Public Health Funding Omnibus Trailer Bill (SNFs/MHSA) – AB 81/SB 107
Skilled Nursing Facilities Quality Assurance Fee. • Extends skilled nursing facility (SNF) quality assurance fee (QAF) sunset from December 31, 2020, to December 31, 2022, and repeals the statute on January 1, 2024. • Requires Department of Health Care Services (DHCS) to assess seven percent interest per year when a SNF fails to pay all or part of the QAF within 60 days of the due date until the QAF and interest has been paid in full. • Authorizes DHCS to deduct any unpaid assessments (including interest and penalties owed) from any Medi-Cal payments made to a debtor SNF. Requires DHCS to provide written notice to SNF and related ownership facility. • Requires a SNF in the event of a merger, acquisition, or change of ownership to be responsible for paying to the state the full amount of QAF payments, including interest and/or penalties. Authorizes a SNF considering ownership change to request the status of QAF payment obligations from DHCS. • Authorizes DHCS, when all or any part of the QAF is unpaid, to take specified actions, including: 1) assessing a penalty of up to 50 percent of the total unpaid fee and any interest assessed; 2) recommending to the California Department of Public Health (CDPH) that license or Medi-Cal certification renewal or approval of a change of ownership application be delayed until the full QAF, penalties, and interest has been paid; or 3) delay approval of a new Medi-Cal provider agreement or provider agreement transfer to a successor facility (in the event of a merger, acquisition, or ownership change) until the full QAF, penalties, and interest is paid in full or until the successor facility has entered into a payment agreement with DHCS. • Authorizes DHCS to, as a condition of approving a new or transferred Medi-Cal provider agreement, to require either or both: 1) the successor facility to enter into a payment agreement with DHCS for outstanding QAF debt; and 2) the successor facility owner to enter into an alternative payment agreement with DHCS that takes into account the financial situation of the facility and the potential impact on the delivery of services to Medi-Cal beneficiaries. • Authorizes DHCS to waive all or a portion of the interest or penalties assessed for a petitioning SNF if DHCS determines that the SNF has demonstrated an undue financial hardship or a significant financial difficulty in providing services to Medi-Cal beneficiaries. Requires DHCS to post on its website a list of all SNFs that receive a waiver and the amount of interest or penalty being waived. • Exempts freestanding pediatric subacute SNFs from paying the QAF. • Increases CDPH penalties on facilities failing to meet nursing hours or direct care service hours per patient per day statutory requirements. • Exempts from the SNF Quality and Accountability Supplemental Payment System (QASP) special program services for the mentally disordered. • Authorizes DHCS to incorporate, under the QASP, an additional performance measure based upon a facility’s compliance with requirements related to COVID-19 described in all facility letters (AFLs) issued by CDPH. • Discontinues QASP on January 1, 2023, and requires DHCS to convene a stakeholder process by September 1, 2021, to develop a successor supplemental payment or similar quality-based payment methodology to begin in 2023. • Authorizes DHCS to deduct a SNF’s unpaid debt from unpaid QAFs, interest • Requires DHCS to pay a supplemental payment by April 30, 2021, and April 30, 2022, to qualified facilities based on statutory criteria and according to performance measure benchmarks determined by DHCS in consultation with stakeholders. • Authorizes SNFs to account for costs of caregiver trainings that enhance the skills, education, or career advancement for nursing home workers, and trainings provided through a joint labor-management fund as direct pass-through of proportional Medi-Cal costs.

- Authorizes DHCS to continue to update specific geographic peer groups for facility rate setting based on facility characteristics in consultation with stakeholders.
- Requires DHCS to audit facility costs and revenues that are associated with the COVID-19 public health emergency to determine whether a facility adequately used increased Medicaid payments as a result of the emergency on allowable costs, including patient care, increased wages/benefits, shift incentive payments, staff retention bonuses, pay differential for workers employed by more than one facility, and overtime payments to non-managerial workers, personal protective equipment (PPE), COVID-19 testing for employees, infection control measures and equipment, and staff training.
- Requires SNFs that received increased Medicaid payments associated with COVID-19 to provide any information requested by DHCS on emergency-related costs and revenues. Requires DHCS to recoup any amounts of increased Medicaid payments that were not used to support the delivery of patient care. Requires DHCS to seek state plan amendments necessary to conduct SNF audits. Conditions audits on federal approval and federal financial participation.
- Authorizes DHCS to condition a SNF's annual rate increase for August 1, 2020, to December 31, 2020, and for the 2021 and 2022 calendar years on the facility's good faith efforts to comply with any requirements related to the COVID-19 public health emergency as detailed in CDPH's AFLs.
- Includes various provisions related to Medi-Cal reimbursement rates to SNFs.
- Requires SNFs, beginning January 1, 2021, to demonstrate compliance with specified Medi-Cal requirements related to direct care service hours per patient day, minimum wage laws, and wage pass-through requirement. Requires DHCS to assess a monthly penalty for noncompliant SNFs.
- Specifies provisions are contingent on receipt of any necessary federal approvals and, if applicable, federal financial assistance.

Mental Health Services Act (MHSA) COVID-19 Flexibilities.

- Allows a county that is unable to complete and submit a three-year MHSA plan or annual update for FY 2020-21 due to the COVID-19 public health emergency to extend the effective timeframe of its currently-approved three year plan or annual update to include FY 2020-21. Requires a county to submit a plan or annual update to the Mental Health Services Oversight and Accountability Commission and DHCS by July 1, 2021.
- Authorizes counties to access MHSA prudent reserves during FY 2020-21 for expenditure on prevention and early intervention, services to persons with severe mental illness, children's system of care and the adult/older adult system of care, and for housing assistance for individuals with severe mental illness experiencing homelessness through all county letters (ACLs).
- Authorizes DHCS to allow counties to determine the percentage of funds to allocate across programs within the children's system of care and within the adult/older adult system of care for FY 2020-21 through ACLs.
- Specifies unspent funds allocated to a county and interest accruing on unspent funds subject to reversion as of July 1, 2019, and July 1, 2020, shall be subject to reversion instead on July 1, 2021.