

## Nursing Facility SFY2021 Rate Increase Frequently Asked Questions (FAQ)

### RATE INCREASE AND REPORTING APPLICABILITY

#### To which law does this FAQ apply?

This FAQ applies to P.L.2020, c.90, which increased SFY2021 Medicaid nursing facility rates and requires that the additional revenue be spent on wage increases and infection control measures. The Department of Human Services (“Department”) sets these rates and will monitor compliance with the financial reporting requirements.

This FAQ does not address the requirements of P.L.2020, c.89, which established a direct care minimum wage; P.L.2020, c.112, which established minimum staffing ratios; or any other nursing facility laws.

Although the rate increase in P.L.2020, c.90 may be used to meet the requirements of these companion laws, the minimum wage and staffing components are not administered by the Department of Human Services. Questions regarding these laws should be directed to the Department of Labor and Workforce Development and the Department of Health, respectively.

#### What is the purpose of P.L.2020, c.90?

SFY2021 Medicaid nursing facility rates were increased by ten percent, which will result in about \$130 million in additional payments to facilities. This new funding is provided to fund two requirements:

- 1) Certified Nurse Aides (CNAs) provide the majority of the direct care in most facilities, making retention and recruitment of this workforce a critical component of quality care. At least 60% of the additional revenue included in P.L.2020, c.90 must be used to increase wages or supplemental pay for these staff.
- 2) Other long-term care laws include new requirements for nursing facilities in response to COVID-19, including, for example, the provision of personal protective equipment and the implementation of certain infection control protocols. Up to 40% of the additional revenue made available to a facility through P.L.2020, c.90 may be used to support new costs a facility is incurring to meet these preparedness and response requirements.

Failure to comply with the requirements of the law may result in recoupment of some or all of the additional revenue.

To review the entire statute visit: <https://www.njleg.state.nj.us/2020/Bills/AL20/90 .HTM>

**What facilities does the rate increase and reporting apply to?**

The rate increase and reporting applies to all Class I, Class II, and Class III nursing facilities that: (1) are paid a Medicaid nursing facility daily rate through the State's fiscal agent, DXC/Gainwell, or a Managed Care Organization, and (2) are licensed by the Department of Health pursuant to P.L. 1971, c. 136 (C.26:2H-1 et seq.). The law does not apply to assisted living facilities.

**Can I elect to not receive all or part of the increase?**

State law requires that all facilities receive a ten percent increase from October 1, 2020, through June 30, 2021, and does not permit a facility to decline this increase. If you decide not to use the additional revenue for the required purposes, please set the funds aside for repayment to the State. In this case, only submit the initial Attestation.

**When and how long will the rates and reporting be effective?**

The rate increases are effective October 1, 2020, through June 30, 2021. As in previous years, it will take a few weeks for the State's fiscal agent, DXC/Gainwell, and the Managed Care Organizations to begin paying at the new rates. They will make retro payments back to October 1, 2020, upon completion of the rate updates in their systems.

As of July 1, 2021, payment rates and reporting requirements will be updated based on the SFY2022 Appropriations Act and any companion legislation.

**Will the amount of the provider assessment change for SFY2021?**

No, the amount of the provider assessment remains the same.

## USE OF ADDITIONAL REVENUE

### **How do I pay the increase to CNAs?**

Facilities may decide what the appropriate mix of wages and bonus or supplemental pay is based on their operations. Retroactive wage changes are not required. Bonuses should be paid by July 31, 2021.

### **Is my facility required to increase minimum wages as of January 1, 2021?**

Yes, P.L.2020, c.90 does not change the requirements of the minimum wage law.

### **Can the 60% component of the rate increase intended for CNA pay be used for the corresponding increase in payroll taxes?**

Yes, the 60% component can be used for payroll taxes assessed on the wage increase.

### **Can the 60% component of the rate increase be used for employees who perform the same functions as CNAs but who hold additional credentials or licensure?**

Yes, additional wage and supplemental payments may be made to staff fulfilling CNA functions, even if they hold a higher credential. Additional wage and supplemental payments may also be made to Nurse Aides that are working pursuant to emergency waivers for a limited time prior to passing their certification test.

### **If the 60% component is not entirely spent on CNA pay, can it be used for other staff? For example, can the 60% component be used to offset wage compression of non-CNA staff? If not, what can the 40% component be used for?**

Per the law, the 60% component may only be applied to CNA wages and supplemental payments. The Department does, however, recognize the impact of wage compression and the 40% component may be used to address this situation (emphasis added below):

*“The remainder of the rate adjustment shall be used for other costs related to coronavirus disease 2019 preparedness and response, including enhancing infection control measures, cleaning, reconfiguration of the facility to support cohorting, procurement of personal protective equipment, testing, or other staff wages and needs.”*

### **Will requirements for the 40% component change if the Department of Health updates the Executive Directives referenced in the law?**

The Department of Health will be determining how facilities demonstrate ongoing compliance with the Executive Directives and qualitative requirements of the law.

## CNA REPORTING

### **Do I report differently if the number of CNAs employed by my facility has, or will, substantially change before or during the reporting period?**

No, the number of CNAs on your payroll does not change the way you report. The number of CNAs is calculated for comparison but there is no required trend. The Department recognizes that changes in facility census, staffing ratios, and other operational factors will influence the total number of CNAs.

### **Do I report differently if I adjusted wages before October 1, 2020?**

No, the Department is required to collect information that corresponds to the rate increase period, which is from October 1, 2020, through June 30, 2021. Adjustments prior to this period will not be collected.

### **How do I report agency CNA staff?**

Agency staff should not be reported on the Wage Schedule. Only report the wages for staff that the facility employs. For the final Attestation, increased wage and supplemental payments to CNA staffing agencies, relative to monthly baseline expenditures as of October 1, 2020, should be included in the Total CNA Expenditure.

### **Are wages reported at a point in time? For what period are bonuses reported?**

A snapshot of wages is reported as of October 1, 2020, and again as of June 30, 2021. There is no bonus reporting for the initial Attestation. In contrast, final bonus reporting is a cumulative figure for the full nine-month period. The final Attestation and Wage Schedule should include total bonus and supplemental payments made from October 1, 2020, through June 30, 2021.

### **Do I report adjustments that impact hourly wages (e.g., overtime, hazard pay)?**

For the Wage Schedule, the hourly wage is the base hourly wage, excluding shift differentials and overtime. Permanent increases should also be included in the base hourly wage (e.g., hazard pay for the duration of the rate increase period). However, if hazard pay or a similar differential is only paid for certain activities, it should be excluded from the base hourly wage. For the final Attestation, the aggregate amount of overtime and differential pay should be included in Total CNA Expenditure.

Please be aware that the CNA entry fields in the final Attestation and slide 18 of the presentation are not calculated from the other inputs. These fields will be entered by the facility after reviewing your payroll records. For example, if 100 employees received a \$1.00/hour raise, you could multiply \$100 amount by the number of hours worked in the reporting period to calculate the amount for "CNA wages, additional amount expended."

## REPORTING CALCULATIONS

### **Does reporting apply to both fee-for-service and managed care payments?**

Yes, reporting must include the additional revenue from both fee-for-service and managed care billings.

### **Do I include billed but not collected days in the additional funding calculation?**

Yes, include billed but not collected revenue consistent with your federal tax filing accrual and revenue recognition policies. Please retain documentation for audit purposes and resubmit the file if the actual amount collected is materially different than the submission.

### **Do I report differently if my facility is changing ownership or closing?**

In either case, please submit the initial Attestation and Wage Schedule. If facility ownership changes, the new owner should submit the final Attestation. If the facility closes during the reporting period, the current owner should submit the final Attestation as of the date of the closure.

### **If I operate multiple facilities or bill under multiple provider numbers, does each facility need to submit a single file?**

Yes, you must submit a single file that corresponds to each billing location's individual provider number and daily Medicaid rate. For example, a nursing facility and SCNF operated by the same owner but billing distinct rates must report for each site. Similarly, multiple nursing facilities operated by the same owner must report for each site.

### **How does the 60% component apply to turnover or staff increases?**

If a CNA receives a wage increase or supplemental payment, the incremental increase should be included in the Total CNA Expenditure on the final Attestation.

If a CNA is replaced by a new employee who is paid a higher wage, the incremental wage increase, and any later supplemental payment, should be included in the Total CNA Expenditure on the final Attestation.

If a facility adds a CNA to increase their staffing ratio, the entire wage, and any later supplemental payment, should be included in the Total CNA Expenditure on the final Attestation.

### **Is there reporting for the 40% component?**

No, the Department is only collecting wage and cost data for the CNA component.

### **RECOUPMENT OF FUNDS**

**If a facility meets the 60% wage increase requirements, but does not meet the Department of Health infection control requirements, would the maximum recoupment be limited to the 40% component?**

Yes.

**If a facility is already paying above minimum or market wages and chooses not to pay out the 60%, but does meet the infection control requirements, would the maximum recoupment be limited to the 60% component?**

Yes.

**How will recoupment be made if it is required?**

Additional guidance will be forthcoming.

**This FAQ may be updated over time as additional information becomes available or as additional questions are submitted.**

**You may contact [NFSUBMISSIONS@dhs.nj.gov](mailto:NFSUBMISSIONS@dhs.nj.gov) if you have additional questions that are not answered by this document.**