

## Frequently Asked Questions #1: November 1, 2018 Nursing Home Rate Increase

The Secretary of the Office of Policy and Management approved a 2% increase on nursing home rates effective November 1, 2018. The increase will be implemented by the Department of Social Services and is specifically intended to support a permanent increase of not less than 2% to the compensation of employees directly employed by the nursing home. This document is intended to answer questions received by the Department regarding the 2% increase.

**General Questions** - In regards to the approved 2% rate increase to nursing homes effective November 1st, 2018 could you please provide more information on the following:

Question: At what point (date) should the increases be implemented to comply with the requirements?

Response: Increases that were in effect as of September 1, 2018 and after, will comply with the requirements.

Question: Is the wage increase allowed for all staff or just certain direct categories?

Response: Increases in employee compensation can apply to all staffing categories.

Question: Will the audit process be similar to the previous audit process on the Wage Enhancement Program?

Response: The audit will be through the cost report/desk review process. Additional reporting requirements could be required if the 2018 and 2019 cost reports do not demonstrate the appropriate utilization of the funding.

**Definitions** - The memo specifies that the 2% rate increase is specifically intended to support a permanent increase of not less than 2% in aggregate to the *compensation* of employees working at the nursing home:

Question: Is the definition of “compensation” the combination of wages and salaries, increases to the health/dental benefit, and increases to the retirement plan – or is it just wages and salaries? In other words, is there a requirement that wages and salaries be increased by 2% - or is it the combination of salaries, wages, health and dental benefits, and pension benefits that will be held to the 2% test?

Response: A combination is acceptable.

Question: Will increases in the premiums and employer related costs of the *current* health/dental benefits and retirement plans be considered a sanctioned use?

Response: The utilization of the new funds cannot be used to cover normal inflationary increases related to current employee benefits.

Question: Will the increased FICA costs associated with a wage and salary increase count toward the calculation of “compensation?”

Response: Increased FICA costs will be considered as compensation.

**Timing** – We greatly appreciate the effective date move to November 1, but we do have some additional timing questions:

Question: What are the parameters of the timing of the compensation increase? If the nursing home implemented a wage increase any time between July 1, 2018 - October 31, 2018, will they be able to apply that increase to this 2% rate increase threshold? Can a nursing home implement a January 1, 2019 or anniversary date increase and have it count? Or must it be given on and effective November 1, 2018? (As we raised earlier in the Advisory Committee, we would appreciate some flexibility on this issue as we do not believe providers should be penalized for having given a wage increase in the absence of knowing that there would be this rate increase provided months later.)

Response: Wage and benefit increases provided on or after September 1, 2018 will count towards the program. If a facility is unable to implement a 2% increase in employee compensation by November 1<sup>st</sup>, facilities should provide employees with retroactive increases effective back to November 1. Increases in employee compensation must be accomplished as a permanent salary/benefit increase in order to ensure compliance with this program.

Question: What if an increase was given on July 1, 2018 but it was less than 2% – can the nursing home count this toward the 2% and add to it? In other words - can they now give an additional increase to up to 2% and have the combined increase amount count?

Response: This program will account for increases provided to employee compensation between September 1, 2018 and November 1, 2018. Increases in employee compensation provided prior to September 1, 2018 will not count towards this program.

Question: Will the premium renewal date(s) of the health and dental benefits within the cost year be taken into consideration? For instance, the increase in costs for the health and dental may have begun upon renewal earlier this year – or may come up after November 1 - can those costs be counted toward the 2% threshold?

Response: The utilization of the new funds cannot be used to cover normal inflationary increases related to current employee benefits.

Question: Will the desk review be of one or two years of cost reporting?

Response: The desk review will involve at least two years of cost reporting.

Question: Will there be credit for the permanent increase in wage and salaries even if there are staffing fluctuations?

Response: Yes, the Department's review will take into consideration changes in staffing.

Question: Finally, we have a questions again related to the discussions we had in the Advisory Committee. This relates to the actual amount of revenue received through the 2% rate increase and a requirement that providers utilize other sources of revenue to increase compensation up

to the 2% threshold. (This may be the case for providers with very low Medicaid rates and/or with low Medicaid payer mix.) We had understood that this was not the intent and therefore ask if there be the ability for a provider to receive the amount of funding received through a 2% Medicaid rate increase and utilize it toward increased employee compensation even if that amount will not allow them to increase it up to the 2% threshold?

Response: Based on an analysis of cost report data, the state does not expect this issue to warrant a change in the requirement that employees receive an overall 2% increase in total compensation.

Question: Critical operational needs?

Response: After meeting the 2% increase on employee compensation, remaining funds can be used for any allowable costs with the exception of the non-eligible uses identified in the guidance.

Question: How would this be determined and tested?

Response: During the desk review process the Department will review the non-eligible use categories.

Question: I believe we spoke briefly on this, in total our aggregate of Wages and Fringes will amount to just under 70% of total cost, therefore critical operational needs for us may be:

- (1) Unfunded cost overage to paid rate, to include for example, Medical supplies, or Housekeeping or even dietary.
- (2) Testing using the cost report or desk review, may be easy for the wages with the CBA and before and after wage increase, but the other "critical operational needs", very different.

Have you received and had any thoughts on #2?

Response: Because the 'critical operational needs' component will be difficult to identify in the cost report, the Department's review will specifically focus on the 2% increase in employee compensation and to ensure the funds were not diverted to the non-eligible categories.

Question: In determining if we will be participating in the 2% rate increase program, I have a question. We just gave a 2% raise to staff July 2018. We anticipate giving another increase July 2019. Do either of these increases qualify us for the 2% rate increase? Thank you.

Response: The July 2018 increase was provided before the August 2018 notification and therefore ineligible for this program. The Department will test for a 2% increase in applicable costs starting on September 1, 2018 and must accrue to at least back to November 1, 2018.

We have some questions regarding spending the upcoming 2% Medicaid rate increase and I wonder if you can advise.

Question: When should the provider issue the wage increases to be considered for the program?

Response: The Department will test for a 2% increase in applicable costs as early as September 1, 2018. The rate increase will be implemented for services provided on or after November 1, 2018.

Question: Will the provider need to show a 2% increase by employee or will they need to prove that they spent a fixed amount?

Response: The provider will initially need to demonstrate that employee compensation increased by 2% in aggregate. Therefore, different employee classifications and salary levels can receive different levels of increase, but any such variations should not significantly disadvantage low wage workers.

Question: Does the provider have to increase all employees across the board or can they spend it on certain positions?

Response: The provider can spend it on certain positions, as long as it provides an overall 2% increase. Therefore, different employee classifications and salary levels can receive different levels of increase, but any such variations should not significantly disadvantage low wage workers.

Question: Is depreciation of capital expenditures a qualifying cost toward the 2%?

Response: No

Thank you for considering our questions contained in our September 17 email printed below and our request to allow nursing homes to spend up to the amount of new revenue received through a 2% rate increase on increased employee compensation, but not to require a 2% aggregate increase if that is not attainable through the rate increase. I wanted to send this scenario as an illustration: For one nursing home, a 2% rate increase would equate to \$400,000 in additional revenue (in round numbers). With their total payroll, they would be able to use these funds to give 1% to all employees. Or, they could pay for their health insurance premium increase which is expected to go up around \$355,000 this year. So the increase would cover EITHER the increased cost of the health insurance premium increase or a 1% salary increase – but it would not cover a 2% aggregate increase in compensation. I would like to make sure we understand the requirements of this raise.

Question: our payroll expense for cost year 9-30-18 is \$5,834,456.90. we have to use 2% of this number which is \$116,689.14 for raises, health insurance or retirement plan. we get a 2% increase in our rate of \$248.10 which would be \$4.96 per day. we had 8823 Medicaid days for the cost year 9-30-2018 which would be a \$43,762.08 annual increase. does that mean we are going to have to make up the difference in cost of \$72,927.06 (\$116,689.14-\$43,762.03) or can we just meet the \$43,762.08 increase?

Response: Facilities would have to make up the difference and show spending of \$116,689 or opt out of the rate increase.