

Draft 8/17/21—Subject to CMS Approval

Guidance to HCBS Providers Regarding Recruitment and Retention Bonuses for Direct Support Workers Under Maine’s HCBS FMAP Initial Plan

The Maine Department of Health and Human Services is accepting comments on this draft guidance. Please submit your comments to HCBS-FMAP.DHHS@maine.gov by 5:00 p.m. on August 27. Note that the policy described in this guidance is subject to approval by the federal Centers for Medicare and Medicaid Services and may change.

A. Overview

The Department’s [Initial Plan](#) under Section 9817 of the American Rescue Plan Act (the HCBS FMAP provision) allocates up to \$126 million in bonuses to new and existing HCBS Direct Support Workers (DSWs) and their Immediate Supervisors. The bonus payments must be made by Provider Agencies between July 1, 2021 and December 31, 2021. This guidance explains who is eligible for bonuses, the amount and timing of the bonuses, the amount that Provider Agencies may claim for related expenses, and the responsibilities of Provider Agencies in paying the bonuses, claiming reimbursement from MaineCare, and ensuring compliance with post-payment audit by Centers for Medicare and Medicaid Services (CMS) and/or the State, pursuant to MaineCare Benefits Manual (MBM) regulations.

B. Definitions

For purposes of this initiative only, the following definitions apply.

1. Direct Service Worker (DSW) means:

- a.** An employee who spends a majority of their work time providing services and supports directly to individuals served by the provider agency. Services and supports include case management, direct assistance with activities of daily living or instrumental activities of daily living, or direct treatment or care; and
- b.** Whose services are reimbursed under Sections of MaineCare policy indicated in Attachment A.

2. Existing DSW means a DSW who was employed by the Provider Agency before July 1, 2021 and remains in the employment of the Provider Agency at time of payment.

3. **Existing Immediate Supervisor** means a person who was an immediate supervisor to a DSW before July 1, 2021 and remains in the employment of the Provider Agency at time of payment.
4. **Immediate Supervisor** means a person who has formal direct supervision responsibility for a DSW.
5. **New DSW** means a DSW hired by a Provider Agency on or after July 1, 2021.
6. **New Immediate Supervisor** means an Immediate Supervisor who was hired by a Provider Agency on or after July 1, 2021.
7. **Provider Agency** means an enrolled MaineCare provider that directly bills for services under any of the MaineCare sections of policy listed in Attachment A.

C. Eligibility for and Amount of Bonuses

1. Retention Bonuses: An Existing DSW or Existing Immediate Supervisor qualifies for two bonuses as follows:
 - a. A bonus of \$1000 payable upon issuance of this guidance;¹ and
 - b. A second bonus of \$1000 payable between December 1 and December 31, 2021.
2. Recruitment Bonus: A New DSW or New Immediate Supervisor qualifies for up to a \$1500 bonus for services provided between July 1, 2021 and December 31, 2021. The bonus is payable once the employee has been employed for two months.
3. Retention and recruitment bonus amounts are based on full time employment (40 hours per week). Bonuses paid to eligible workers who are employed less than full time must be prorated by the Provider Agency.
4. Any given DSW or supervisor is eligible for only one recruitment bonus. However, a DSW or supervisor who is employed concurrently by more than one agency may receive pro-rated retention bonuses from each agency. For example, if a DSW is employed for 20 hours per week at Agency A and 20 hours per week at Agency B, each agency may pay the DSW a prorated retention bonus, provided that the employee maintains current employment at each agency. If a DSW is employed part-time at Agency A and takes a second job at Agency B, the employee may receive a pro-rated retention bonus from Agency A and a prorated recruitment bonus from Agency B. In order to avoid paying an employee a second recruitment bonus, agencies should consider asking new employees to attest that they have not already received one from a different agency.
5. Chief Executive Officers, Chief Financial Officers, Chief Operating Officers, Chief Clinical Officers, Chief Medical Officers and other similar or equivalent agency leadership positions are not eligible for bonuses.
6. Eligible payments will be reimbursed to Provider Agencies on a first come, first served basis for payments made by December 31, 2021 or until the initiative funds are depleted, whichever is earlier.

¹ The target date for final guidance is October 1, 2021 pending all necessary approvals from CMS.

D. Additional Provider Agency Reimbursement

1. Provider Agencies may claim a one-time \$500 payment per New DSW or New Immediate Supervisor toward the costs of onboarding new employees.
2. Provider Agencies may claim up to 21 percent of the amount of bonuses paid as reimbursement for the Provider Agency's payroll and associated taxes that result from payment of bonuses.

E. Provider Agency Responsibilities

1. Provider Agencies are responsible for confirming eligibility of workers, making bonus payments and submitting documentation to the Department for reimbursement according to instructions included in Attachment B.
2. Provider Agencies must submit completed attestations (Attachment C) with their reimbursement requests.
3. Provider Agencies must maintain records of their bonus payments and are subject to audit at the Department's discretion.

Attachment A. Eligible Workers by Section of MaineCare Policy²

The following table indicates the Sections of MaineCare policy and types of workers who qualify for bonuses under this initiative. Note that the immediate supervisors of these workers also qualify, as long as they are not executive staff as described in section C.5 above.

| MaineCare Policy Section | Direct Support Workers Eligible for Bonuses |
|---|--|
| Aging and Physical Disability | |
| 02 | RN, CRMA, CNA |
| 12 | Attendant, Care Coordinator |
| 19 | RN, PSS, LPN, Attendant, HHA, CNA, Medical SW, Independent RN, Care Coordinator, Skills Trainer |
| 26 | RN, LPN, CNA, PSS, LSW |
| 40 | HHA, RN, LPN, Clinical SW |
| 96 | RN, PSS, LPN, Attendant, HHA, CRMA (level 9 only), CNA, Independent RN, Homemaker (Level 9 only), Care Coordinator |
| Intellectual and Developmental Disability, Autism and Brain Injury | |
| 13 | Case Manager |
| 18 | RN, Care Coordinator, PSS, PCA, DSP, LSW, LCSW, LCPC, MHRT-C |
| 20 | RN, Care Coordinator, PSS, PCA, CNA, DSP |
| 21 | DSP, Employment Specialist |
| 29 | DSP, Employment Specialist |
| Behavioral Health | |
| 13 | Case Manager |
| 17 | MHRT (I and /C), Peers (CIPS), LCSW, RN |
| 28 | BHP, BCBA |
| 65 | BHP, MHRT-C, MHRT-CSP, RNC, RNBC, LCSW, LCPC, LMSW, LMFT, DSP, CIPPS, LADC, CADC, BHP |
| 92 | LSW, LMSW, Peers (CIPS) |
| 93 | LCSW, LMFT, LCPC, CADC, LADC, Patient Navigator, Peer Recovery Coach |
| 97 B, D, E | BHP, OQMHP, CRMA, RN, RNC, LCSW/LCPC/LMSW/LMFT, MHRT1 |

² Subject to CMS approval

Attachment B: Provider Agency Billing Template and Instructions

Note: This attachment is under development. The Department is assessing the feasibility of having Provider Agencies upload the required information via a secure portal. Required data elements will include but not be limited to:

1. Worker Name (First, Middle Initial, Last)
2. HCBS service(s)/ Section(s) of Policy under which delivering care
3. Hire Date
4. Current Hourly Wage
5. Average Weekly Hours Worked
6. Job Title
7. Type of bonus (retention or recruitment)
8. Date bonus paid
9. NPI

The attestations in Attachment C will be incorporated into the submission process.

Attachment C: Provider Agency Attestations

In claiming reimbursement for bonuses and related expenses under this initiative, the claiming Provider Agency attests to the following:

1. The individuals for whom reimbursement is claimed are eligible for the bonuses paid, pursuant to the guidance issued by the Department on 10/1/2021.
2. The individuals are employees or were employees at the time the bonus was paid.
3. The agency has paid the bonus between 7/1/21 and 12/31/21.³
4. The average weekly hours reported for each employee is accurate and based on actual hours worked and future hours scheduled in the eligible period to date (7/1/21-12/31/21).
5. The claiming agency understands that bonus and related payments are subject to audit at the Department's discretion or from CMS and payments made contrary to guidance are subject to recoupment by the Department.
6. The claiming agency acknowledges that they must retain, maintain, and make available to a state or federal audit authority, or any other authorized third-party reviewer upon request, copies of all documentation related to bonus and related payments, including but not limited to personnel records, MaineCare claims data, and provider agency

³ If paying the bonuses and seeking reimbursement is not possible due to significant financial challenges of the agency, the agency may request approval to bill the department prospectively, before bonuses are paid. Agencies are advised that such a request may take up to three weeks for review and approval.

financial data in accordance with MBM, Ch I, Section 1, *General Administrative Policies and Procedures*.

7. The claiming agency understands that misrepresentation or falsification of any information contained on the submission for payment form may be punishable by fine and/or imprisonment under state or federal law.
8. The claiming agency certifies, to the best of its knowledge, that the information contained on the submission for payment form is a true, correct, and complete statement prepared from the books and records of the provider as of the date signed.
9. The individual submitting the payment form is authorized to make these representations on behalf of the provider.