

Payments to Direct Care Workers and Non-direct Care Workers in Hospitals and Long-term Services and Supports (LTSS) Settings

Frequently Asked Questions

Overview

On April 15, 2020, Governor Asa Hutchinson announced that the Centers for Medicare and Medicaid Services (CMS) had approved Arkansas Medicaid's request due to the COVID-19 public health emergency to make additional payments to direct care workers who provide long-term services and supports (LTSS) in institutional and noninstitutional settings. These payments will be made through the worker's employer for the period April 5 through May 30, 2020. The employer must be a Medicaid-enrolled provider.

On April 16, the Department of Human Services (DHS) released guidance and the necessary reporting forms to employers for LTSS direct care workers. **On April 27, the guidance was updated.** The link to those resources can be accessed at <https://humanservices.arkansas.gov/resources/response-covid-19>

On April 15, the Governor's CARES Steering Committee approved payments to:

- 1) Direct care workers in hospitals
- 2) Non-direct care workers in hospitals
- 3) Non-direct care workers in nursing facilities

DHS intends to make up to eight (8) weekly payments between the week beginning April 5, 2020 (week one) and ending May 30, 2020 (end of week eight). The amount of payments per designated worker is contingent upon the number of hours worked in a week. The employer is responsible for payments to its employees and contractors. Payments vary by the number of hours worked and whether the facility is treating COVID-19 positive patients. The table below summarizes the potential scenarios:

Direct Care Workers in Hospitals and LTSS Settings

Weekly hours	COVID+ Patients	No COVID patients
1-19 hrs.	\$125.00	\$0
20-39 hrs.	\$250.00	\$125.00
40+	\$500.00	\$250.00

Non-direct Care Workers in Hospitals and Nursing Facilities

Weekly Hours	COVID+ Patient(s)	No COVID Patient(s)
1-19 hrs	\$62.50	\$0
20-39 hrs	\$125.00	\$62.50
40+	\$250.00	\$125.00

On April 29, the Governor’s CARES Steering Committee approved payments to skilled nursing facilities that are actively treating COVID-19 positive patients. These facilities may receive an additional \$25,000 per week for excess costs for the period March 1, 2020 to June 30, 2020. These payments are available to a facility each week in which the facility has one or more residents who are COVID-19 positive over the 16-week period. Therefore, a facility may qualify for one week of additional payment or up to 16 weeks of additional payment.

On May 8, the Arkansas Legislative Council (ALC) approved a new appropriation of \$80 million for DHS to administer the direct care and non-direct care workers payments and \$45 million for the COVID-19 cluster payments to nursing facilities.

On May 11, DHS released guidance and the necessary reporting forms to employers for direct care workers in hospitals, indirect care workers in hospitals, and indirect care workers in nursing facilities. The definitions of these workers are included in the most recent Frequently Asked Questions (FAQs).

Updated May 11, 2020

General Response

We have received many questions about who is considered a non-direct care worker. In our original guidance, we defined non-direct care staff as including but not limited to:

- Pharmacy technicians
- Environmental service workers or janitorial staff
- Facilities services workers including dietary staff

We further explained that administrative personnel and costs are excluded.

In response to requests for additional guidance on these terms, we are providing more precise definitions:

“Environmental Service Workers” means facility staff whose primary duties during the week were any of the following:

- Infection prevention and control;
- Laundry;
- Housekeeping, cleaning, or other janitorial services inside the facility; or

- Maintenance or repair of building interiors, interior equipment or furnishings, or internal environmental systems (e.g., electricity, plumbing, heating, air conditioning, ventilation, and filtration).

“Primary duties” means that during the week reported, at least the majority of the individual’s working hours were performing one or more of the duties listed above.

However, “Environmental Service Workers” excludes staff whose primary duties during the week were groundskeeping or maintenance of building exteriors, unoccupied storage facilities, or the grounds.

“Facilities services workers” means facility staff whose primary duties during the week were any of the following:

- Directors of nursing or assistant directors of nursing;
- Workers performing any of the following duties which require in-person contact with patients:
 - Patient reviews and assessments,
 - Patient intake and discharges,
 - Assisting physicians and patients during telemedicine visits, or
 - Federal or state required quality assurance activities;
- Patient dietary, nutrition, or food service (i.e., dietitians, directors of food service, in-room meal delivery staff, communal dining staff, and other food service personnel);
- Social workers and patient activities staff with daily in-person contact with patients inside the facility.
- Clergy of any faith who provide group or individual religious services, counseling, or spiritual comfort to patients in the facility who are employed by the facility.
- Public facility reception staff, including those screening incoming staff, authorized visitors, and patients entering the facility or returning from medical appointments.
- Security with daily in-person contact with patients, patient rooms, or patient common areas.
- Transportation staff employed by the facility with daily direct contact with patients necessary to provide hands-on physical assistance for patients in and out of vehicles, buildings, elevators, and medical offices.

“Primary duties” means that during the week reported, at least the majority of the individual’s working hours were performing one or more of the duties listed above working among patients in an inpatient setting or emergency room setting.

Administrative Staff:

As indicated in the original guidance, administrative staff are not eligible for the Non-Direct Worker Wage Payments.

“Administrative Staff” means the following staff:

- Administrator and members of the executive staff;
- Administrative support staff for the administrator and executive staff (excluding public reception staff); and
- Finance, accounting, bookkeeping, payroll, and human resources staff.

Temporary Assignments:

We recognize that the COVID-19 Emergency has caused disruptions in staffing patterns and that administrative staff may be temporarily assigned to perform non-direct care staff duties (i.e., environmental services or facilities services responsibilities as defined above).

To claim payment for these individuals, the employer must document the assignment of new or additional duties for each week.

This work cannot be incidental or merely for convenience, and the number of hours worked must meet the definitions for part-time or full-time work as claimed.

Non-Direct Care Workers in LTSS Facilities

In our original guidance, we defined non-direct care staff as including but not limited to:

- Pharmacy technicians
- Environmental service workers or janitorial staff
- Facilities services workers including dietary staff

We further explained that administrative personnel and costs are excluded.

In response to requests for additional guidance on these terms, we are providing more precise definitions:

“Environmental Service Workers” means LTSS facility staff whose primary duties during the week were any of the following:

- Infection prevention and control;
- Laundry;
- Housekeeping, cleaning, or other janitorial services inside the facility; or
- Maintenance or repair of building interiors, interior equipment or furnishings, or internal environmental systems (e.g., electricity, plumbing, heating, air conditioning, ventilation, and filtration).

“Primary duties” means that during the week reported, at least the majority of the individual’s working hours were performing one or more of the duties listed above.

However, “Environmental Service Workers” excludes staff whose primary duties during the week were groundskeeping or maintenance of building exteriors, unoccupied storage facilities, or the grounds.

“Facilities services workers” means LTSS facility staff whose primary duties during the week were any of the following:

- Directors of nursing or assistant directors of nursing;
- Workers performing any of the following duties which require in-person contact with patients:
 - Patient reviews and assessments,
 - Patient intake and discharges,
 - Assisting physicians and patients during telemedicine visits, or
 - Federal or state required quality assurance activities;
- Patient dietary, nutrition, or food service (i.e., dietitians, directors of food service, in-room meal delivery staff, communal dining staff, and other food service personnel);
- Social workers and patient activities staff with daily in-person contact with patients inside the facility.
- Clergy of any faith who provide group or individual religious services, counseling, or spiritual comfort to patients in the facility who are employed by the facility.
- Public facility reception staff, including those screen incoming staff, authorized visitors, and patients entering the facility or returning from medical appointments.
- Security with daily in-person contact with patients, patient rooms, or patient common areas.
- Transportation staff employed by the facility with daily direct contact with patients necessary to provide hands-on physical assistance for patients in and out of vehicles, buildings, elevators, and medical offices.

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General Response:

We have received numerous questions from individuals inquiring when they will receive payments from their employers. These payments will be distributed across several hundred employers and passed through to thousands of employees. We are not able to respond to individual requests on the timing of when payments will be received.

General Response:

We received numerous questions from individuals as to whether they were eligible to receive payments under the direct care worker definitions. Many workers who did not qualify as direct care workers do qualify under the updated non-direct care worker definitions and therefore encourage individuals to review the updated definitions.