MassHealth RY2018
Nursing Facility Direct Care Program Final Filing
Frequently Asked Questions (FAQ)

v. 6-27-18

Contents

Eligibility and Eligible Days

1. **What workers are eligible to receive the Direct Care revenue?**
   Answer: The final regulation (101 CMR 206.00: Standard Payments for Nursing Facilities) defines eligible 'direct care workers' to include the following staff **employed by the facility**:
   - *Registered nurses*
   - *Licensed practical nurses*
   - *Certified nursing assistants*
   - *Dietary aides*
   - *Housekeeping aides*
   - *Laundry aides*
   - *Activities staff*
   - *Social workers*

   Note: These eight positions do not align exactly with the current nursing facility cost report line items. In general, management and supervisory positions are NOT an allowable use for Direct Care revenue. For example, dieticians would not be eligible for the Direct Care revenue.

   In situations where the facility has a question about a particular employee position being eligible for the Direct Care revenue, it would be prudent for the facility to seek clarification from EOHHS first before spending the funds on that particular position. Please send your question to the following e-mail address: NFDirectCare@umassmed.edu.

2. **Can the state clarify the types of employees that may be included in each of the eight categories?**

   Answer: Facilities may develop internal policies to categorize positions that do not have titles corresponding exactly to the titles identified in the regulation. Expenditures are less likely to be compliant for positions:
   - *Whose salary expenses are not reported by the facility in the following cost report accounts: 6030.1 6041.1, 6051.1, 5205.1, 5410.1, 5310.1, 7021.1, 6540.0;*
   - *That are not considered low-wage; and*
   - *That have management or supervisory responsibilities.*

   Staff with supervisory responsibilities who also provide direct care services (RN supervisor, LPN supervisor, etc.) are NOT eligible.

   An exception to the prohibition on supervisors and managers receiving Direct Care funds would be someone who may hold a supervisory title but does not manage or supervise any employees or contractors. For example, if the Director of Social Services is the only staff person in that department and is not supervising anyone, s/he may qualify as an eligible employee. Please e-mail NFDirectCAre@umassmed.edu to confirm whether an employee is eligible.

Additional staff <u>not</u> eligible include:

> *Business office staff (clerks, unit secretaries, payroll, HR, records department staff)*
> *CNA who works as a unit secretary and provides direct care*
> *Assistant Direct of Nurses/Assistant Director of Nursing Services (even if they provide direct care services)*
> *Maintenance staff*
> *MMQ and MDS coordinators*
> *Housekeeping supervisors, maintenance supervisors, food services supervisors*
> *Rehabilitation staff—physical/occupational/speech therapists, therapy aides*
> *Clinicians*
> *Teachers, teaching assistants*

3. **Are employees from a temporary nursing agency that is owned by the nursing facility chain eligible?**
   Answer: No, only employees directly employed by the facility are eligible.

4. **Are hospice days included in the Medicaid days?**
   Answer: No, facilities should not include hospice days when reporting days for Part A line 3 and Part C line 2.

5. **Are contract employees eligible?**
   Answer: No, the Medicaid rate regulation restricts expenditure of Direct Care revenue to staff employed directly by the nursing facility. Spending for temporary nursing services and contract employees is not permissible.

Payments, Spending and Rates

6. **Are non-payroll payments, such as gift cards, a permissible use of funds?**
   Answer: Gifts cards paid to eligible employees are a permissible use. For documentation and audit purposes, the facility must create a log that records the names of employees to whom the gift cards were given and the amount of each gift card, along with a signature from the recipient indicating that the gift card was received.

7. **Where do I include spending on shift differentials?**
   Answer: Include shift differentials in the wages for the appropriate employee type. For example, include RNs shift differentials in Part D, line 1a.

8. **Where do I include overtime spending?**
   Answer: Include overtime spending in the second entry in Part D for each employee type. For example, for RNs, overtime should be entered in Part D, line 1b.

9. **Does the facility have to provide the Direct Care funds for all eligible staff?**
   Answer: No -- a facility has discretion to spend the amount for all of these positions <u>or</u> only a subset of these positions, as indicated in EOHHS's Administrative Bulletin 18-02.

10. **Can facilities use the money on new hires?**
    Answer: *Facilities may use the Direct Care revenue to pay bonuses to new hires. However, while wages and hours paid for new hires will be included in the reporting of hours and expenses for Part C and Part D, spending on these new employees during the rate period will not be considered an increase simply because the recipient was not employed during the base period. This is because wages, benefits, and overtime pay are measured on a per-hour basis, so per-hour spending (not total spending) must increase from the base period to the rate period.*

11. **What happens if I use contract staff for one period and have employees filling those positions during the other period? For example, if I used a contract service for housekeeping during the base period and hired housekeepers before or during the rate period?**
    Answer: *The webform has a drop-down list for each position in Part A, question 3. If the employee type was employed the entire rate year, leave the default option "Not contracted" as is. Otherwise, select the appropriate option:*

    - *Contracted Part of Rate Year – if the position changed from contractor to employee or from employee to contractor during the rate year, select this option. Then, in the question 3b text box the "Explanation of why you are editing RY16 data", enter the date the position began or ended being contractors.*
      After the webforms are submitted, EOHHS may make an adjustment to reflect the staffing differences between the two periods to ensure the reporting between the two periods is consistent. The webform thus may not reflect those manual adjustments. EOHHS may ask facilities to provide additional information on the reported data.
    - *Contracted Entire Rate Year – select this option if the position was a contractor for the entire rate year. Users will not be able to enter any data for staff who were contractors the entire year; the cells for those staff will close and any existing data will be deleted.*

12. **Can facilities pay different bonus amounts to employees within a given department? For example, can a facility pay one LPN a $500 bonus, another one $1,000?**
    Answer: *Yes.*

13. **How do facilities know the amount of their Direct Care revenue received for rate year 2018?**
    Answer: *To look up the amounts of Direct Care revenue, please go to https://www.mass.gov/files/documents/2018/04/02/direct-care-lump-sum-payments-101-cmr-206.pdf*

14. **What are permissible uses of the Direct Care revenue?**
    Answer: *The Medicaid rate regulation specifies that providers must spend Direct Care revenue on the eight direct care employee positions eligible to receive Direct Care funds via: **increased wages, increased benefits, overtime pay, shift differentials, and bonuses**. Spending for those permissible uses occurring on or after July 1, 2017 will be considered permissible use of Direct Care funding. Facilities may **not** spend Direct Care revenue for temporary nursing service, contract employees, or directors of nursing.*

15. **Will EOHHS monitor Direct Care spending compliance?**
    Answer: *Yes, both the FY2018 budget and 101 CMR 206.00: Standard Payments to Nursing Facilities authorize EOHHS to monitor spending compliance. The regulation states that EOHHS will, via administrative bulletin or other written issuance, establish rules governing various aspects of the Direct*

Care funds including, but not limited to, reporting requirements, noncompliance, penalties for noncompliance, and recovery. See 101 CMR 206.06(13).

Reporting, Filing and Timelines

16. **How does a nursing facility document Direct Care spending?**
    *Answer: Each facility will be required to **electronically submit** data to EOHHS using a Nursing Facility Direct Care Program Compliance Form. Based on the information provided by the facility on the form, EOHHS will compare the amount of spending counted toward compliance with the amount of Direct Care revenue received to determine if the facility has complied. EOHHS will provide each facility with a compliance calculation and notify the facility of its determination.*

17. **Is filing the interim compliance form by February 1, 2018 mandatory?**
    Answer: *Yes, for all facilities who received more than $5,000 in Direct Care Add-on funding. Facilities who received $5,000 or less in funding are not required to submit the interim compliance form.*

18. **What is the website for the webform?**
    Answer: https://www.uenter.org/NF/

    Note, if you use Firefox, you may need to add an exception to allow the website to load (via Advanced button).

    You must have registered with MassHealth and received a user ID and password in order to log on to use the webform (see Compliance section below). You will be able to access forms for all of the nursing facilities for which you have registered.

19. **What is the due date for submission of the Final Compliance Form?**
    *Answer: **Final Report Due Date** - Facilities must submit the Final Compliance Form no later than July 31, 2018.*

20. **Is filing the final compliance form due by July 31, 2018 mandatory?**
    Answer: *Yes, as described in Administrative Bulletin 18-02, all facilities that received more than $5,000 in FY18 Direct Care funding must submit a Final Compliance Form. Facilities that received $5,000 or less in FY18 Direct Care funding will be required to submit a single abbreviated compliance report to EOHHS by July 31, 2018 in the format specified by EOHHS.*

21. **How does a facility register for the Compliance Form web application?**
    Answer: Each facility is required to designate one or more contact person(s) who will submit data via the Direct Care application and receive notifications about the Direct Care program and relevant reporting deadlines. Facilities must complete the Direct Care Registration form available on the MassHealth Provider Forms webpage (http://www.mass.gov/eohhs/gov/laws-regs/masshealth/provider-library/masshealth-provider-forms.html) and send the completed form to NFDirectCare@umassmed.edu.

    On the registration form, facilities must list each person who will become a webform user, the user's e-mail address, and phone number, as well as the facility's name and Medicaid provider number. Enter information by USER (all facilities the first user will access, then all the facilities the second user will access). Contact information can be listed once for each person. For example:

First Name	Last Name	Organization	Phone Number	Email	Facility name	Facility Medicaid ID
John	Jones	XYZ Health	617-555-1234	JJones@ABC.com	ABC Nursing Care	*110099999A*

John	Jones				XYZ Living Center	222222222A
Susan	Smith	XYZ Health	617-555-6789	Ssmith@ABC.com	ABC Nursing Care	*110099999A*
Susan	Smith				XYZ Living Center	222222222A

22. **How does a facility register new staff or remove staff who will no longer be working on the webform?**
Answer: To register new staff for the webform, submit a new registration form listing the new people to be added as users and e-mail the form to NFDirectCare@umassmed.edu. The webform registration form is found on MassHealth's website in the Long-Term Care-Nursing Facility section at: http://www.mass.gov/eohhs/gov/laws-regs/masshealth/provider-library/masshealth-provider-forms.html

If a webform user has left or will no longer be working on this project, then the facility must e-mail NFDirectCare@umassmed.edu requesting that person be removed from accessing their webform. The person's account will be closed or de-linked from the facility, as appropriate.

23. **Will EOHHS audit the Compliance Form submissions?**
Answer: *All data reported on the Compliance Form is subject to review and audit by EOHHS, the Center for Health Information and Analysis (CHIA), or their designated contractors. Audits may include field or desk reviews, and facilities may be required to provide additional supporting documents for the base and rate periods including but not limited to:*
   •   *Workpaper of Direct Care money spent for base and rate periods*
   •   *Payroll tax workpaper for base and rate periods*
   •   *Payroll reconciliation workpaper for base and rate periods*
   •   *General Ledger for base and rate periods*
   •   *Master payroll Register base and rate periods, detailed by employee and YTD earnings*
   •   *Payroll time register by department & employee, base and rate periods*
   •   *Payroll bonus detail if applicable for base and rate periods*
   •   *Payroll accrual detail for base and rate periods*
   •   *Payroll tax quarterly filings for base and rate periods*

24. **What is the baseline period to which increased Direct Care spending for eligible staff will be compared?**
Answer: *The* **baseline period** *is January 1, 2016 through June 30, 2016.*

25. **I'm giving money to different employee types this year than last year. How is the comparison to baseline period data made?**
Answer: *Each year, the rate year data is compared to the base period data, based on which employee types received Direct Care funds in the rate year, per question A.3. For example, if a facility in RY17 gave bonuses to RNs and raises to CNAs (as denoted in question A.3), then the RY16 and RY17 hours and expenses for those two employee types were compared in Part E to determine compliance. If the facility in RY18 gave Direct Care funds to housekeeping aides (raises), LPNs (shift differentials) and social workers (raises), then the RY16 and RY18 hours and expenses for those three employee types will be compared in Part E.*

26. **I forgot to enter base period data for an employee type to whom I'm now giving Direct Care funds. Can I edit base period data?**
Answer: *Yes, users are able to edit base period data by checking the dial button "Edit RY16 data" above Part C of the webform. This will open the RY16 fields. Users must also explain in the reason for the*

changes they are making in the "Explanation of why you are editing RY16 data" text box, such as facility neglected to enter data in RY17.

Note, new values entered for RY16 in Parts C and D are subject to EOHHS' review, comparison to previous values, and approval; EOHHS' approval may thus change the compliance calculation and final compliance status.

27. **Why aren't overtime hour and wage fields opened in RY16?**
Answer: In RY17, overtime was not distinguished from regular hours and wages. Therefore no facilities entered RY16 overtime hours or wages. To keep this consistent, when facilities edit RY16 data now, they should include overtime hours with regular hours and overtime wages with regular wages, as they did last year. The breakout in the base period is not necessary because Part E calculations are based on a comparison of total expenses (salaries and benefits) and total hours for the base vs. rate periods.

28. **Is it acceptable to report allocated amounts for expense categories that do not have direct employee-specific costs, such as worker's compensation?**
Answer: Yes, facilities may use allocation method to determine amounts for expenses that are not directly attributable to specific employees. The allocation should be based on a reasonable and generally accepted accounting method. Expenses that are directly attributable to employees, such as salaries and payroll taxes, may not be estimated using allocations.

29. **Will the Direct Care Program be continued in fiscal year 2019?**
Answer: The Direct Care Program is subject to annual legislative appropriation.

30. **Do facilities report the data on an accrual or cash basis?**
Answer: As noted in EOHHS's Administrative Bulletin 18-02, all data reported on the Compliance Form must be reported on an accrual basis. Note that the accrual of paid leave time must be consistent between the base and rate periods. For example, do not accrue vacation time in the rate period while failing to accrue vacation time in the base period.

Compliance

31. **Has the agency issued compliance rules governing the Direct Care program?**
Answer: Yes, via an Administrative Bulletin and Compliance Form Worksheet Instructions.
   - ***Administrative Bulletin*** *- EOHHS has issued an* Administrative Bulletin 18-02 *(https://www.mass.gov/files/documents/2018/01/24/ab-18-02.pdf) setting forth the compliance criteria, reporting requirements, penalty amount and recovery provisions for the FY18 Direct Care program.*
   - ***Compliance Form Directions and Compliance Form Manual Worksheet*** *– EOHHS will distribute the FY18 Final Compliance Form Worksheet and Compliance Form Instructions to nursing facilities via email once they are finalized. Providers may request a copy of the Worksheet and the Form by emailing NFDirectCare@umassmed.edu.*

32. **What happens if EOHHS determines that a facility has not complied with FY18 Direct Care program requirements after reviewing the data the facility has submitted electronically on the Compliance Form? Is there a penalty for noncompliance?**

    Answer: *If EOHHS notifies a facility that it has failed to spend the full amount of its Direct Care revenue in accordance with the requirements of 101 CMR 206.06(13) and Administrative Bulletin 18-02, the facility will have 30 days from the date of the notification to issue a one-time bonus to eligible employees in the amount of the unspent funds. The facility will be required to provide EOHHS with documentation demonstrating that the bonus was paid to the eligible employees by entering amounts paid by employee type into a webform and by uploading backup payroll materials (including weekly payroll registers detailing each bonus payment) to the webform. If the facility fails to issue one-time bonuses within 30 days or issues bonuses to ineligible employees, EOHHS will recoup the entire amount of unspent or impermissibly spent Direct Care funds from the facility pursuant to 130 CMR 450.260(F), plus a penalty of 25% of the unspent or impermissibly spent amount as described in Section 5 of Administrative Bulletin 18-02, pursuant to 130 CMR 450.238-240.*

33. **Can compliance be counted across facilities in one chain of facilities?**

    Answer: *No, compliance will be determined on an individual facility basis.*

34. **What do we do if we have questions or need clarification?**

    Answer: *EOHHS has created an e-mail address for facilities if they have questions concerning the Direct Care payments, programmatic questions, or completing required reporting. Please send your questions to the following e-mail address:* NFDirectCare@umassmed.edu*.*

Definitions, Calculations and Documentation

35. **How is full-time equivalent (FTE) calculated?**

    Answer: *The number of employee paid hours divided by 2,080 (which is 40 hours per week multiplied by 52 weeks).*

36. **Does "mean number of beds" in Part C line 3 refer to occupied or licensed beds?**

    Answer: *Licensed beds.*

37. **Should facilities report paid hours or worked hours?**

    Answer: *Facilities should report paid hours, including any paid time off (e.g. vacation, holiday, sick, etc.).*

38. **What is the formula for determining the amount of spending in the rate period?**

    Answer: *EOHHS will determine the amount of spending that will be counted toward compliance by summing two amounts: hourly wage and bonus:*

    - *Hourly wage - The amount of **increased spending in eligible staff wages, benefits, and overtime pay per hour** between a base period of January 1, 2016, through June 30, 2016, and a rate period of **July 1, 2017 through June 30, 2018**. The amount of increased spending is determined by multiplying the difference in the aggregate direct care per hour spending between the rate period and the base period by the aggregate number of direct care hours in the rate period for the eligible direct care employee positions for which Direct Care funds have been spent by the facility.*
    - *Bonuses - The total amount paid by the facility in bonuses to eligible staff between **July 1, 2017, and June 30, 2018, except for bonuses paid in FY18 to comply with FY17 program requirements**.*

39. Which Compliance Form Worksheet section does the facility complete to provide information on hourly wages in the baseline and the rate period?

*Answer: **Part C** of the Compliance Form worksheet collects statistical information on regular and overtime hours and **Part D** collects statistical information about regular and overtime wages and benefits for both the baseline and rate period. Part E auto-calculates the changes in hourly wage, if any, between the base and rate periods, in aggregate for all staff who have received Direct Care funds either through wage/benefit increases and/or bonuses.*

***Note**: While a facility can choose to spend Direct Care revenue on a subset of eligible positions, it must complete the statistical information for all eight positions.*

40. Which Compliance Form Worksheet section does the facility complete to provide the amount of bonuses paid in the rate period?

*Answer: Facilities that issued bonuses to meet the Direct Care compliance test must complete **Part B** of the Compliance Form worksheet. If the facility did not use a bonus for this purpose, Part B should not be completed.*