



**MassHealth**  
**Nursing Facility Bulletin 166**  
**August 2021**

**TO:** Nursing Facilities Participating in MassHealth

**FROM:** Amanda Cassel Kraft, Acting Assistant Secretary for MassHealth

**RE: Updated Reporting on Staff Hours and Staffing Preparedness for Nursing Facilities**

## Background

In accordance with 101 CMR 206.13: *Average Staffing Hours Incentive*, MassHealth is proactively monitoring nursing facilities for safe and adequate staffing levels and ensuring standards and rate adjustments authorized by such regulation are applied appropriately.

The requirements described in this bulletin are in effect beginning August 1, 2021, and supersede the requirements outlined in [Nursing Facility Bulletin 163](#). All requirements described herein apply to nursing facilities that are enrolled as MassHealth providers.

Nursing facilities are required, under 42 CFR 483.70(q), to report their staffing levels to the Centers for Medicare and Medicaid Services (CMS) on a quarterly basis. CMS has developed a tool called the Payroll-Based Journal (PBJ), through which nursing facilities submit their staffing levels. MassHealth will use the quarterly reporting submitted through the PBJ by each MassHealth nursing facility to determine staffing levels for the purpose of proactively monitoring facilities for safe and adequate staffing, and rate adjustments under 101 CMR 206.13(2). As described below, **use of the PBJ for the purpose of monitoring safe and adequate staffing will replace the current requirement for facilities to report monthly staffing level reports directly to MassHealth.**

## Definitions

For the purposes of this bulletin, the terms listed below will have the following meanings.

**Contract hours.** Hours worked by individuals under contract, as well as individuals who provide services through organizations that are under contract (e.g., temporary nursing agencies).

**Day.** Each 24-hour period from 12:00 a.m. (midnight) through 11:59 p.m.

**Exempt hours.** Hours worked by employees of the nursing facility who are not subject to the federal Fair Labor Standards Act and who therefore are not entitled to overtime pay.

**Non-exempt hours.** Hours worked by employees of the nursing facility who are subject to the federal Fair Labor Standards Act and who therefore may be entitled to overtime pay.

**Reporting period.** Each federal fiscal calendar quarter-long period reported as part of a single PBJ quarterly submission, in accordance with PBJ submission guidance published by CMS.

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Reporting deadline. The 45<sup>th</sup> calendar day after the last day of each reporting period, reporting on the previous quarterly reporting period, in accordance with PBJ submission guidance published by CMS.

## **Reporting Requirements and Attestation Requirements**

All nursing facilities must complete the reporting requirements of this provider bulletin by submitting census data and the staffing levels for the staffing categories described below through the PBJ. **For submissions covering the dates of service on or after July 1, 2021, facilities are no longer required to submit separate monthly staffing level reports directly to MassHealth.** Instead, facilities must submit their quarterly staffing levels through the PBJ on a quarterly basis, beginning with the fourth federal fiscal quarter of 2021, with the first required PBJ submission covering the months of July, August, and September of 2021. The PBJ submission deadline is the 45<sup>th</sup> calendar day after the last day of the federal fiscal quarter. Providers should review the CMS guidance, [Electronic Staffing Data Submission Payroll-Based Journal Long-term Care Facility Policy Manual, Version 2.5](#), or any subsequent versions or superseding CMS guidance, for further details or updates on submission requirements.

As part of the PBJ quarterly submission, each facility must provide the following information, which must be complete, accurate, and up-to-date as of the date of submission.

- The exempt hours, non-exempt hours, and contract hours worked each day of the reporting period, as well as the total exempt hours, non-exempt hours, and contract hours worked by each of the following staff categories:
  - Registered nurses who are directors of nursing
  - Registered nurses who have administrative duties
  - Registered nurses who are not directors of nursing or administrators
  - Licensed practical nurses or vocational nurses who have administrative duties
  - Licensed practical nurses or vocational nurses who do not have administrative duties
  - Certified nursing assistants
  - Nurse aides in training, including resident care assistants<sup>1</sup>
  - Medication aides or technicians
- The number of residents present in the facility on each day of the reporting period, not including residents on medical or non-medical leave of absence for the entire 24 hours of the day.

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<sup>1</sup> Notwithstanding the time-limitations described in the *Electronic Staffing Data Submission Payroll-Based Journal Long-term Care Facility Policy Manual, Version 2.5*, nurse aides in training, including resident care assistants, may be reported and counted towards total staffing levels through the nurse aides in training category without time limitations through the end of the federal state of emergency, declared due to the novel coronavirus disease 2019 (COVID-19) outbreak. At the end of the of the federal emergency, nurse aides in training, including resident care assistants, may only be counted for the first four months of their employment, provided they are enrolled in a state-approved nurse aide training program. After the first four months of employment, the individual who was a nurse aide in training may only be counted towards staffing levels if they obtain certification or other licensure credentials that may be reported through another staffing category.

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Nursing facilities should refer to [guidance](#) issued by CMS, including the *Electronic Staffing Data Submission Payroll-Based Journal Long-term Care Facility Policy Manual, Version 2.5*, or any subsequent versions or superseding CMS guidance, for further details on data submission specifications for the data fields required by this bulletin.

### **Non-compliance**

All participating MassHealth nursing facility providers must submit a complete and accurate report of their staffing levels through the PBJ on a quarterly basis. As of January 1, 2021, the staffing level information reported or attested to, as required by this bulletin, MassHealth Nursing Facility Bulletin 155, or MassHealth Nursing Facility Bulletin 163, is being used to proactively monitor facilities for safe and adequate staffing, and determine the facility's average staffing hours per patient day for each federal fiscal quarter.

A facility that falls below an average of 3.58 staffing hours per patient day for the federal fiscal quarter will receive a 2% downward adjustment on its standard per diem rates for that quarter, in accordance with 101 CMR 206.13(2). Such downward adjustment will be recouped as an overpayment from a facility after each federal fiscal quarter that the facility failed to meet the 3.58 staffing hours per patient day threshold established in 101 CMR 206.13(2).

Facilities that fail to report their staffing levels through the PBJ will be considered to have 0.00 hours per patient day for the period of time that was not reported.

Furthermore, if MassHealth determines that a nursing facility provider has dangerously low staffing levels or made false or misleading representations through their PBJ submissions required by this bulletin, MassHealth may pursue sanctions against the provider under 130 CMR 450.238: *Sanctions: General*. MassHealth reserves the right to request and review documentation, conduct on-site audits, or use any information available to it to determine if a facility is accurately representing its staffing levels through its submissions under this bulletin.

MassHealth will also refer providers to the Medicaid Fraud Division in the Attorney General's Office, as appropriate.

### **MassHealth Website**

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## **Questions**

If you have any questions about the information in this bulletin, please contact the Long Term Services and Supports (LTSS) Provider Service Center.

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