

Date: 10/30/2015

Nursing Home Wage and Benefit Enhancement Program

IMPORTANT UPDATE:

As of October 19, 2015, the Office of Policy and Management (OPM) has agreed to include payroll taxes as an allowable cost under the Program. Social Security and Medicare (FICA) will be included in the \$26 million Wage pool and FUTA/SUTA will be included in the \$9.6 million Benefits pool. Because the Department will calculate these additional costs, providers should not include payroll taxes in the costs in the RFI. Changes to the Request for Information (RFI) forms are not necessary.

Frequently Asked Questions #2

1. Question: In response to a question concerning the definition of “day of implementation,” the Department led us to understand that rate adjustments under the Program will coincide with the timing of a provider’s wage and/or benefit increases. Therefore, we understand that if a provider increases wages and benefits at over say, 25 different dates during a qualified period, the provider will realize 25 different rate adjustments. Please confirm.

Response: The Department is willing to do several rate increases throughout the rate period in an effort to increase cash flow to facilities as soon as possible after implementing increases. The intent of the “day of implementation” definition was a good faith effort by the Department to recognize that the components of wage and benefit increases may not be implemented on the same date. Providers should avoid numerous implementation dates as this will complicate the implementation and the audit of the Program.

Update-

Participating providers were requested to include the implementation dates of wage increases that were reported in Part 1 of the wage and benefit enhancement. Additionally, providers were to report implementation dates of wage and benefit increases included in Part 2 and Part 3 of the wage and benefit enhancement program.

An add-on was calculated for costs associated with each implementation date. For providers that gave wage increases on employee anniversary dates and did not provide the corresponding dollar amounts associated with each date, an implementation date of 1/1/2016 was used. The individual add-ons were then summed to arrive at a weighted 12 month per diem add-on, based on the increases and implementation dates reported. The

total weighted add-on is the per diem amount added to each facility's rate for the period 7/1/2015 – 6/30/2016. For the period 7/1/2016 – 6/30/2017 providers will receive the full amount of the add-on associated with wage and benefit enhancement increases.

2. Question: In response to a question concerning the proration of the \$26 million, we understand that the Department will review each provider's wage increase for reasonableness, and if found to be unreasonable, the Department will adjust the wage increase amounts for the purpose of the proration of the \$26 million.
 - a. Please cite the statutory or regulatory authority that gives the Department the ability to modify a provider's wages for the purpose of the proration of the \$26 million.

Response: The statutory authority is found in Public Act 15-5, June Special Session:

"The commissioner may establish an upper limit for reasonable costs associated with salary adjustments beyond which the adjustment shall not apply. Nothing in this section shall require the commissioner to distribute such adjustments in a way that jeopardizes anticipated federal reimbursement."

Update-No change.

- b. Please describe the criteria that the Department will use to measure the reasonableness of a provider's wage adjustments.

Response: Because the Department can't interfere with the negotiations between the nursing homes and the collective bargaining units, it is unlikely that the Department would establish an upper limit for reasonable costs. It should be noted, however, that the nursing home's funding will be proportional to their request. For example, if a nursing home reports a 6% wage increase and receives 95% of the funding under the pro-ration of available funds, then should the nursing home only provide a 2% wage increase, the nursing home will receive 95% of the 2% wage increase not the original calculated amount.

- c. It is assumed that the wage increases ultimately given to a provider's employees could be influenced by the Department's adjustment for reasonableness as the adjustment could influence the provider's funding earmarked for wage increases. Please describe the Department's reaction to those who say that its actions with regard to its adjustments for reasonableness will interfere with the bargaining process between an employer and its employees.

Response: Please see response to Question 2.b.

Update-No change.

3. Question: In response to a question concerning provider attestations, the Department has led us to understand that it believes operators should have an accurate estimate of the new costs associated with eligible increases. Unfortunately, we are not sure that is valid in all cases. It is customary for operators to budget employee wages and related increases based

in large measure on the amount available from government payers. Therefore, with regard to attestations associated with future costs, will the Department accept qualified attestations given the uncertainties associated with available funding?

Response: Staffing patterns and costs are relatively stable. The Department understands that the attestations are estimates, however, nursing homes should be able to develop accurate estimates of operations based on historical and projected staffing levels.

Update-No change.

4. Question: In response to a specific question concerning the effect of other staffing and cost changes, the Department offered what seems to be a general statement that provider payroll journals in addition to cost reports will be used by the Department to determine if the wage and benefit enhancements were implemented appropriately. Here we are referring to Number 14 in FAQ#1. The Department seems to have responded to a technical question with a general statement about the audit evidence. Can we assume that the Department will clarify its response in a subsequent FAQ?

Response: Upon desk review of applicable cost reports, if the Department determines that wage and benefit cost report lines did not increase as expected, providers will be notified and given the opportunity to submit documentation substantiating reasons the line item did not increase (including replacement of retiring employees with lower cost employees, usage of nursing pools or reduction of costs based on census changes, workers on light duty, etc.). The Department will work with operators to determine if the documentation submitted is complete and verifiable. Payroll journals were previously given as an example of acceptable documentation as had been requested by the industry.

Update-No change.

5. Question: Does new annualized costs under "Health Care Insurance" under SPA 15-032 Part 2 (A) (2) mean a union Taft-Hartley Welfare Fund Contribution increase which is a result of increases in either the underlying gross wage amount used to compute the cost or the rate of contribution? How will any allowable increases be measured?

Response: Yes, if these costs are normally reported on Page 15 Line a. 5. Any increases are to be reported on #3 Request for Information Form. Allowable increases will be measured by using the reported amount on form #3 and the amount included in the rate increase granted, compared to the amount on Page 15 Line a.5 of future applicable cost reports.

Update-No change

6. Question: Does increases in Existing Pension Benefits under SPA 15-032 Part 2 (A) (1) mean a union ERISA fund contribution increase which is a result of increases in either the underlying gross wage amount used to compute the cost or the rate of contribution? How will any allowable increases be measured?

Response: Yes, if these costs are normally reported on Page 15 Line a. 7. Any increases are to be

reported on #3 Request for Information Form. Allowable increases will be measured by using the reported amount on form #3 and the amount included in the rate increase granted, compared to the amount on Page 15 Line a.5 of future applicable cost reports.

Update-No change

7. Question: Does increases in Training Activities under SPA 15-032 Part 2 (A) (5) mean a union fund contribution increase which is a result of increases in either the underlying gross wage amount used to compute the cost or the rate of contribution? How will any allowable increases be measured?

Response: No, only those training costs reported on Page 16 Line 1. 5.

Update-No change

8. Question: The instructions provided by the Department indicate that Training Activity costs on Page 16 Line 1. 5 will be used to measure compliance. Certain providers report union training fund contributions on Page 15 (1) (a) (9) specified further on Page 15a. Will costs reported on pages 15/15a be considered?

Response: No, see response to Question 7.

Update-No change

paid to Health Care Services that are passed through to Providers? If not, which costs and how will this be determined?

Response: See response to Question 9 within FAQ #1.

10. Question: Maintenance supervisors- Does Wage increases in SPA 15-032 Part 2 (A) (4) include Maintenance Supervisors since all of Part 1 included supervision?

Response: Yes, see #3 Request for Information Form for cost report line references. Wage Increases for Maintenance Workers should be reported on Page 10 both Lines 7.a and 7.b.

Update-No change

11. Question: Direct Care Employees- Does SPA 15-032 Part 1 (A) (12) (d) include Aides and attendants that are both reported as Direct Care (Page 10, line 12d) and Other (Page 10, line 12.o which is detailed on page 10a)?

Response: No, see #1 and #2 Request for Information Form for cost report line references.

Update-No change

12. Question: The draft State Plan Amendment (SPA) and Forms were modified by the Department on or about October 6, 2015 to reflect social services workers and recreation workers. It seems that the modification was made without prior notice to stakeholders.

Response: The Department modified the SPA and Forms in response to comments provided during the public comment period. Federal regulations do not require re-posting of SPAs for all modifications. What is required is for a draft version of the SPA to be posted for public notice to give stakeholders a reasonable opportunity to comment.

Update-No change

Question: a. Can we assume that stakeholders will be notified of any future modifications of the SPA?

Response: Stakeholders can check the website to view the most recent version of SPA 15-032. <http://www.ct.gov/dss/cwp/view.asp?a=4637&q=570722>

Question: b. Was the modified SPA issued to CMS?

Response: The most recent "modified" SPA was issued to CMS on September 29, 2015. The Department does not expect significant modifications to the SPA but most SPAs are modified to address issues during the negotiation between the State and CMS.

Update-No change

13. Question: In FAQ #1 the Department stated, "A facility's share of available funding cannot be calculated until the total for all facilities is known." Elsewhere in FAQ #1 the Department stated, "The Department did not set a due date for the submissions and certifications from each nursing facility. The Department's understanding is that it will take several weeks to finalize the wage and benefit enhancement agreements. In order for funding to be distributed in a timely manner, it is important that each nursing facility submit the requested information as soon as possible." Thus, it seems clear that a single facility's failure to submit its information, regardless of the explain the Department's logic in its refusal to establish a due date for submissions.

Response: The Department's logic is based on a legal precedent that it would be inappropriate for the Department to set a due date for the submission of cost and certification information since doing so would affect the collective bargaining process.

Update-No change

14. Question: With the modified SPA the Department added social service workers and recreation workers to those qualified under the Program. The Association, in its list of questions, also indicated that administrative workers and therapist seemed to be excluded from the Program, and asked the Department to confirm that that was intended.

Response: Administrative and therapist workers are excluded. See Request for Information Forms for cost report line references for the specific workers who qualify under the Program.

Update-No change

15. Question: The SPA refers to the reimbursement rate adjustments associated with the Program as "add-ons." We assume that the term "add-on" has the same meaning as a rate increase. Please confirm. If they have different meanings, please discuss the significance.

Response: Under the Program, the term “add-on” has the same meaning as a rate increase.

Update-No change

16. Question: Please confirm that with regard to new pension plans, there will be no reduction in allowable Program costs if the benefits under the plan are directed toward employees who would not otherwise be covered under the Program.

Response: To qualify for new funding under the Program Part 3, new pension plans must be implemented to accommodate qualified Program beneficiaries who do not currently have a pension plan from the employer.

Update-No change

17. Question: It seems clear that the Program’s implementation and its compliance processes are rather complicated. And, while we appreciate the Department’s efforts to explain the details of the Program by posting FAQs, does the Department have plans to present seminars or webinars to stakeholders? If so, when?

Response: The Department does not concur that the compliance processes are complicated. Wage and Benefit enhancements as identified in the Request for Information should be directly correlated to the new funding provided in the rate increase. It is suggested that providers adhere only to the affected line items of the cost reports referenced in the Forms for program implementation. If the implementation of the Program by the nursing home has a significant variance, the provider should work with the Department to determine if a change in the issued rate is necessary. Because there will be a variety of questions based on nursing home specific nuances, providers are welcome to call the Reimbursement and CON unit to discuss specific questions on an as needed basis.

18. Question: The Q&A’s use the term SFY 2016. What is the actual period to be covered? Is it July 1, 2015 to June 30, 2016 or October 1, 2015 to September 30, 2016 or some other period?
2016.

Update-No change

19. Question: As it is extremely difficult to increase wages prior to receipt of reimbursement, will wage increases that are retroactive to July 1, 2015 or October 1, 2015 that are projected in the data submitted but paid at a later date when reimbursement is received, such as January 1, 2016, be considered as paid for the full period when the Department verifies the actual cost of the increases?

Response: The cost period to be verified by the Department will begin with the date providers report as the day of implementation. Retroactive reimbursement for rate increases will be paid to providers in the first monthly Mass Adjustment after the new rate is implemented in the payment system.

Update-No change

20. Question: Employer contributions to employee retirement plans are usually made at year end

or in some cases after year end. Will paying the contribution at year end, assuming the contribution is included as a projected cost in the data submitted, be considered as paid for the full period when the Department verifies the actual cost of the wage enhancement increases?

Response: Please note, increases that are reported on #3 Request for Information Form should be annualized. Allowable increases will be measured by using the reported amount on form #3 and the amount included in the rate increase, compared to the amount on Page 15 Line a.7 of the facility's cost reports.

Update-No change

21. Question: Employee turnover occurs on an ongoing basis. How will the costs of the newly hired replacement employees be factored into the calculation of the reimbursement for wage and enhancement increases?

Response: Report information on the appropriate Request for Information Form and Line numbers. Also, see Response to Question 5.

Update-No change

22. Question: Paid time off (PTO), such as vacation, sick, and personal time off, is part of an employee's compensation package and is paid at the rate of pay in effect at the time of payment. How will increases or other changes to PTO effect a facility's reimbursement?

Response: Report information on the appropriate Request for Information Form and Line numbers. Also, see Response to Question 5.

Update-No change

23. Question 27: How will overtime, shift differentials or other elements of an employee's pay be factored into the calculation?

Response: Report information on the appropriate Request for Information Form and Line numbers. Also, see Response to Question 5.

Update-No change

"health care services contract worker."

Response: See FAQ #1, Question 9. Typically employees of Health Care Services perform housekeeping, dietary and laundry duties. These costs are reported on page 21 of the cost report.

Update-No change