduct an onsite review of the facility. (5) Upon approval for participation in the adult subacute program or pediatric subacute care program, send a contract to the applicant.

(1)

Within 30 calendar days from receipt of the application, inform the applicant in writing whether the application is complete and acceptable or that the application is deficient and what specific information or clarification is necessary.

(2)

Within 90 calendar days from receipt of a complete application, approve or deny the application.

(3)

Within 60 calendar days from receipt of any information or clarification necessary to make an application complete, reach a decision to approve or deny the application for participation in the adult subacute program or pediatric subacute program.

(4)

Within the 90 calendar days after an application is initially received, conduct an onsite review of the facility.

(5)

Upon approval for participation in the adult subacute program or pediatric subacute care program, send a contract to the applicant.

(j)

If an application for an initial contract, a contract amendment, or a contract renewal, for the adult subacute program, or pediatric subacute program is denied, the applicant has 30 calendar days from the date of the receipt of written notification of the denial to submit a written appeal to the Department. This written appeal shall contain factual statements as to why the applicant meets the criteria which have been cited as the basis for the denial of the application. The Department shall issue a written decision within 60 calendar days of receipt of the applicant's appeal.

(k)

A separate and distinct cost center shall be established and maintained in order to identify and segregate costs for adult and/or pediatric subacute patients separately from costs for other patients who may be served within the certified nursing facility.(1) Cost reporting for the adult subacute or pediatric subacute unit in freestanding certified nursing facilities shall be maintained according to generally accepted accounting principles and the uniform accounting system

adopted by the State and specified in the Accounting and Reporting Manual for California Long-Term Care Facilities, pursuant to Section 97019, and shall be submitted in the manner approved by the State specified in the Accounting and Reporting Manual for California Long-Term Care Facilities, pursuant to Section 97019. (2) Cost reporting for the adult subacute or pediatric subacute unit in distinct part skilled nursing units in general acute care hospitals shall be maintained according to generally accepted accounting principles and the uniform accounting system adopted by the State and specified in the Accounting and Reporting Manual for California Hospitals, pursuant to Section 97018, and shall be submitted in the manner approved by the State specified in the Accounting and Reporting Manual for California Hospitals, pursuant to Section 97019.

(1)

Cost reporting for the adult subacute or pediatric subacute unit in freestanding certified nursing facilities shall be maintained according to generally accepted accounting principles and the uniform accounting system adopted by the State and specified in the Accounting and Reporting Manual for California Long-Term Care Facilities, pursuant to Section 97019, and shall be submitted in the manner approved by the State specified in the Accounting and Reporting Manual for California Long-Term Care Facilities, pursuant to Section 97019.

(2)

Cost reporting for the adult subacute or pediatric subacute unit in distinct part skilled nursing units in general acute care hospitals shall be maintained according to generally accepted accounting principles and the uniform accounting system adopted by the State and specified in the Accounting and Reporting Manual for California Hospitals, pursuant to Section 97018, and shall be submitted in the manner approved by the State specified in the Accounting and Reporting Manual for California Hospitals,

pursuant to Section 97019.