



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
One Ashburton Place, Room 1109
Boston, Massachusetts 02108



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

DANIEL TSAI
Assistant Secretary for
MassHealth

Tel: (617) 573-1600
Fax: (617) 573-1891
www.mass.gov/eohhs

January 30, 2017

The Honorable Karen Spilka
Chair, Senate Committee on Ways and Means
State House, Room 212
Boston, MA 02133

The Honorable Brian S. Dempsey
Chairman, House Committee on Ways and Means
State House, Room 243
Boston, MA 02133

Dear Chairwoman Spilka and Chairman Dempsey,

Enclosed is the legislative report for the Analysis of the Impact of Wages for Direct Care Workers at Nursing Homes. As you know, nursing facility providers must use direct care add-on revenue to increase wages, benefits, and related employee costs for direct care workers for fiscal year (FY) 2017.

The FY2017 budget, Chapter 133 of the Acts of 2016, requires in Section 2, line item 4000-0640 the Executive Office of Health and Human Services (EOHHS) to report to the house and senate committees on ways and means an Analysis of the Impact of Wages for Direct Care Workers at Nursing Homes. In addition to the enclosed report, EOHHS will develop and provide to the legislature a comprehensive report based on final compliance data submitted by nursing facilities. Final compliance data is due from the facilities by September 30, 2017, and EOHHS anticipates completing its comprehensive analysis by December 1, 2017.

Thank you for your continuing commitment to the MassHealth program. If you have any questions about this report, please contact me at (617) 573-1770 or Danielle McCourt at (617) 680-1372.

Sincerely,

Daniel Tsai
Assistant Secretary, MassHealth

cc: Marylou Sudders, Secretary, Executive Office of Health & Human Services



The Massachusetts Executive Office of Health and Human Services
Analysis of the Impact of Wages for Direct Care Workers at Nursing Homes

The FY 2017 \$35.5 million direct care add-on is being paid to nursing facilities during the period of October 1, 2016, through June 30, 2017. During this time, nursing facility providers will receive a facility specific rate add-on for wages, benefits, and related employee costs of direct care staff.

The amount of the rate add-on for each facility is calculated as described below. The calculation can be found at 101 CMR 206.06(13)(a).

- For each provider, determine the total reported 2014 salaries for directors of nursing, registered nurses, licensed practical nurses, and certified nursing assistants employed by a provider (collectively, "calculation salaries").
- Multiply the provider's total reported 2014 calculation salaries by the provider's Medicaid utilization (the provider's total reported non-managed care Medicaid days divided by the provider's total reported patient days) as reported in the 2014 cost report to determine the provider's Medicaid calculation salaries.
- Sum the Medicaid calculation salaries calculated for each provider to determine total Medicaid calculation salaries for all providers.
- Divide each provider's Medicaid calculation salaries by the total Medicaid direct care salaries for all providers.
- Multiply the resulting percentage by \$35.5 million.
- Divide the amount determined by each provider's projected number of non-managed care Medicaid days in FY2017.
- Add an annualization adjustment to ensure that the full \$35.5 million is distributed to providers during the effective period of the wage add-on.

The Executive Office of Health and Human Services (EOHHS) issued an Administrative Bulletin 16-18 (the "Bulletin"), effective October 1, 2016, outlining compliance requirements, reporting requirements, penalty amount, and recovery procedures for the add-on for direct care staff.

Pursuant to the Bulletin, providers must use the direct care add-on revenue to increase wages, benefits, and related employee costs for registered nurses, licensed practical nurses, certified nursing assistants, dietary aides, housekeeping aides, laundry aides, activities staff, and social workers employed by the provider. Such expenditures may include overtime payment and bonuses. Spending for temporary nursing services, contract employees, and directors of nursing is not permissible.

Each facility is required to electronically submit data to EOHHS using a Nursing Facility Direct Care Add-on Compliance Form, which EOHHS will use to determine facilities' compliance with direct care add-on requirements. Based on the information provided by each facility on the form, EOHHS will compare the amount of spending counted toward compliance with the amount of direct care add-on revenue received to determine whether each facility has complied. EOHHS will provide each facility with a compliance calculation and notify the facility of its determination.

EOHHS is requiring facilities to complete an Interim and Final Compliance Form in electronic format. Facilities must submit a completed Interim Compliance Form to

EOHHS no later than April 30, 2017 and submit the Final Compliance form no later than September 30, 2017. The electronic version of the form is expected to be available in March 2017. This worksheet is currently available in hard copy form on EOHHS' website, linked here. <http://www.mass.gov/eohhs/docs/masshealth/provider-services/forms/nf-dcacf-1.pdf>

If EOHHS determines that facility has failed to spend the full amount, or impermissibly spent any amount of its direct care add-on funding per the requirements of 101 CMR 206.06(13) and the Bulletin, the facility will have 60 days from the date of the notification to issue a one-time bonus to employees in the amount of the unspent or impermissibly spent funds. The facility will be required to provide to EOHHS documentation demonstrating that the bonus was paid to the employees. If the facility fails to issue a one-time bonus within 60 days, EOHHS may recoup the entire amount of unspent or impermissibly spent direct care add-on funds from the facility pursuant to 130 CMR 450.260(F), plus a penalty of 25% of the unspent or impermissibly spent amount pursuant to 130 CMR 450.238-240.

EOHHS will analyze final compliance data submitted by nursing facilities and provide a comprehensive report to the legislature upon completion of the analysis. EOHHS anticipates this report will be completed by December 1, 2017.