CA

51511 Nursing Facility Level B Services

(a)

Payment to nursing facilities, hospitals, or public institutions providing Level B services in accordance with Section 51123 shall be as set forth in this section. As used in this section, the term "nursing facility Level B services" is defined as nursing facility services provided in accordance with Section 51123. Payment for service includes the Quality Assurance Fee pursuant to Health and Safety Code Section 1324.21. Payment shall be as follows: (1) For facilities with licensed bed capacities and located by county, for the 2004-05 rate year are as follows: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo BedsizeLos Angeles CountySanta Clara & Sonoma CountiesAll Other Counties 1-59$112.79$137.95$122.90 60+$112.92$146.81$126.80 (2) For nursing facilities that are distinct parts of acute care hospitals, if such facilities are not state operated, the per diem reimbursement rate shall be the lesser of the facility's costs, as projected by the Department, or as listed in the chart below: Distinct Part Nursing Facilities Effective Rate Year 2004-052005-062006-07 $236.82$299.80$310.68 (A) For purposes of this section, the rate year is August 1st through July 31st. (B) The facility's projected costs shall be based on the audit report findings of cost reports with fiscal periods ending January 1 through December 31, two calendar years prior to the beginning of the effective rate year. In the event the provider appeals the audit, pursuant to Welfare and Institutions

Code Section 14171, and the provider notifies the Department by June 1 of the effective rate year that the audit report findings have been modified by an appeal decision or an agreement between the hospital and the Department, the facility's projected costs shall be based on the modified audit findings. (C) If the audit of a cost report is not issued by July 1 of the effective rate year, the Department shall establish an interim projected reimbursement rate based on the cost report with a fiscal period ending January 1 through December 31, two calendar years prior to the effective rate year, adjusted by an audit disallowance factor as listed in the chart below: Audit Disallowance Factor Per Rate Year 2004-052005-062006-07 .95566.95211.95211 (D) The Department will use the facility's interim projected reimbursement rate in the computation of the prospective class median rate. Facilities that did not provide Nursing Facility Level B services to Medi-Cal patients during the cost report period and/or facilities with less than a full year's reported cost shall not be used to establish the prospective class median rate. In addition, facilities with Medi-Cal patient days representing less than 20 percent of their total patient days will be excluded from the median determination. (E) If the facility has an interim reimbursement rate as specified in (C), when the audit report is issued or when the cost report is deemed true and correct under Welfare and Institutions Code Section 14170(a)(1), the Department shall adjust the facility's projected reimbursement rate retroactively to August 1 of the effective rate year, to reflect the cost determined pursuant to such audit, or to reflect the cost in the cost report in the event that cost report is deemed true and correct. The Department shall notify the provider of the revised rates within 45 days of issuance of the audit report. (F) Interest will accrue from August 1 of the effective rate year, and be payable on any such underpayment or overpayment at a rate equal to the monthly average received on investment in the Surplus Money Investment Fund (as

referenced in Welfare and Institutions Code Section 14171) during the month the audit report is issued. (G) If a provider appeals an audit pursuant to Welfare & Institutions Code Section 14171, and there is a determination that the audit findings inaccurately reflect the audited facility's projected costs, the provider shall be entitled to seek a retroactive adjustment in its reimbursement rate, but the resulting reimbursement rate shall not exceed the prospective median rate as provided in subsection (a)(2). (H) Payment under subsection (a)(2) shall only be made for services authorized pursuant to conditions set forth in Section 51335 for patients determined to need Level B services for other than post-surgical rehabilitation or therapy services. (3) Reimbursement to any state-operated facility shall be based on its actual allowable costs. (4) For facilities that are designated as swing bed facilities, the rates are listed in the chart below: Swing Bed Facilities Effective Rate Year 2004-052005-062006-07 $229.96$250.04$269.26 (5) Reduced for leave of absence provided pursuant to Section 51535. (6) Reduced for bed hold provided pursuant to Section 51535.1.

(1)

For facilities with licensed bed capacities and located by county, for the 2004-05 rate year are as follows: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo BedsizeLos Angeles CountySanta Clara & Sonoma CountiesAll Other Counties 1-59$112.79$137.95$122.90 60+$112.92$146.81$126.80

(2)

For nursing facilities that are distinct parts of acute care hospitals, if such facilities are not state operated, the per diem reimbursement rate shall be the lesser of the facility's costs, as projected by the Department, or as listed in the chart below: Distinct Part Nursing Facilities Effective Rate Year 2004-052005-062006-07 $236.82$299.80$310.68

(A) For purposes of this section, the rate year is August 1st through July 31st. (B) The

facility's projected costs shall be based on the audit report findings of cost reports with fiscal periods ending January 1 through December 31, two calendar years prior to the beginning of the effective rate year. In the event the provider appeals the audit, pursuant to Welfare and Institutions Code Section 14171, and the provider notifies the Department by June 1 of the effective rate year that the audit report findings have been modified by an appeal decision or an agreement between the hospital and the Department, the facility's projected costs shall be based on the modified audit findings. (C) If the audit of a cost report is not issued by July 1 of the effective rate year, the Department shall establish an interim projected reimbursement rate based on the cost report with a fiscal period ending January 1 through December 31, two calendar years prior to the effective rate year, adjusted by an audit disallowance factor as listed in the chart below: Audit Disallowance Factor Per Rate Year 2004-052005-062006-07 .95566.95211.95211 (D) The Department will use the facility's interim projected reimbursement rate in the computation of the prospective class median rate. Facilities that did not provide Nursing Facility Level B services to Medi-Cal patients during the cost report period and/or facilities with less than a full year's reported cost shall not be used to establish the prospective class median rate. In addition, facilities with Medi-Cal patient days representing less than 20 percent of their total patient days will be excluded from the median determination. (E) If the facility has an interim reimbursement rate as specified in (C), when the audit report is issued or when the cost report is deemed true and correct under Welfare and Institutions Code Section 14170(a)(1), the Department shall adjust the facility's projected reimbursement rate retroactively to August 1 of the effective rate year, to reflect the cost determined pursuant to such audit, or to reflect the cost in the cost report in the event that cost report is deemed true and correct. The Department shall notify the provider of the revised rates within 45 days of issuance of the audit report. (F) Interest will accrue from

August 1 of the effective rate year, and be payable on any such underpayment or overpayment at a rate equal to the monthly average received on investment in the Surplus Money Investment Fund (as referenced in Welfare and Institutions Code Section 14171) during the month the audit report is issued. (G) If a provider appeals an audit pursuant to Welfare & Institutions Code Section 14171, and there is a determination that the audit findings inaccurately reflect the audited facility's projected costs, the provider shall be entitled to seek a retroactive adjustment in its reimbursement rate, but the resulting reimbursement rate shall not exceed the prospective median rate as provided in subsection (a)(2). (H) Payment under subsection (a)(2) shall only be made for services authorized pursuant to conditions set forth in Section 51335 for patients determined to need Level B services for other than post-surgical rehabilitation or therapy services.

(A)

For purposes of this section, the rate year is August 1st through July 31st.

(B)

The facility's projected costs shall be based on the audit report findings of cost reports with fiscal periods ending January 1 through December 31, two calendar years prior to the beginning of the effective rate year. In the event the provider appeals the audit, pursuant to Welfare and Institutions Code Section 14171, and the provider notifies the Department by June 1 of the effective rate year that the audit report findings have been modified by an appeal decision or an agreement between the hospital and the Department, the facility's projected costs shall be based on the modified audit findings.

(C)

If the audit of a cost report is not issued by July 1 of the effective rate year, the Department shall establish an interim projected reimbursement rate based on the cost report with a fiscal period ending January 1 through December 31, two calendar years prior to the effective rate

year, adjusted by an audit disallowance factor as listed in the chart below: Audit Disallowance Factor Per Rate Year 2004-052005-062006-07 .95566.95211.95211

(D)

The Department will use the facility's interim projected reimbursement rate in the computation of the prospective class median rate. Facilities that did not provide Nursing Facility Level B services to Medi-Cal patients during the cost report period and/or facilities with less than a full year's reported cost shall not be used to establish the prospective class median rate. In addition, facilities with Medi-Cal patient days representing less than 20 percent of their total patient days will be excluded from the median determination.

(E)

If the facility has an interim reimbursement rate as specified in (C), when the audit report is issued or when the cost report is deemed true and correct under Welfare and Institutions Code Section 14170(a)(1), the Department shall adjust the facility's projected reimbursement rate retroactively to August 1 of the effective rate year, to reflect the cost determined pursuant to such audit, or to reflect the cost in the cost report in the event that cost report is deemed true and correct. The Department shall notify the provider of the revised rates within 45 days of issuance of the audit report.

(F)

Interest will accrue from August 1 of the effective rate year, and be payable on any such underpayment or overpayment at a rate equal to the monthly average received on investment in the Surplus Money Investment Fund (as referenced in Welfare and Institutions Code Section 14171) during the month the audit report is issued.

(G)

If a provider appeals an audit pursuant to Welfare & Institutions Code Section 14171, and there is a determination that the audit findings inaccurately reflect the audited facility's projected costs, the provider shall be entitled to seek a retroactive adjustment in its

reimbursement rate, but the resulting reimbursement rate shall not exceed the prospective median rate as provided in subsection (a)(2).

(H)

Payment under subsection (a)(2) shall only be made for services authorized pursuant to conditions set forth in Section 51335 for patients determined to need Level B services for other than post-surgical rehabilitation or therapy services.

(3)

Reimbursement to any state-operated facility shall be based on its actual allowable costs.

(4)

For facilities that are designated as swing bed facilities, the rates are listed in the chart below: Swing Bed Facilities Effective Rate Year 2004-052005-062006-07 $229.96$250.04$269.26

(5)

Reduced for leave of absence provided pursuant to Section 51535.

(6)

Reduced for bed hold provided pursuant to Section 51535.1.

(b)

Each provider of nursing facility level B services shall furnish all equipment, drugs, supplies, and services necessary to provide level B services except as provided in subsection (c). Such equipment, drugs, supplies, and services are, a minimum, those which are required by law, including those required by federal Medicaid regulations and state licensing regulations.

(c)

Not included in the payment rate and to be billed separately by the provider thereof, subject to the utilization controls and limitations of Medi-Cal regulations

covering such services and supplies, are: (1) Allied health services ordered by the attending physician, excluding respiratory therapy. (2) Alternating pressure mattresses/pads with motor. (3) Atmospheric oxygen concentrators and enrichers and accessories. (4) Blood, plasma and substitutes. (5) Dental services. (6) Durable medical equipment as specified in Section 51321(g). (7) Insulin. (8) Intermittent positive pressure breathing equipment. (9) Intravenous trays, tubing and blood infusion sets. (10) Laboratory services. (11) Legend drugs. (12) Liquid oxygen system. (13) MacLaren or Pogon Buggy. (14) Medical supplies as specified in the list established by the Department. (15) Nasal cannula. (16) Osteogenesis stimulator device. (17) Oxygen (except emergency). (18) Parts and labor for repairs of durable medical equipment if originally separately payable or owned by the beneficiary. (19) Physician services. (20) Portable aspirator. (21) Portable gas oxygen system and accessories. (22) Precontoured structures (VASCO-PASS, cut out foam). (23) Prescribed prosthetic and orthotic devices for exclusive use of patient. (24) Reagent testing sets. (25) Therapeutic air/fluid support systems/beds. (26) Traction equipment and accessories. (27) Variable height beds. (28) X-rays.

(1)

Allied health services ordered by the attending physician, excluding respiratory therapy.

(2)

Alternating pressure mattresses/pads with motor.

(3)

Atmospheric oxygen concentrators and enrichers and accessories.

(4)

Blood, plasma and substitutes.

(5)

Dental services.

(6)

Durable medical equipment as specified in Section 51321(g).

(7)

Insulin.

(8)

Intermittent positive pressure breathing equipment.

(9)

Intravenous trays, tubing and blood infusion sets.

(10)

Laboratory services.

(11)

Legend drugs.

(12)

Liquid oxygen system.

(13)

MacLaren or Pogon Buggy.

(14)

Medical supplies as specified in the list established by the Department.

(15)

Nasal cannula.

(16)

Osteogenesis stimulator device.

(17)

Oxygen (except emergency).

(18)

Parts and labor for repairs of durable medical equipment if originally separately payable

or owned by the beneficiary.

(19)

Physician services.

(20)

Portable aspirator.

(21)

Portable gas oxygen system and accessories.

(22)

Precontoured structures (VASCO-PASS, cut out foam).

(23)

Prescribed prosthetic and orthotic devices for exclusive use of patient.

(24)

Reagent testing sets.

(25)

Therapeutic air/fluid support systems/beds.

(26)

Traction equipment and accessories.

(27)

Variable height beds.

(28)

X-rays.

(d)

Not included in the payment rate nor in the Medi-Cal schedules of benefits are personal items such as cosmetics, tobacco products and accessories, dry cleaning, beauty shop services (other than shaves or shampoos performed by the facility staff as part of patient care and periodic hair trims) and television rental.

(e)

Nothing in this section shall prohibit the Director from negotiating all-inclusive rates which provide for additional Medi-Cal covered services that are medically indicated provided that such negotiated rates are less than the cost of the covered services if billed separately.

(f)

Each facility shall certify on the form provided by the Department that nurse assistants who receive certificates pursuant to Section 1439.3, Health and Safety Code, will receive a twenty cents per hour pay increase commencing with the next payroll period following certification. (1) The Department shall inspect relevant payroll and personnel records of facilities which are reimbursed for care of Medi-Cal patients under this section, to insure that the nurse assistants who have received certificates pursuant to Section 1439.3, Health and Safety Code, have received the twenty cents per hour pay increase. (2) Any facility which the Department finds has not paid the required twenty cents per hour increase for certified nurse assistants shall be liable to the State for the amount of funds reimbursed to the facility as a result of the anticipated wage increase. Recovery shall be for the entire period during which wages did not meet the requirements of this regulation. In addition, the facility shall be subject to suspension from participation in the Medi-Cal program pursuant to the provisions of Section 14123, Welfare and Institutions Code. The facility shall also be subject to the provisions of Section 14107, Welfare and Institutions Code.

(1)

The Department shall inspect relevant payroll and personnel records of facilities which are reimbursed for care of Medi-Cal patients under this section, to insure that the nurse assistants who have received certificates pursuant to Section 1439.3, Health and Safety

Code, have received the twenty cents per hour pay increase.

(2)

Any facility which the Department finds has not paid the required twenty cents per hour increase for certified nurse assistants shall be liable to the State for the amount of funds reimbursed to the facility as a result of the anticipated wage increase. Recovery shall be for the entire period during which wages did not meet the requirements of this regulation. In addition, the facility shall be subject to suspension from participation in the Medi-Cal program pursuant to the provisions of Section 14123, Welfare and Institutions Code. The facility shall also be subject to the provisions of Section 14107, Welfare and Institutions Code.

(g)

Facilities shall be exempted, upon request, from the provisions of subsection (f) if each of the following apply: (1) The facility has an ongoing nurse assistant training program which: (A) Has been in effect continuously and prior to February 1, 1978. (B) The Department finds to be in continuous and substantial compliance with the requirements of Section 72322. (2) Effective October 31, 1977, the facility is currently paying nurse assistants an entry wage level of $3.50 per hour or higher.

(1)

The facility has an ongoing nurse assistant training program which: (A) Has been in effect continuously and prior to February 1, 1978. (B) The Department finds to be in continuous and substantial compliance with the requirements of Section 72322.

(A)

Has been in effect continuously and prior to February 1, 1978.

(B)

The Department finds to be in continuous and substantial compliance with the requirements

of Section 72322.

(2)

Effective October 31, 1977, the facility is currently paying nurse assistants an entry wage level of $3.50 per hour or higher.

(h)

Each facility shall certify on the form provided by the Department that an additional $2.28 per patient day for the period of March 1, 1978 through June 30, 1978, was expended for increased nonadministrative employee wages and benefits. Facilities will be exempted from this certification requirement if the entry wage level of the lowest paid nonadministrative employee exceeded $3.97 an hour on March 1, 1978. Facilities exceeding the $3.97 hourly wage shall certify that the additional funds received were used to ensure the continued delivery of quality care in such facility. (1) The Department shall inspect relevant payroll and personnel records of facilities which are reimbursed for care of Medi-Cal patients under this section to insure that the wage increases provided for in the March 1, 1978, rate increases have been implemented. Any facility which has not made the wage and benefit increases, required by this section, shall be liable to the State for the amount of funds paid to such facilities for these wage increases, but not distributed to employees, plus a penalty of ten percent of the funds not distributed. The facility shall also be subject to the provisions of Section 14107, Welfare and Institutions Code. (2) For purposes of this section, the base from which employee wages and benefits shall be increased shall be the payroll for nonadministrative employees for the month of December, 1977 and shall include only nonovertime hours worked by covered employees. The amount of funds to be distributed per month, for the period March 1, 1978 to and including June 30, 1978 for nonadministrative employee wages and benefits, shall equal the total Medi-Cal

patient days for the month of December, 1977 multiplied by $2.28 plus any amount expended pursuant to Section 1439.7 of the Health and Safety Code for purposes of wage increases during the March 1, 1978 through June 30, 1978 effective period.

(1)

The Department shall inspect relevant payroll and personnel records of facilities which are reimbursed for care of Medi-Cal patients under this section to insure that the wage increases provided for in the March 1, 1978, rate increases have been implemented. Any facility which has not made the wage and benefit increases, required by this section, shall be liable to the State for the amount of funds paid to such facilities for these wage increases, but not distributed to employees, plus a penalty of ten percent of the funds not distributed. The facility shall also be subject to the provisions of Section 14107, Welfare and Institutions Code.

(2)

For purposes of this section, the base from which employee wages and benefits shall be increased shall be the payroll for nonadministrative employees for the month of December, 1977 and shall include only nonovertime hours worked by covered employees. The amount of funds to be distributed per month, for the period March 1, 1978 to and including June 30, 1978 for nonadministrative employee wages and benefits, shall equal the total Medi-Cal patient days for the month of December, 1977 multiplied by $2.28 plus any amount expended pursuant to Section 1439.7 of the Health and Safety Code for purposes of wage increases during the March 1, 1978 through June 30, 1978 effective period.

(i)

By July 1, 1978, and annually thereafter, each facility shall certify on the form provided by the Department that: (1) All nonadministrative employees of the

facility employed less than three months shall receive a minimum wage level equivalent to the federal minimum wage plus fifty percent of the facility's average hourly wage increase established for the period March through June 1978 pursuant to subsection (h). (2) All nonadministrative employees of the facility employed for three months or more shall receive a minimum wage level equivalent to the federal minimum wage plus the facility's total average hourly wage increase established for the period March through June 1978 pursuant to subsection (h). (3) Any employee who was employed by the facility for the period March through June 1978 shall not receive a lower wage than the wage received by that employee pursuant to subsection (h) for the March through June 1978 period. (4) Any wage increase for certified nurse assistants required by subsection (f) shall be in addition to any of the average wages certified to in this subsection.

(1)

All nonadministrative employees of the facility employed less than three months shall receive a minimum wage level equivalent to the federal minimum wage plus fifty percent of the facility's average hourly wage increase established for the period March through June 1978 pursuant to subsection (h).

(2)

All nonadministrative employees of the facility employed for three months or more shall receive a minimum wage level equivalent to the federal minimum wage plus the facility's total average hourly wage increase established for the period March through June 1978 pursuant to subsection (h).

(3)

Any employee who was employed by the facility for the period March through June 1978 shall not receive a lower wage than the wage received by that employee pursuant to subsection (h) for the March through June 1978 period.

(4)

Any wage increase for certified nurse assistants required by subsection (f) shall be in addition to any of the average wages certified to in this subsection.

(j)

Notwithstanding any other provisions of these regulations, payment for out-of-state skilled nursing facility services shall be the lesser of the facility's charge, the other state's Medicaid rate or the highest Medi-Cal rate applicable to services provided in comparable facilities.