

Date of Hearing: July 15, 2025

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

SB 433 (Wahab) – As Amended June 17, 2025

SENATE VOTE: 32-5

SUBJECT: Residential care facilities for the elderly: assisted living waiver rental rate protection

SUMMARY: Limits the amount that residential care facilities for the elderly (RCFE) can charge to residents enrolled in Medi-Cal, as specified. Specifically, **this bill:**

- 1) Permits the Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) to waive rent control prohibitions when determined necessary and appropriate.
- 2) Prohibits, notwithstanding existing law as described in 1) below, a licensed RCFE contracted to receive Medi-Cal reimbursement for services provided to a resident enrolled in Medi-Cal from charging resident a rate exceeding the difference between the resident's income and the personal and incidental needs allowance set for a recipient of Social Security Income/State Supplementary Program (SSI/SSP) in nonmedical out-of-home care (NMOHC). Specifies that for the purposes of this bill, the resident's income is the income used by the Medi-Cal program for the purpose of determining eligibility for covered services.
- 3) Specifies that except as provided in 4) below, for the purposes of determining an individual's eligibility for the Medi-Cal program pursuant to this chapter, the difference retained by the RCFE as described in 2) above, shall be excluded from their countable income.
- 4) For purposes of determining Medi-Cal eligibility:
 - a) Excludes the difference between the resident's income and the rate charged by an RCFE and retained by the resident from countable income.
 - b) States the exclusion in a) does not apply to the portion of the difference retained by the resident that exceeds the personal and incidental needs allowance set by CDSS for recipients of SSI/SSP in NMOHC.
- 5) Specifies that 4) above, applies in addition to any other deductions or calculations to determine financial eligibility pursuant to this chapter.
- 6) Authorizes 4) above, to be implemented only if, and to the extent that, any necessary federal approvals have been obtained and federal financial participation is not jeopardized.

EXISTING LAW:

- 1) Specifies that nothing in the RCFE Act authorizes the imposition of rent regulations or controls for licensed RCFEs, and that licensed RCFEs are not subject to controls on rent imposed by any state or local agency or other local government entity. (Health and Safety Code [HSC] § 1569.147)

- 2) Defines RCFE as a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined, in order to be admitted or remain in the facility. Allows persons under 60 years of age with compatible needs to be admitted or retained if a licensee determines that person is compatible, as defined. (HSC § 1569.2(o))
- 3) Requires a person, firm, partnership, association, or corporation within the state and a state or local public agency to have a current valid license or special permit to operate, establish, manage, conduct, or maintain an RCFE. (HSC § 1569.10)
- 4) Establishes the Resident's Bill of Rights for residents of RCFEs. (HSC § 1569.269)
- 5) Requires every licensed RCFE to provide at least the following basic services, including, but not limited to:
 - a) Care and supervision, as defined.
 - b) Personal assistance and care as needed by the resident and as indicated in the pre-admission appraisal, with those activities of daily living such as dressing, eating, bathing, and assistance with taking prescribed medications, as specified.
 - c) Regular observation of the resident's physical and mental condition, as specified.
 - d) Arrangements to meet health needs, including arranged transportation, as specified. (HSC § 1569.312; 22 California Code of Regulations [CCR] § 87464(f))
- 6) Defines "care and supervision" to mean the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident's physical health, mental health, safety, or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care. Specifies that providing care and supervision requires a facility to be licensed. Specifies that care and supervision includes, but are not limited to, any one or more of the following activities provided by a person or facility to meet the needs of residents:
 - a) Assistance in dressing, grooming, bathing and other personal hygiene;
 - b) Assistance with taking medication, as specified;
 - c) Central storing and distribution of medications, as specified;
 - d) Arrangement of and assistance with medical and dental care. This may include transportation, as specified;
 - e) Maintenance of house rules for the protection of residents;
 - f) Supervision of resident schedules and activities;
 - g) Maintenance and supervision of resident monies or property; and,
 - h) Monitoring food intake or special diets. (HSC § 1569.2(c); 22 CCR § 87101(c)(3))

- 7) Specifies a licensed RCFE shall not require any form of preadmission fee or deposit from a recipient of SSP who applies for admission to the facility. Defines “preadmission fee” to mean an application fee, processing fee, admission fee, entrance fee, community fee, or other fee, however designated, that is requested or accepted by a licensee of an RCFE prior to admission. (HSC § 1569.651(a); HSC § 1569.651(e))
- 8) Requires, in the circumstance a licensee increases the rates of fees for residents or makes increases in any of its rate structures for services, the licensee to provide no less than 90 days’ prior written notice to the residents or the residents’ representatives with the amount of the increase and the reason or reasons for the increase, including a description of the additional costs, except for an increase in the rate due to a change in the level of care of the resident. (HSC § 1569.655(a))
- 9) Requires, in the circumstance of a rate increase due to a change in the level of care of the resident, the licensee to provide the resident and the resident’s representative, if any, written notice of the rate increase within two business days after initially providing services at the new level of care. Requires the notice to include a detailed explanation of the additional services to be provided at the new level of care and an accompanying itemization of the changes. Specifies that this shall not apply to any resident of the facility who is a recipient of SSP. (HSC § 1569.657(a-b))
- 10) Requires an admission agreement to include specified information, including, but not limited to, the following:
 - a) A comprehensive description of any items and services provided under a single fee;
 - b) A comprehensive description of any items and services not included in a single fee;
 - c) A comprehensive description of billing and payment policies and procedures;
 - d) The conditions under which rates may be increased;
 - e) The conditions under which the admission agreement may be terminated;
 - f) Payment provisions;
 - g) Modification conditions, including the requirement for the provision of at least 60 days prior written notice to the resident of any rate or rate structure change, or as soon as the licensee is notified of SSI/SSP rate changes; and,
 - h) Refund conditions. (HSC § 1569.884; 22 CCR § 87507)
- 11) Allows an RCFE licensee to evict a resident for one or more of the following reasons, and requires a 30-day written notice to the resident, except as otherwise provided:
 - a) Nonpayment of the rate for basic services within 10 days of the due date;
 - b) Failure of the resident to comply with state or local law after receiving written notice of the alleged violation;

- c) Failure of the resident to comply with the general policies of the facility. General policies must be in writing, must be for the purpose of making it possible for residents to live together, and must be made part of the admission agreement;
 - d) If, after admission, it is determined that the resident has a need not previously identified and a reappraisal has been conducted and the licensee and the person who performs the reappraisal believe that the facility is not appropriate for the resident; and,
 - e) Change of use of the facility, with no less than 60 days written notice. (22 CCR § 87224(a))
- 12) Allows an RCFE licensee, upon obtaining prior written approval from CDSS, to evict a resident upon three days written notice to quit. Allows CDSS to grant approval for the eviction upon a finding of good cause. Specifies that good cause exists if the resident is engaging in behavior which is a threat to the mental and/or physical health or safety of themselves or others in the facility. Requires a written report of any eviction to be sent to CDSS within five days. (22 CCR § 87224(b); 22 CCR § 87224(f))
- 13) Requires an RCFE licensee to set forth in a notice to quit the reasons relied upon for the eviction with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons. Requires the notice to include the following information:
- a) The effective date of the eviction;
 - b) Resource available to assist in identifying alternative housing and care options which include, but are not limited to, the following:
 - i) Referral services that will aid in finding alternative housing; and,
 - ii) Case management organizations which help manage individual care and service needs;
 - c) A statement informing residents of their right to file a complaint with CDSS, including the name, address, and telephone number of the licensing office with whom the licensee normally conducts business, and the State Long Term Care Ombudsman (Ombudsman) office; and,
 - d) The exact eviction statement detailed in HSC § 1569.683(a)(4). (22 CCR § 87224(d))
- 14) Requires CDSS, upon the request of a resident or their designated representative, to investigate the reasons given for the eviction. (22 CCR § 87224(e))
- 15) Requires DHCS to develop a program that requires a federal waiver to test the efficacy of providing an assisted living benefit to beneficiaries under the Medi-Cal program. The program establishes the rights and responsibilities including, but not limited to, the following:
- a) Specifies assisted living benefits shall include, but are not limited to, the care and supervision activities;

- b) Specifies the assisted living benefit shall be designed to provide eligible individuals with a range of services that enable them to remain in the least restrictive and most homelike environment while receiving the medical and personal care necessary to protect their health and well-being;
 - c) Specifies eligible individuals are those who are eligible for Medi-Cal and are determined by DHCS to be eligible for placement in a nursing facility, defined as either a skilled nursing facility or an intermediate care facility. Requires eligibility to be based on an assessment of an individual's ability to perform functional and instrumental activities of daily living, as well as the individual's medical diagnosis and prognosis, and other criteria, as specified;
 - d) Authorizes DHCS and CDSS to, as determined necessary and appropriate, waive provisions of Division 2 of HSC, Welfare and Institutions Code (WIC) § 14132.95(h), and Title 22 of the CCR;
 - e) Specifies participation in the assisted living benefit program by residential care facilities shall be determined by DHCS in conjunction with CDSS. Requires the facility operator to be responsible for the provision of services allowed under the benefit, either directly or through contracts with other provider agencies, as specified. Authorizes DHCS and CDSS to, as determined necessary and appropriate, waive certain statutes and regulations provisions for participating facilities;
 - f) Prohibits DHCS from implementing the assisted living benefit waiver program if the benefits provided will result in additional costs to the Medi-Cal program; and,
 - g) Specifies the waiver program shall be developed and implemented only to the extent that funds are appropriated or otherwise available for this purpose. (WIC § 14132.26)
- 16) Specifies that the portion of monthly income of a medically needy person residing in a licensed board and care facility that is paid to the facility for residential care and support and in excess of the appropriate maintenance need level shall not be considered in determining that person's share of cost. (22 CCR § 50515(a)(3))
- 17) Requires CDSS to establish a range of amounts for the personal and incidental needs of recipients in NMOHC facilities. Specifies the minimum amount shall not be less than eighty-three dollars per month. Specifies that the range of amounts shall be subject to the payment schedules for SSP. (WIC § 13921)
- 18) Defines "nonmedical out-of-home care" as meaning a protective living arrangement outside the SSI/SSP recipient's own home where, as a minimum, they receive board, room, and personal nonmedical care and supervision related to their individual needs. Specifies NMOHC shall only be provided in specified facilities, including a residential facility. (Manual of Policies and Procedures [MPP] 46-140.11)
- 19) Specifies adult recipients' eligibility for the NMOHC payment rate applies for aged, blind, or disabled individuals or couples residing in a state licensed NMOHC facility or aged, blind, or disabled individuals or couples residing in the home of a related or legal guardian/conservator. (MPP 46-140.12)

20) States it is a cause for revocation of a permit or license by CDSS or DHCS for any person, association, or corporation that maintains, conducts, or, as a manager or officer or in any other administrative capacity, assists in maintaining or conducting any nursing facility or nonmedical board and care facility to obtain, as an additional cost of care, aid allocated to a recipient for their personal or incidental needs or to obtain and fail to delivery such aid allocation to the recipient. Directs CDSS or DHCS to initiate license or permit revocation proceedings. (WIC § 11006.9)

FISCAL EFFECT: According to the Senate Committee on Appropriations on April 21, 2025:

- “The California Department of Social Services (CDSS) estimates ongoing General Fund costs, ranging from \$2 million to \$4 million, for state staffing resources for increased licensing workload.
- Unknown, potential costs for the Department of Health Care Services (DHCS) for state administration (General Fund and federal funds).”

COMMENTS:

Background: *Residential Care Facilities for the Elderly.* RCFEs are responsible for providing housing, housekeeping, supervision, 24-hour staffing, and personal care assistance with activities of daily living, such as hygiene, dressing, eating, and walking, to individuals 60 years of age and older. California’s network of RCFEs ranges from small homes serving fewer than six residents to larger RCFEs that can house over 100 residents in communities across the state. This level of care and supervision is for people who are unable to live by themselves, but who do not need 24-hour nursing care. RCFEs are considered non-medical facilities and are not required to have nurses or doctors on staff, but typically bring licensed health care practitioners into the facility to provide care as necessary. Some RCFEs include memory care units for seniors with dementia. CDSS licenses and regulates RCFEs. Current law provides that licensed RCFEs are not subject to controls on rent imposed by any state or local agency or other local government entity. As of June 2024, there were 7,578 licensed RCFEs with a capacity to serve 176,959 residents. The majority of these facilities have six or fewer beds.

Residential Care Facilities for the Elderly Rates Setting and Affordability. Costs of RCFEs vary widely. RCFEs in California cost an average of \$5,250 per month. However, monthly fees can exceed \$10,000. Due to insufficient long-term care insurance, most residents pay for care via private pay and some use Medi-Cal.

As described above, RCFEs are typically designed with the concept of “aging in place.” Aging in place refers to allowing adults to remain in one home as they age, whether it is an RCFE or their family home. This concept helps ensure adults receive consistent care without traumatic transfers as their care needs increase.

RCFEs charge for a service package based on a resident’s needs for care and supervision, as determined by the facility, often through a points-based appraisal process, and signed into contract through the admission agreement. State regulations require a pre-admission appraisal to be updated in writing as frequently as necessary to note significant changes and to keep the appraisal accurate. However, due to increase in care, the cost of care inevitably also increases. When a resident enters an admission agreement, it is likely the admission agreement will continually be amended as needs increase. For example, a resident may enter with full

continence and then over time, a resident may be unable to use the bathroom without assistance. As such, residents' rates increase.

However, in addition to rate adjustments that might match the level of care increases, there have been complaints of rate increase abuses. According to the Office of the Ombudsman, in 2023, local programs received more than 14,000 complaints from RCFE residents, with hundreds of these related to billing, add-on charges and unexpected or excessive rate increases. Many of these types of complaints devolve into disputes over unwanted discharges and evictions of elderly residents. Examples provided by the Ombudsman include:

- One facility in San Luis Obispo began charging residents to wash their clothes more than once per week;
- A facility in Solano County was charging residents extra for a vegan meal, despite it being included as part of the base rate in their Admissions Agreement; and,
- A recent complaint received from an RCFE resident in Contra Costa County revealed facility management had raised their rent by 200%, with no justification for the increase.

Rate and fee increases make it difficult for residents to stay housed since they are often on fixed incomes, with shrinking savings and few options.

Supplemental Security Income/State Supplementary Payment. SSI/SSP provides a monthly cash benefit to qualified low-income individuals and couples in order to help them pay for basic living expenses, such as food, clothing and shelter. In order to be eligible for SSI/SSP, a person must be at least 65 years of age, blind, or disabled and meet certain income and resource requirements. SSI asset limits of \$2,000 for individuals and \$3,000 for couples prevent many from qualifying for SSI. These asset thresholds were last updated in 1989, the only time they have increased since the inception of SSI in 1972. If these federal SSI asset limits had been indexed to inflation since 1989, they would be about twice as high as they are today. A qualified SSI recipient is automatically eligible for SSP. SSI is a federally funded benefit, while the SSP benefit is funded with the state's General Fund, with California setting its own SSP rates. SSI/SSP grant amounts vary based on a number of factors, including: whether a recipient is aged, blind, or living with disabilities; the individual's or couple's living arrangements; a recipient's marital status; and, whether or not a recipient is a minor. The maximum monthly SSI payment for 2025 is \$967, and the 2025-26 Governor's Budget shows the SSP payment for 2025 as \$239.94.

Some residents of RCFEs are SSI/SSP recipients who receive the NMOHC monthly rate of \$1,599.07. Of this amount, \$1,420.07 is paid to the adult residential facility or RCFE operator, and \$179 is retained by the SSI/SSP recipient as a personal and incidental needs allowance. Facilities are not permitted to charge individuals receiving SSI/SSP above the state-mandated rate. Thus, licensed RCFEs receive a government-set SSI/SSP payment to pay for housing, 24-hour care, and three daily meals. This set rate, coupled with the high cost of real estate and increasing costs of doing business, has made it somewhat difficult to sustain the operation of RCFEs that accept SSI/SSP recipients. However, they are an essential component of addressing California's increasing homeless population, as they serve a particularly vulnerable population that requires 24-hour assistance and are living at or near the poverty level.

Current law prohibits facilities from charging an SSI/SSP recipient more than the NMOHC rate. However, there are no such protections for residents not receiving SSI/SSP.

This bill allows RCFE residents receiving contracted Medi-Cal services to retain the same amount set for personal and incidental needs allowance. Thereby, making the rates equal for residents receiving contracted Medi-Cal services as SSI/SSP residents.

Assisted Living Waiver (ALW). The ALW is a Medicaid Home and Community Based Services waiver. The Home and Community Based Services waiver program allows states to provide a range of home and community-based services that assist Medicaid beneficiaries to live in the community and avoid institutionalization. The ALW does this by providing payment for assisted living services for elderly or disabled California residents who require a nursing home level of care but choose to instead reside in an assisted living environment.

To be eligible to receive services as an ALW participant, an individual must meet the following criteria:

- Be 21 years of age or older;
- Have full-scope Medi-Cal eligibility with zero share of cost;
- Have care needs equal to those of Medi-Cal funded residents living and receiving care in nursing facilities;
- Be willing to live in an assisted living setting as an alternative to a nursing facility;
- Be able to reside safely in an assisted living facility or public subsidized housing;
- Be willing to live in an assisted living setting located in one of the following counties providing ALW services: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Clara, and Sonoma.

Additionally, ALW participants must have sufficient funds to pay for their room and board, with some funds remaining to meet personal and incidental needs. The ALW is not an entitlement program and there are a limited number of spaces. As of December 2024, the program had 16,251 individuals enrolled, with 7,714 individuals on the waitlist. The current waiver is effective March 1, 2024, through February 28, 2029.

This bill would limit the rate RCFEs can charge for those receiving contracted Medi-Cal services such as, but not limited to, ALW services.

Author’s Statement: According to the Author, “Assisted Living Facility Transitions Community Support programs – low-income seniors and individuals with significant disabilities – face steep increases to their room and board rates, and increased risk of housing instability, eviction, institutionalization, and homelessness.

“The ALW program, designed to help the most vulnerable of Assisted Living residents, is in danger of being made obsolete for many of its participants. While residents receiving Supplemental Security Income (SSI) payments are protected from rent increases, 44% of ALW beneficiaries do not have SSI, though they are low income and meet the level for full scope Medi-Cal (\$1,801/month as of April 1, 2025).

“Recently, a small number of unscrupulous Residential Care Facilities for the Elderly (RCFE) providers who provide room and board to ALW program participants have begun targeting non-SSI participants, increasing their room and board rates regardless of how much they can afford.

“The ALW program is not available in for in-home services and therefore, participants must give up their homes and move to RCFEs to receive ALW services. Many program participants require a high level of care, including 24-hour supervision due to dementia or other cognitive impairments.

“RCFE facility operators exploit the lack of rate protections as a strategy to “dump” ALW residents. There are only five legal reasons an operator can evict an ALW resident and failure to pay is one of those reasons. When a facility increases the monthly room rate beyond what the resident is able to pay, they face terrible choices: if they do not have a home to return to or family members they can rely on, they must seek placement in a skilled nursing facility (SNF). Those who cannot find placement in a SNF will most likely end up being homeless.

“This is unacceptable in a society that should be taking care of its citizens in their final years with compassion.”

Equity Implications: Older adults who require assistance with daily activities have an exceptionally hard time finding accommodations in that they must locate not only housing, but also housing that can accommodate their specialized needs at a price they can afford.

For adults over 50 years of age who already struggle to meet their basic needs, financial and medical emergencies can push them into homelessness. According to the United States Department of Housing and Urban Development, roughly 30% of the state’s unhoused population is Black due to a history of racial discrimination in housing, as well as an overrepresentation within the justice and child welfare systems. Data show that a substantial number of adults experiencing homelessness in California are older adults. According to the Budget Policy Center, over 40% of unhoused Californians in adult-only households who came in contact with the homelessness response system in the 2021-22 fiscal year were 50 years of age and older. Complicating matters, adults over 50 years of age are more likely to have underlying health conditions that can be exacerbated by not having access to a stable home or health care, and research confirms that being homeless accelerates severe health declines. These adults often require more assistive services in addition to housing. Research conducted by the University of California, San Francisco (UCSF) indicates that 44% of all homeless people older than 50 years of age became homeless for the first time after they were 50 years of age, and account for half of all unhoused adults. For comparison, this same UCSF research found that in 1990, only 11% of homeless adults were over 50 years of age.

Policy Considerations: *This bill* aims to ensure RCFE residents who are receiving contracted Medi-Cal services are able to stay housed in a RCFE by placing rate restrictions on RCFEs for this population similar to requirements for SSI/SSP recipients. *This bill* also explicitly allows DHCS and CDSS the authority to waive rent control prohibitions when the departments deem it necessary. However, DHCS and CDSS currently have the authority to waive specified statutes, including the rent control prohibition, to implement the ALW as outlined in WIC 14132.26(e)(2). As such, provisions of the bill are duplicative.

Should this bill move forward, the Author may wish to remove duplicative provisions and clarify this applies to room and board.

Proposed Committee Amendments: The Committee proposes amendments to address policy considerations stated above to do the following:

- Remove the following provision:
 - (c) Subdivisions (a) and (b) may be waived by the State Department of Health Care Services and the State Department of Social Services when determined necessary and appropriate, as described in Section 14132.26 of the Welfare and Institutions Code.
- Clarify that the rate that shall not exceed the difference between the resident's income and the personal and incidental needs allowance set for a recipient of SSI/SSP in nonmedical out-of-home care, is room and board rate.

Double referral: This bill was previously heard in the Assembly Committee on Aging and Long-Term Care on June 25, 2025, and was approved on a 5 to 1 vote.

RELATED AND PRIOR LEGISLATION:

AB 770 (Kalra) of 2024, would have struck the six-person bed limit for RCFEs located in a family dwelling. Further, AB 770 would have required any licensed RCFE with greater than six beds to reserve at least 30% of the beds, excluding the first six, for low-income residents. *AB 770 was held on the Assembly Appropriations Committee suspense file.*

SB 1406 (Allen), Chapter 340, Statutes of 2024, added the right to request, refuse, or discontinue a service to the list of rights for RCFE residents, and required an RCFE to provide written notice to residents regarding an increase in the rate of fees 90 days in advance, and required the notice to include the reason or reasons for the increase in rates.

AB 2171 (Wieckowski), Chapter 702, Statutes of 2014, established a bill of rights for residents of RCFEs.

AB 2598 (Leno) of 2008, would have removed the exemption for RCFEs from rent controls, and authorized a local governing body imposing rent controls to require a RCFE to inform each resident or prospective resident of the amount of the monthly fee that is attributable to rent. *AB 2598 died on the Assembly Third Reading File.*

REGISTERED SUPPORT / OPPOSITION:

Support

California Advocates for Nursing Home Reform (Co-Sponsor)
Justice in Aging (Co-Sponsor)
Alzheimer's Association
Bet Tzedek Legal Services
California Commission on Aging
California Retired Teachers Association

Community Legal Aid SoCal
Disability Rights California
National Health Law Program
Office of the State Long-Term Care Ombudsman
Pilipino Workers Center
Western Center on Law & Poverty, INC.

Opposition

6beds, INC.
California Assisted Living Association
LeadingAge California

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