

Updated April 17, 2020

Medicaid Payments to Direct Care Workers in 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. The link to those resources can be accessed at <https://humanservices.arkansas.gov/resources/response-covid-19>

DHS will continue to respond to Frequently Asked Questions (FAQs) and update these periodically.

4/17/2020

Q 1: How often do we need to submit the provider report for reimbursement?

Response: Provider report form may be submitted weekly or in accordance with the provider's payroll schedule.

Q 2: Will the payments to the provider be in the form of a check or EFT?

Response: Providers will receive payment the same way as received with claims.

Q 3. Are these payments subject to FICA and other applicable taxes?

Response: Yes. This is taxable just like other income to worker.

Q 4. Many CNAs work shifts that are 7.5 hours a day = 37.5 hours a week to be considered a FTE. Our state minimum staffing shifts are in statute, most facilities follow those precisely, and FTE matches our PBJ reporting. Will these workers qualify as full time?

Response: Yes, they would qualify.

Q 5. Official state interpretation that the direct care worker wage payments (and any future non-direct care worker wage payments) are NOT gross receipts (as defined AR Code § 20-10-1601 (3)) for purposes of the Quality Assurance Fee (QAF). Does this apply to new payments?

Response: Yes, they are treated the same way.

Q 6. Official CMS interpretation that excluding the direct care work wage payments (and any future non-direct care worker payments) from gross receipts for purposes of determining the QAF each facility owes is NOT a violation of s. 1903(w) or related CMS regulations on provider tax. Does this apply to new payments?

Response: Yes, they are excluded.

Q 7. Are nurse aides who are students that have not yet passed the CNA exam (because the sites are closed due to COVID), but are working in the facility on the floor as CNAs eligible?

Response: If they are providing direct care for which they are being paid, then they are covered. Clinical hours would be excluded.

Q 8. Are LPN medical records nurses eligible? Some of them are working on the floor during this time, especially in COVID positive buildings.

Response: Any hours spent providing direct patient care should be included. Administrative hours would not be included.

Q 9. Are RN directors of nursing eligible?

Response: Any hours spent providing direct patient care should be included. Administrative hours would not be included.

Q 10. What about child support and wage garnishments?

Response: Yes

Q 11. If a facility has a positive test in the middle of a week, is that entire week considered at the COVID positive rate? Or is not considered until a full week?

Response: Yes, it will increase the rate for the entire week

Q 12. For PBJ purposes, salaried employees are only allowed to be counted for 40 hours. If a facility has a salaried administrative employee who works, the floor above and beyond their 40 hours the facility can't count them for PBJ. Can the facility count those above and beyond hours for the bonus payments?

Response: Any hours spent providing direct patient care should be included. Administrative hours would not be included.

Q 13. How are direct care workers defined for assisted living? (what positions?)

Response: A direct care worker is a staff member who is providing face-to-face care assisting with ADL's or administering medications and treatments.

Q 14. What about agency staff that are contracted but working full time direct care in the facility?

Response: The provider should include them in the report and pass through payment to the agency staff through their agency

Q 15. Can facilities make these payments with their normal pay cycles bi-weekly?

Response: Yes

Q 16. What about contracted speech, occupational and physical therapists in nursing homes?

Response: If a therapist is billing Medicaid, individually, they will not qualify.

Q 17. What if a CNA works full time at one facility and part time at another facility?

Response: Both facilities will submit separate reports and they would qualify from both

Q 18. Should these payments be taxed as bonus or regular payroll?

Response: DHS considers this part of your regular payroll and your financial representative should be consulted for this decision.

4/16/2020

Q1. Would a city owned home health provider qualify for the home worker incentive pay? The question came up during the home health provider call. I thought they would as we are a state entity and our staff qualify.

Response: If they are a current enrolled Medicaid Provider.

Q2. On this press release, "Governor Hutchinson Announces CMS Approval of Additional Pay For Eligible LTSS Direct Care Workers Due to COVID-19 Emergency" does this include DMEs that provide in home care/delivery of vents, oxygen and more to aid those diagnosed with COVID-19 or being treated with the similar symptoms?

Response: No

Q3. Who is eligible for these payments?

Response:

The payments are for direct care workers in LTSS settings. These include:

- Registered Nurses
- Licensed practical nurses/Licensed vocational nurses
- Nurse aides/techs/assistants
- Personal care aides assisting with activities of daily living
- Home health aides assisting with activities of daily living
- Direct care workers providing services under home and community-based waivers
- Intermediate Care Facility direct care staff members including those that work for a state-run Human Development Center
- Assisted Living direct care staff members
- Therapists employed in one of the eligible service providers

The employers are Medicaid-enrolled providers that are:

- Public and Private Intermediate Care Facilities
- Public and Private Nursing Facilities
- Home Health Agencies
- Personal Care Agencies
- Hospice
- Assisted Living Facilities
- Residential Care Facilities
- Psychiatric Residential Treatment Facilities
- AR Choices Waiver Adult Day Health Providers, Adult Day Service Providers, Adult Family Home Providers, Attendant Care Providers, and Respite Care Providers
- Living Choices Waiver nursing, personal care and attendant care providers
- CES Waiver Supportive Living and Respite Providers

Q4. What is the payment structure?

Response: The base payment amount applies to workers in settings in which there are no COVID-19 positive clients:

A) work 20-39 hours per week--\$125.00

B) work 40+ hours per week--\$250.00

C) work a regularly planned split shift schedule that overlap weeks that equal or exceed 150 hours per month, not including overtime--\$250.00/week

If a client has tested positive for COVID-19, the direct care workers in that facility or home and community-based setting, will receive an enhanced payment as follows:

A) work 1-19 hours per week--\$125.00

B) work 20-39 hours per week--\$250.00

C) work 40+ hours per week--\$500.00

D) work a regularly planned split shift schedule that overlap weeks that equal or exceed 150 hours per month, not including overtime--\$500.00/week

Q5. For base and tiered payments, what if their hours vary each week? One week they might work 15 hours and the next 40 plus hours.

Response: We recognize some workers are on split shift schedules. Therefore, those who work a regularly planned split shift schedule that overlaps weeks that equal or exceed 150 hours per month, not including overtime, are considered full-time workers and qualify for the highest amount.

Q6. How do we get the money?

Response: Workers will receive the additional payments through their employer. The link to those resources can be accessed at <https://humanservices.arkansas.gov/resources/response-covid-19>

Q7. When and how will the payments be made?

Response: The Division of Medical Services (DMS) will make payments on a weekly basis to an employer the week after the employer files for payment. The payments are retroactive to April 5 (week 1). The

necessary forms and guidance were released on April 16 (week 2). Assume that the employer filed its report by Close of Business (COB) on Wednesday, April 22 for week 1 and week 2. The payment would be made to the employer on the following Friday (May 1st)

Q8. How will DHS know how much to pay the provider?

Response: The employer must complete the report which details the number of workers of full-time and part-time workers and whether a COVID-19 positive client was being treated. DHS will determine the total payment to the employer.

Q9. I am a home health physical therapist for Baptist here in Little Rock. After listening to and reading the press release from Governor Hutchinson today it looks like I am in a setting (home health care) that would qualify for his new executive order but there was nothing stating physical therapist. Would you be able to let me know if physical therapist is included in this order?

Response: Therapists will be included in this payment if they are employed by or contracted by an eligible Medicaid provider or a staffing agency used by the provider.

Q10: Are dialysis technicians eligible for the payments?

Response: This payment is directed to direct care workers, which include technicians, who are providing long term services and support in either a facility or home and community-based setting.

Q11. I listened with interest today as the Governor and you announced the incentives for direct care workers. If I understood you correctly, you also stated that there is another "round" of assistance that may be available for other workers. I believe you mentioned hospital laundry workers, janitors, etc. I respectfully request that you consider adding for this incentive round, the Medicaid targeted case managers, as they are still doing face-to-face assessments, reassessments, monitoring, and linkage to community resources.

Response: Please know that the Governor's Steering Committee has approved a recommendation on non-direct care workers and separate guidance will be issued in the near future.