

San Francisco Health Service System Health Service Board

Rates & Benefits

Sutter Health Legal Settlement 2024 Recommended
Rating Buy-Down Action Per HSB Policy 213 for
BSC HMO & UHC EPO Plans and Non-Medicare PPO
Plan

April 13, 2023

Sutter Health Legal Settlement 2024 Recommended Rating Buy-Down Action Per HSB Policy 213 for BSC HMO & UHC EPO Plans and Non-Medicare PPO Plan—Agenda

- **Background – New Health Service Board (HSB) Legal Settlement Policy 213**
- **Background – Recent Sutter Health Legal Settlement (which becomes the first application of new HSB Policy 213)**
- **Calculations and 2024 Rating Buy-Down Recommendations by Plan**
 - Blue Shield of California (BSC) Access+ & Trio Flex-Funded HMO and UnitedHealthcare (UHC) Split Family Lives EPO Plans
 - Non-Medicare PPO Plan (administered by BSC and UHC)
- **Today’s Recommendation for 2024 Rating Buy-Down Action for BSC HMO & UHC EPO plans and Non-Medicare PPO Plan from Sutter Health Legal Settlement Dollars**

Today's Recommendation

Sutter Health Legal Settlement 2024 Recommended Rating Buy-Down Action

In congruence with the new HSB Legal Settlement Policy 213, it is recommended that the Health Service Board approve the use of Sutter Health Legal Settlement dollars received by SFHSS to date for use in 2024 health plan rating buy-downs for the Blue Shield of California (BSC) Access+ and Trio HMO plans (including Non-Medicare split family lives in UHC EPO plans), as well as the Non-Medicare PPO Plan administered by BSC and UHC, as described in this material.

The BSC Flex-Funded HMO plans and the Self-Funded Non-Medicare PPO Plan were offered by the San Francisco Health Service System (SFHSS) at the time the Sutter Health actions in question transpired, hence they are selected for rating buy-down of settlement dollars in today's recommended action. Today's recommendation would use all of the Sutter Health Legal Settlement dollars received to date by SFHSS.

1

Background – New HSB Policy 213

Background – New HSB Legal Settlement Policy 213

The HSB Governance Policies and Terms of Reference were recently updated and approved by the HSB at the January 12, 2023 HSB meeting. As part of this update, new Policy 213 – Legal Settlement Policy – was newly adopted. Policy 213 was written and adopted to provide guidance for distribution of monies generated within SFHSS health and welfare plans by legal settlements, starting with the Sutter Health Legal Settlement described later in this presentation.

The entirety of the Legal Settlement Policy 213 starts below and continues on the next page.

213: LEGAL SETTLEMENT POLICY

Policy Objectives

SFHSS manages self-funded and flex-funded plans and may participate in legal claims to resolve disputes with providers. The resolution of the dispute may involve payments to SFHSS. This policy describes the acceptance and use of these settlements.

Background – New HSB Legal Settlement Policy 213 (continued)

Settlement Policy

- 1) The settlement funds will be accepted and deposited in the medical trust fund for the health plan that most closely matches the claim.
- 2) The funds will be used in the underwriting rate setting process to set applicable health plan future rates, employer contributions and member contributions.
- 3) The underwriting rate setting process will consider the stability of the rates in determining the number of years for which rates will be adjusted.

Review

- 4) The Board shall review this policy at least every three years.

Policy History

- 5) The Board adopted this policy on January 12, 2023.

2

Background – Recent Sutter Health Legal Settlement

Background – Recent Sutter Health Legal Settlement

In December 2019, Sutter Health reached an agreement to resolve an antitrust lawsuit with the United Food and Commercial Workers & Employers Benefit Trust (UEBT) on behalf of a class of California Self-Funded Payers and the California Attorney General.

The settlement resolved two antitrust lawsuits involving a dispute over Sutter Health's approach to contracting with insurance companies as an integrated system. The first is a class action lawsuit brought in 2014 on behalf of various group health plans that provide for employees' and members' health insurance, known as self-funded payers. The second is a lawsuit brought by the California Attorney General in 2018.

California-based self-funded group health plans who are class members have started to receive financial payments with amounts determined by the plaintiffs and subject to a plan of allocation approved by the court. An independent claims administrator is responsible for all claims administration and providing information to settlement class members.

Background – Recent Sutter Health Legal Settlement

SFHSS is a settlement class member, and as such has received approximately \$15 million of an anticipated \$17 million settlement award from the overall \$575 million settlement award. The allocation of dollars received by SFHSS to date as calculated by SFHSS by plan type is:

- BSC HMO & UHC EPO plans: \$11,848,356
- Non-Medicare PPO plan: \$2,943,342

The remainder of this presentation discusses the proposed allocation methodology of Sutter Health Legal Settlement dollars received to date into 2024 self-funded¹ plan rating buy-downs for the BSC HMO & UHC EPO plans and the Non-Medicare PPO Plan.

Further Sutter Health Legal Settlement dollars may or may not be forthcoming beyond the amounts outlined above. Should SFHSS receive any additional settlement amounts between March 2023 and March 2024, SFHSS would apply them to rating buy-downs on the plans outlined above for the 2025 plan year, pursuant to the Board approving this recommendation.

¹ Within this presentation, self-funded plans include flex-funded plans.

3

Calculations and 2024 Rating Buy-Down Recommendations by Plan

Calculations and 2024 Rating Buy-Down Recommendations

BSC HMO & UHC EPO Plans

As referenced earlier in this presentation, the amount received to date applicable to the BSC Access+ and Trio HMO plans (also applicable to Non-Medicare split family lives enrolled in UHC EPO plans) is \$11,848,356. Relative to a projected 2024 expected total cost for these HMO plans (about \$375 million), the Sutter Health Legal Settlement funds applicable to the BSC HMO & UHC EPO plans represent 3.2% of expected total 2024 plan costs.

It is recommended to allocate these funds in 2024 rating buy-downs proportionally by dependent coverage tier for active employees and early retirees in a consistent approach to how rate stabilization amounts are spread in rate cards across active employees and early retirees by tier—so that the total projected allocation equals the \$11,848,356 figure above based on current headcounts by plan, population (e.g., actives and early retirees), and tier for the BSC HMO & UHC EPO plans. Similar to the rate stabilization rating approach utilized for the BSC HMO & UHC EPO plans, the same amounts by population and tier are applied to each of the two BSC HMO & UHC EPO plans.

Calculations and 2024 Rating Buy-Down Recommendations

BSC HMO & UHC EPO Plans

Using current enrollment and applying the same allocation of amounts as utilized in rate stabilization portion of BSC HMO & UHC EPO rate cards, below illustrates the suggested BSC Access+ & UHC Select EPO and Trio HMO & UHC Doctors EPO 2024 rate card line item for rating buy-downs of the BSC HMO & UHC EPO portion of the Sutter Health Legal Settlement dollars received to date:

\$11,848,356 amount to distribute

Allocation by Member Type / Tier—follow ratios used for stabilization amounts in Rate Cards

	Act EE Only	Act EE+1	Act EE+2+	E Ret Only	E Ret + 1	E Ret +2+
2023 HMO Rating Stabilization Amounts (monthly)	(\$19.60)	(\$39.20)	(\$55.46)	(\$45.45)	(\$65.83)	(\$82.10)
Ratio to Active EE Only	1.0000	2.0000	2.8296	2.3189	3.3587	4.1888
February 2023 BSC HMO and UHC EPO Counts (SFHSS reported)*	5,690	3,437	4,101	1,209	427	197
Legal Settlement 2024 rating buy-down (monthly)	(\$33.78)	(\$67.56)	(\$95.58)	(\$78.33)	(\$113.46)	(\$141.50)

* Headcounts including pre-Medicare retiree split family members in UHC EPO plans, as well as all in BSC Access+ & Trio plans

Calculations and 2024 Rating Buy-Down Recommendations

Non-Medicare PPO Plan

As referenced earlier in this presentation, the amount received to date applicable to the Non-Medicare PPO Plan is \$2,943,342. Relative to a projected 2024 expected total cost for this PPO plan (about \$57 million), the Sutter Health Legal Settlement funds applicable to the Non-Medicare PPO Plan administered by BSC (and for Non-Medicare split family members, UHC) represents 5.1% of expected total 2024 plan costs.

It is recommended to allocate these funds in 2024 rating buy-downs proportionally by dependent coverage tier for active employees and early retirees in a consistent approach to how rate stabilization amounts are spread in rate cards across active employees and early retirees by tier—so that the total projected allocation equals the \$2,943,342 figure above based on current headcounts by population (e.g., actives and early retirees) and tier for the Non-Medicare PPO Plan.

Calculations and 2024 Rating Buy-Down Recommendations

Non-Medicare PPO Plan

Using current enrollment and applying the same allocation of amounts as utilized in rate stabilization portion of Non-Medicare PPO Plan rate cards below illustrates the suggested Non-Medicare PPO Plan rate card line item for reflection of the Non-Medicare PPO Plan portion of the Sutter Health Legal Settlement dollars received to date:

\$2,943,342 amount to distribute

Allocation by Member Type / Tier—follow ratios used for stabilization amounts in Rate Cards

	Act EE Only	Act EE+1	Act EE+2+	E Ret Only	E Ret + 1	E Ret +2+
2023 PPO Rating Stabilization Amounts (monthly)	\$11.32	\$21.90	\$30.93	\$15.22	\$22.05	\$27.50
Ratio to Active EE Only	1.0000	1.9346	2.7323	1.3445	1.9479	2.4293
February 2023 PPO Plan Counts (SFHSS reported)*	773	201	173	604	176	56
Legal Settlement 2024 rating buy-down (monthly)	(\$83.84)	(\$162.20)	(\$229.08)	(\$112.72)	(\$163.31)	(\$203.67)

* Headcounts including pre-Medicare retiree split family members in UHC-administered PPO plan in addition to BSC PPO members

4

Today's Recommendation for 2024 Rating Buy-Down Action for BSC HMO & UHC EPO plans and Non-Medicare PPO Plan from Sutter Health Legal Settlement Dollars

Today's Recommendation

Sutter Health Legal Settlement 2024 Recommended Rating Buy-Down Action

In congruence with the new HSB Legal Settlement Policy 213, it is recommended that the Health Service Board approve the use of Sutter Health Legal Settlement dollars received by SFHSS to date for use in 2024 health plan rating buy-downs for the following plans:

- the Blue Shield of California (BSC) Access+ and Trio HMO plans (including Non-Medicare split family lives in UHC EPO plans) and
- Non-Medicare PPO Plan administered by BSC and UHC, as described in this material.