

## Administrative Bulletin-20-53 (AB 20-53): Accountability and Support Supplemental Nursing Facility Payment- FAQ

### Permissible Uses of Supplemental Payments and Timeline

#### **Question 1: What can the supplemental payments be used for?**

**Answer:** Facilities can use supplemental payments for:

1. Increasing base wages for directly employed staff;
2. Expenses incurred to increase compensation for certain contracted staff, including laundry, dietary, maintenance, and housekeeping staff;
3. Retention bonuses to directly employed staff;
4. Signing bonuses for employees hired between May 1, 2020 and July 31, 2020 into the following positions: registered nurses (RNs), licensed practical nurses (LPNs), certified nursing assistants (CNAs), dietary, housekeeping, and laundry aides, activities staff, social workers, and directors of nursing;
5. Incremental increases in payroll taxes and workers compensation insurance associated with retention or signing bonuses or other increased compensation;
6. Payment of overtime (over 8 hours in a day or 40 hours in a week), premium pay, additional staff hours (e.g., employee typically works 24 hours/week but due to staffing needs worked 40 hours/week), hours worked over FTE allotment (32 hours or .8 FTE but worked 40 hours);
7. Payment of special differentials, payments, or work bonuses (e.g., “hero pay”);
8. Regular pay in lieu of benefit/accrued or earned time, e.g., payment of regular work hours for employees who were sick with or tested positive for COVID-19 or reimbursement of earned time bank hours;
9. Temporary nursing and other clinical services such as respiratory therapists, nurse practitioners, and infection control specialists;
10. Infection control measures such as contracted housekeeping and servicing of HVAC systems and infection control equipment such as UV lights, additional PPE carts, installation of infection control barriers, antimicrobial laundry cart covers, and biohazard step on waste containers. Items such as non-tilt overbed tables, foldable wheeled stretchers, beds, mattresses, bed side tables and/or cabinets, and manual home blood pressure kits are examples of items that **are not** permissible.
11. Personal Protective Equipment (PPE), e.g., gloves, face masks, shields, and surgical goggles, gloves, gowns, coveralls, shoe covers, antimicrobial lab coats, respirators, hand sanitizers and sanitizing wipes and sprays;
12. Screening equipment such as thermometers or pulse oximeters;
13. Temporary lodging for staff, to allow them to reside closer to their employing facility or isolate from their family or household after COVID-19 exposure at work;
14. Meals or meal vouchers for staff;
15. Tablet computers or similar technology **for use by residents only** to engage in live video communications with family. Expenses for technology **to be used by staff** or expansion of Wi-Fi or broadband are examples of uses that **are not permissible in the final report**; and
16. Expenses for COVID-19 testing;

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- a. For staff and residents incurred by the facility between May 26, 2020 and June 30, 2020;
- b. Expenses for residents between July 1 and August 31, 2020 **only** when the resident's primary payer denies coverage for the testing;
- c. For the difference, if any, between the cost of testing for staff and the \$100 supplemental payment amount per test provided for in [administrative bulletin 20-69](#). The facility can claim for the difference between the cost of the test and \$100.00; e.g., 20 staff were tested, the cost charged for each test was \$125.00, the facility is allowed to use and report the difference of \$500 (20 tests times \$25.00).

Staff is defined in AB 20-69 as all persons, paid or unpaid, working or volunteering at the NF's physical location, who have the potential for exposure to residents or to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air. Staff includes, but is not limited to, physicians, nurses, nursing assistants, therapists, technicians, dental personnel, pharmacists, laboratory personnel, autopsy personnel, students and trainees, contractual personnel including those employed by temporary nurse staffing agencies, and persons not directly involved in resident care (such as clerical, dietary, house-keeping, laundry, security, maintenance or billing staff, chaplains, and volunteers).

**Question 2: Are MSCA membership fees a permissible use of funds received under AB 20-53?**

**Answer:** No, this is not a permissible use and cannot be included in the interim or final report.

**Question 3: Are expenses related to improving staff conference call capabilities, technology and equipment for staff use permissible uses of funds under AB 20-53?**

**Answer:** No, these are not permissible uses and cannot be included in the interim or final report.

**Question 4: Is making up for lost revenue a permissible use under AB 20-53?**

**Answer:** No, this is not a permissible use and cannot be included in the interim or final report.

## Eligible Staff/Positions for Wage Increases and Retention Bonuses or Signing Bonuses

**Question 5: What facility staff are eligible for wage increases and/or retention bonuses?**

**Answer:** Supplemental payments can only be used to increase wages or give retention bonuses to full time, part time, and per diem employees who are registered nurses (RNs); licensed practical nurses (LPNs); MMQ nurses, MDS coordinators, certified nursing assistants (CNAs); resident care assistants, dietary including dietitians, housekeeping, laundry and plant operations/maintenance staff; activities staff; social services staff including admission coordinators and discharge planners; directors of nursing; restorative therapy staff (physical therapy, occupational therapy, speech therapy); respiratory therapists and aides; activities/recreational staff, staff development personnel, quality assurance staff, ward clerks/medical records staff, clerical and administrative staff working on the nursing facility premises.

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Administrators, administrators in training; officers; and any individuals with an ownership interest in the facility are **not eligible** for wage increases and/or retention bonuses funded by the supplemental payments.

**Question 6: Can payments be used to fund wage increases and/or bonuses for staff employed by a contracted service provider?**

**Answer:** Facilities that contract services such as housekeeping, laundry, maintenance, and dietary in which the staff person is employed by the contracted service provider, if the contracted provider gave bonuses or wage increases to their staff and did not receive payments from other sources to support such increases, the difference between the rate payable prior to COVID and the new wage rates will be allowable conditional upon the facility submitting documentation of contract payment increase directly attributable to staff bonuses, wage increases.

**Question 7: What facility staff are eligible for signing bonuses?**

**Answer:** Facility staff hired between May 1, 2020 and July 31, 2020 into the following positions: registered nurses (RNs), licensed practical nurses (LPNs), certified nursing assistants (CNAs), dietary, housekeeping, and laundry aides, activities staff, social workers, and directors of nursing.

**Question 8: Can facilities count and report permissible expenditures made prior to May 1<sup>st</sup>**

**Answer:** Facilities can count and report any expenses for wages, bonuses or other permissible uses made between March 10, 2020 (the effective date of [Executive Order 591: Declaration of State of Emergency to Respond to COVID 19](#)), and May 1, 2020. For example, if a facility paid retention bonuses or purchased PPE in April, those expenditures are allowable and appropriate.

**Question 9: Did the entire first supplemental payment ([Section 3 of Administrative Bulletin 20-53](#)) received need to be spent by June 6, 2020? If yes, what happens if the entire first supplemental payment is not spent?**

**Answer:** Yes, facilities must have spent all of the first supplemental payment by June 6, 2020 (See [Section 6.b. of Administrative Bulletin 20-53](#)). *If a facility fails to have spent the entire supplemental payment by June 6, 2020, EOHHS will consider the unexpended balance an overpayment and may recover the overpayments in accordance with the procedures described in [130 CMR 450.235: Overpayments](#).*

## Information on NF COVID Interim and Final Supplemental Payment Reporting

**Question 10: How does a facility file the interim and final financial reports, which are required under AB 20-53 to document spending?**

**Answer:** Each facility is required to **electronically submit** to EOHHS interim and final financial reports, required under AB 20-53, using the interim and final financial reporting forms (the “forms”), which can be accessed on and filed through the same web portal used for the direct care add-on reporting requirements. (Note, if you use Firefox, you may need to change your settings to allow the website to load (via Advanced button)).

Individuals filing the forms on behalf of a facility or facilities must register for the UMASS Medical School Nursing Facility Reporting website. Individuals who filed the initial financial plans required by section 7

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of AB 20-53 with the Center for Health Information and Analysis (CHIA) have been contacted with instructions on how to register. If you filed such initial financial plan but did not receive further instructions on how to register with the UMASS Medical School Nursing Facility Reporting website, contact [NFReporting@umassmed.edu](mailto:NfReporting@umassmed.edu).

EOHHS will compare the amount of spending reported by each facility on the Forms with the supplemental payments received to determine if the facility has complied with the requirements for the use of funds received under AB 20-53.

***Question 11: How does a facility obtain access to the Interim and Final Financial Reporting Forms?***

**Answer:** Individuals filing on behalf of a nursing facility can access the both the Nursing Facility COVID Interim Financial Reporting Form and Final Financial Reporting Form through the UMASS Medical School Nursing Facility Reporting website. In order to register for the UMASS Medical School Nursing Facility Reporting website, contact [NFReporting@umassmed.edu](mailto:NfReporting@umassmed.edu).

***Question 12: Is the interim financial report described in section 8 of AB 20-53 mandatory and, if so, what is the filing date?***

**Answer:** Yes, all facilities that received a supplemental payment under AB 20-53 must submit the interim financial report, using the interim financial reporting form no later than June 30, 2020.

***Question 13: Is the final financial report described in section 9 of AB 20-53 mandatory and, if so, what is the filing date?***

**Answer:** Yes, all facilities that received a supplemental payment under AB 20-53 must submit a final financial report, using the final financial reporting **no later than September 30, 2020**.

***Question 14: Which date should be used when reporting expenses, the invoice date or the date the invoice was paid?***

**Answer:** Facilities should report the invoice date on the interim financial reporting form and the final financial reporting form.

***Question 15: Will EOHHS audit facilities use of supplemental payments to ensure payments made were used in accordance with the requirements set forth in AB 20-53?***

**Answer:** All data reported as part of the interim or final financial reports is subject to review and audit by EOHHS. Audits may include field or desk reviews, and facilities may be required to provide additional supporting documents for base expenses prior to receiving the supplemental payments, and expenses upon receipt of the supplemental payments, including, but not limited to, payroll registers and invoices.

***Question 16: What does a facility do if it has questions on reporting requirements or permissible uses of funds?***

**Answer:** EOHHS has created an e-mail address for facilities if they have questions concerning the NF Accountability and Support supplemental payments or completing required reporting. Facilities may send their questions to the following e-mail address: [NFReporting@umassmed.edu](mailto:NfReporting@umassmed.edu).

***Question 17: Should facilities report all qualified expenses on Schedule A, or only up to the amount of the supplemental payment?***

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**Answer:** Facilities should report the **total amount** spent on items for the periods specified on schedule A. For the final report, facilities are required to complete schedule B and **report all invoices for all claimed amounts** for section 2, 3, 4, and 5 in column B on schedule A.

**Question 18: Should facilities submit invoices?**

**Answer:** No. Facilities should not submit invoices at this time. Facilities should only itemize the invoices on schedule B. Facilities that are selected for desk audit will be required to provide invoices.

**Question 19: The rate and base period dates do not align with payroll dates. Should facilities report hours and wages for the pay date or the payroll week ending that includes the rate and base period dates?**

**Answer:** Facilities should report data based on the payroll week ending that includes the applicable dates.

*Example:* 3/10/2020 is a Tuesday. A facility pays employees on a weekly basis, so on 3/20/2020, a facility paid employees for the week of 3/8/2020 – 3/14/2020. The facility should report data from the 3/20/2020 payroll run for the 3/14/2020 period. The facility does not need to exclude the two days prior to 3/10/2020 from the report.

**Question 20: What items are included for base period and rate period hours and wages?**

**Answer:** When reporting base period and rate period hours and wages, facilities should report for the base period and rate period all regular, overtime, and paid time off hours and include all regular compensation, overtime, premium pay, paid time off, shift or other differentials. For the base period, only report bonuses paid, e.g., holiday bonuses. Do not include signing bonuses paid during the rate period in the wage columns on the form. They are reported separately.

**Question 21: If a facility spent more than what was required in the Interim report, may it count those overages towards the additional funds the NF may receive (e.g. payments #2, #3, and #4) and include them in the final report?**

**Answer:** Yes.

**Question 22: If a facility has an invoice for permissible items (e.g. PPE) but the invoice also includes non-permissible items, should the facility report the total invoice amount on schedule B, or just the amount related to the permissible items?**

**Answer:** Only report the amount for the permissible items.

**Question 23: What is the purpose of the “Claimed Amount” column on Schedule A on the final form? How does this differ from the “Reported Amount”?**

**Answer:** Some facilities received funds from other (non-state) sources for COVID-related items such as PPE. These other sources required facilities to file reports indicating how those non-state funds were spent. During the interim reporting process, some facilities expressed reservations about reporting the total facility spending on the EOHHS report, when this amount includes the amounts claimed for the other non-state programs. To address this issue, the final form requires facilities to report the total amount spent by the facility on the specified items, and a claimed amount, that may be lower than the total amount spent by the facility. Facilities that had no other sources of funding may report the same value for the total spent and total claimed.

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**Question 24: Please clarify what should be reported in Column B. entitled “Claimed Amount Funded by EOHHS COVID-19 Supplemental Payment Program March 10, 2020 through August 30, 2020”, for sections 2, 3, 4, and 5 on schedule A.?**

**Answer:** In Column B, facilities must report the amount claimed against the amount funded by EOHHS NF COVID 19 Supplemental Payments as per administrative bulletin 20-53. For example, if a facility spent \$15,000 on PPE during the rate period and the facility received a grant of \$5000 from a private foundation for PPE, the facility should report \$15,000 in column A, which is the total amount spent on PPE. In column B, the facility may report \$ 10,000 as the claimed amount for the purposes of the EOHHS supplemental payment program.

**Question 25: For allowable COVID 19 testing expenses, how would we claim testing expenses for residents between July 1, 2020 and August 31, 2020 when Medicare is primary and pays an all-inclusive rate? How would we demonstrate a primary payer denial when Medicaid is primary since facilities would not bill for the testing?**

**Answer:**

Medicare is Primary: Typically Medicare would not allow for billing of testing separately for the all-inclusive rate however Medicare issued guidance that COVID 19 testing for NF residents would be covered by traditional (fee-for-service) Medicare and Medicare Advantage plans for the duration of the public health emergency [see summary below].

[Medicare Coverage of COVID-19 Testing for Nursing Home Residents and Patients](#) Page 12 of 18

*“CMS instructed Medicare Administrative Contactors and notified Medicare Advantage plans to cover coronavirus disease 2019 (COVID-19) laboratory tests for nursing home residents and patients. This instruction follows the Centers for Disease Control and Prevention’s (CDC) recent update of COVID-19 testing guidelines for nursing homes that give recommendations for testing of nursing home residents and patients with symptoms consistent with COVID-19 as well as for asymptomatic residents and patients who have been exposed to COVID like in an outbreak.*

*Starting on July 6, 2020, and for the duration of the public health emergency, consistent with sections listed in the CDC guidelines titled, “Interim SARS-CoV-2 Testing Guidelines for Nursing Home Residents and Healthcare Personnel,” original Medicare and Medicare Advantage plans cover diagnostic COVID-19 lab tests:*

*Diagnostic Testing:*

- *Testing residents with signs or symptoms of COVID-19*
- *Testing asymptomatic residents with known or suspected exposure to an individual infected with SARS-CoV-2, including close and expanded contacts (e.g., there is an outbreak in the facility)*
- *Initial (baseline) testing of asymptomatic residents without known or suspected exposure to an individual infected with SARS-CoV-2 is part of the recommended reopening process*
- *Testing to determine resolution of infection Original Medicare and Medicare Advantage Plans don’t cover non-diagnostic tests.”*

MassHealth is Primary: MassHealth’s payment rate for NFs is not all-inclusive, meaning it does not include ancillaries such as labs, x-rays etc. For residents who MassHealth is the primary payer, the NF would order the test and the provider that conducted the test would bill MassHealth directly for the cost of testing. The circumstances in which a facility could claim the testing expense when Medicaid is the resident’s primary is if the lab receives a denial from MassHealth and bills the facility or if the lab is

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not a participating MassHealth provider and as such cannot claim the testing to MassHealth. Providers are encouraged to use MassHealth participating labs. The documentation for both circumstances would be the invoice from the testing provider.

***Question 26: On Schedule A, please clarify what should be reported for base period and rate period full time equivalents.***

**Answer:** Facilities need to report the total number of full-time equivalents for each position during the base and rate periods. To calculate the full-time equivalents for each position, use the following formula:

Total employee hours reported for the period (base or rate) / (Number of weeks for each period \* 40)

For example:

- A facility is reporting salaries and hours for a 13 week period for the base period.
- The facility has 8,000 RN hours
- For the base period RN FTEs, the facility should report 15.4 FTEs – calculated as  $8000 / (13 * 40)$ .

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