# Reauthorization of AB 1629:
# Freestanding Skilled Nursing Facility Quality and Accountability

**Background/Summary of Proposal:**

The Department of Health Care Services (DHCS) implemented the current rate-setting methodology for freestanding skilled nursing facilities (SNFs) following passage of the Medi-Cal Long Term Care Reimbursement Act of 2004 (AB 1629, Chapter 875, Statutes of 2004). Although one of the primary purposes for the establishment of the current rate-setting methodology was to improve the quality of care, DHCS currently has no tangible or direct mechanism for financially incentivizing, rewarding, or penalizing SNFs for the overall quality of care rendered to their residents.

This proposal will revise and implement changes to the rate reimbursement methodology for SNFs funded under the provisions of AB 1629, and fund new, permanent full time positions for the DHCS and the California Department of Public Health (CDPH) to implement a new quality and accountability payment system for SNFs.

The rate reimbursement changes will be phased in beginning in fiscal year 2010-11. The goal of the reimbursement rate change is to improve the overall quality of care provided to SNF residents and increase the accountability of skilled nursing facilities. DHCS may assign quality and accountability payments, and CDPH may assign penalties, relating to quality of care, or direct care staffing levels, wages and benefits.

The proposal will allow DHCS to:

- Beginning with rate year 2010-11, assess the Quality Assurance Fee (QAF) on each SNF including Multi Level Facilities.

- Assess the Quality Assurance Fee irrespective of any changes in ownership, any changes in ownership interest or control, or the transfer of any portion of the assets of a facility to another owner.

- Assess a penalty for non-payment of the QAF, beginning in rate year 2010-11 “up to” 50 percent of the unpaid fee.

- Continue to collect all QAF including penalties and interest until the amount is paid full, regardless of the QAF sunset date of July 31, 2012.

- Beginning in rate year 2010-11, recommend to CDPH that license renewal be delayed until DHCS has recovered the full amount of the QAF due.

- Phase in changes to the SNF rate reimbursement methodology, as follows:

  ***Year One (fiscal year 2010-11)***

  - If the American Recovery and Reinvestment Act (ARRA) funds are extended, provide a General Fund-neutral net rate increase to SNFs not to exceed 3.93 percent, with the potential of a reduced adjustment to 3.14 percent if ARRA is not extended beyond December 2010.

- Establish a SNF Quality and Accountability Special Fund which will be used in rate year 2011-12 as a *supplemental payment pool* for rewarding SNFs that meet identified quality measurements.

- Cap SNF reimbursements for professional liability insurance at the 75th percentile (DHCS will not fully reimburse facilities with abnormally high liability insurance costs). Savings will be placed into the SNF Quality and Accountability Special Fund.

- Review facility compliance with direct care staffing levels via CDPH Licensing and Certification (L&C) Program random audits of one-third of SNFs. Facilities that do not meet the 3.2 nursing hours per patient per day requirement pursuant to Section 1276.5 of the Health and Safety Code will pay a penalty of 25 percent of their total amount of their labor driven operating allocation (LDOA) daily reimbursement. Payments will be made to CDPH, in amounts determined by DHCS, and will be deposited into the DHCS SNF Quality and Accountability Special Fund.

- Disallow reimbursement for legal costs related to cases that have not been found in favor of the facilities.

- Establish and publish quality and accountability measures and benchmarks in consultation with stakeholders. Stakeholders would include but not limited to representatives from the long term care industry, organized labor, and consumers. DHCS will engage stakeholders through a series of publicly held meetings to further refine the program with the intent of ensuring increased quality and accountability.

- Fund DHCS positions and provide funding for a contractor to advise DHCS in the planning and implementation of the rate methodology change.

- Fund and phase in new, permanent positions for the California Department of Public Health (CDPH) for performing and overseeing SNF audits of direct care staffing levels.

***Year Two (fiscal year 2011-12)***

- Set the net reimbursement rate cap increase at a level not to exceed 2.4 percent, and set aside the first 2 percentage points of the rate increase in the Special Fund for the supplemental payment pool.

- Implement quality and accountability performance measures that are already reported to CDPH and/or CMS including, but not limited to:
    - Immunizations;
    - Pressure ulcer incidence;
    - Education of the use of physical restraints;
    - Direct-care staff training;
    - Improvement in resident health status based on assisted daily living services;
    - Improvement in resident rates of depression; and
    - Any other data or measurements as required by DHCS.

- Begin supplemental payment pool quality and accountability payments to SNFs that meet or exceed the required performance measure targets/benchmarks.

- Reduce the SNF Labor Drive Operation Allocation by 50% and reserve those savings in the SNF Quality and Accountability Special Fund to be used for the supplemental payment pool and administrative costs for CDPH to perform and oversee SNF audits of direct care staffing levels required under the new quality and accountability system.

- Review facility compliance with direct care staffing levels via CDPH L&C Program audits of up to 100 percent of SNFs. Facilities that do not meet the requirements of Section 1276.5 will pay CDPH a penalty of an additional 50 percent of their total LDOA daily reimbursement, to be deposited in the DHCS SNF Quality and Accountability Special Fund.

***Year Three (fiscal year 2012-13, if Legislation extends the Act beyond the dates on which it becomes inoperative and repealed).***

- Incorporate additional quality and accountability performance measures including but not limited to:
  - Direct care staff turnover;
  - Compliance with Olmstead requirements;
  - Resident, family and staff satisfaction survey results;
  - Increased nursing staff retention rates;
  - Compliance with the 3.2 staffing standard pursuant to Section 1276.5 of the Health and Safety Code (via CDPH L&C Program audits of up to 100 percent of SNFs);
  - Infection control measures;
  - Centers for Medicare and Medicaid Services identified quality and accountability measures as required by federal health care reform; and
  - Any other data or measurements as required by DHCS.

- Continue to utilize the Special Fund to support an augmentation to the CDPH Los Angeles County contract for audits and CDPH positions required for implementation of the increased SNF audits of direct care staffing levels.

**Why is this change needed?**

The Administration is committed to ensuring that it efficiently utilizes public funds for health care services to provide quality care for beneficiaries. This is particularly relevant in the context of SNF services as Medi-Cal pays for approximately two-thirds of all SNF days statewide. The current facility-specific rate methodology functions independent of any facility citations or notices of violation issued by the CDPH's L&C program; data from the federal CMS Minimum Data Set, which is a compilation of pre-defined nursing home resident data collected by the states on behalf of CMS; or the results of any family, resident, or staff satisfaction surveys. This proposal will provide both the incentive and the mechanism for quality and accountability, by:

- Extending the SNF Quality Assurance Fee (QAF) under AB 1629, including the consideration of demonstrated improvements in the quality of care provided to residents. If the SNF QAF is not extended, the QAF funds would no longer be available to help support program costs and the expense would be shifted to the General Fund.

- Providing for increased oversight of SNF staffing requirements and enforcement of penalties for non-compliance.

- Providing facilities that meet required performance measure targets with supplemental quality and accountability payments.