



## **Frequently Asked Questions: Home and Community Based Services (HCBS) Workforce Retention and Recruitment Initiative Supported Under Section 9817 of the American Rescue Plan Act (ARPA)**

*Updated January 5, 2021*

### **General FAQs about the Initiative**

#### **1. What is this initiative and how do direct support workers benefit?**

Direct support workers and their supervisors who work in Home and Community Based Services (HCBS) programs funded by MaineCare are eligible to be paid bonuses under this initiative. Existing workers can receive retention bonuses recognizing their service during the pandemic, and new workers can be offered recruitment bonuses as a hiring incentive.

A direct support worker is someone who spends a majority of work time providing services and supports directly to individuals. Services and supports include case management, direct assistance with activities of daily living or instrumental activities of daily living, or direct treatment or care. This may be provided by an employee or by a shared living provider who is stipended by a Provider Agency.

#### **2. Which HCBS programs are included, and why must they be MaineCare programs?**

This initiative is funded with special federal Medicaid funds authorized by ARPA and may only be used for Medicaid (MaineCare) HCBS, as defined by the Centers for Medicare and Medicaid Services (CMS). In order to qualify for a bonus under this initiative, a worker must spend part of his or her time delivering HCBS under any of the following Sections of the MaineCare Benefits Manual: 2, 12, 13, 17, 18, 19, 20, 21, 26, 28, 29, 40, 65, 92, 93, 96, 97B, 97D, 97E, or 97F.

#### **3. How and when will the bonus money be distributed?**

Provider Agencies had to register by December 17, 2021. Acceptance of registration is necessary for them to receive supplemental MaineCare payments totaling approximately 10% of their HCBS MaineCare revenue for calendar year (CY) 2019. The first payment will be made in January 2022 and will be approximately one-quarter of the total. The second and final payment will follow the January payment. Provider Agencies will use this money to pay bonuses to their employees and stipended shared living providers. Provider Agencies: see ***Technical Registration and Payment FAQs*** section below for more information about the supplemental payment process.

#### **4. Are Provider Agencies required to pay bonuses?**

Provider Agencies are not required to participate in this initiative. If they do participate and accept the supplemental payment from the State, they must adopt a bonus policy and share the policy with their staff, they must use at least 80% of the payment on bonuses for new and existing workers and shared living providers, and they may only use these funds to pay for bonuses of staff who provide services under the Sections of MaineCare policy listed under FAQ #2.

#### **5. (December 6, 2021 Update) Guidance notes that 20% may be spent on Bonus Payments or spent on set aside for the Provider Agency's associated costs of Bonus Payments. What are the allowable associated costs? Can they be used to cover all or part of the corresponding costs of increases in payroll tax and benefits?**

A minimum of 80% of the supplemental payment must be spent on bonus payments. The remaining 20% may be spent on bonus payments or spent or set aside for the Provider Agency's associated costs of Bonus Payments to include the payroll taxes, benefits, provider sales taxes, or other administrative costs associated with the bonuses. If a facility is selected for audit, we will review their payroll records, including federal and state quarterly 941 tax returns, and the as-filed employee-level report to verify that 80% is spent on the bonus itself and then the remaining 20% was used to pay for the associated costs.

#### **6. How much will workers get and when will they get it?**

Each Provider Agency will determine the amount and number of bonuses paid, based on a policy that the Provider Agency must adopt and share with workers. The Department will recognize bonuses paid to eligible workers between July 1, 2021 and March 31, 2022, but the Provider Agency will decide the timing of bonus payments within those dates. Some Provider Agencies have already made bonus payments in anticipation of this initiative.

#### **7. (December 6, 2021 Update) FAQ #3 notes that the first payment to Provider Agencies will be in January. Is there an anticipated timeline set for the second payment?**

Not at this time, though the intent is to make the second payment as soon as possible and no later than March 31, 2022.

#### **8. (December 6, 2021 Update) Are the previously presented caps of \$2,000 and \$1,500 dollars for current and new employees, respectively, still in place under the program? Can an eligible provider under this program pay bonuses above these amounts if those bonuses are given between July 1, 2021 and March 30, 2022?**

No, the caps are not still in place and yes, eligible providers can pay bonuses above these amounts. See FAQ #9.

**9. (December 6, 2021 Update) Is there an upper limit on how much a Provider Agency can pay an individual worker or stipended provider?**

From an auditing perspective, the Department will deem \$7,500 as a reasonable upper limit to the total payments made to an individual over the 9-month eligibility period. The Department expects the upper limit to be associated with criteria in your policy, such as longevity, role and/or experience.

**10. (December 6, 2021 Update) If an organization provides multiple programs/ services under one or more eligible MaineCare Sections of Policy, can the organization utilize a separate bonus policy for each of their programs/ services, or must they utilize one bonus policy covering all eligible services and program staff?**

In adopting its bonus policy, a Provider Agency may consider differences across its programs as a variable in determining bonus amounts. See also FAQ #6.

**11. (December 6, 2021 Update) Previous draft guidance described the eligibility of bonuses for new employees to those who have been on staff after July 1 for more than 2 months. Is there still a minimum amount of time new employees must be on board before they can be eligible for a bonus?**

No. Any qualified DSW or supervisor who was hired on July 1, 2021 or later may be paid a recruitment bonus. While some Provider Agencies expressed a desire for a waiting period of 2 months or more, the Provider Agency may pay a bonus prior to two months employment if the Provider Agency's bonus policy allows for this timing. See also FAQ #6.

**12. (December 6, 2021 Update) Is it allowable under this funding opportunity for a provider to apply the funds to salary increases instead of to bonuses if applied during the allowable period of July 1, 2021 to March 30, 2022? If allowable, do you have guidance on how they would document this?**

No. Because the federal funding source for this program is one-time funding, it may not be used to support permanent salary increases.

**13. Can the Department align requirements for these supplemental payments to the Provider Relief Fund (PRF) program requirements? Can the provider use these supplemental payments to cover non-MaineCare share of costs or lost revenues, like it could under the PRF program?**

No. CMS prohibits the use of Medicaid funds for non-Medicaid-related expenses. The PRF program was a discrete non-Medicaid program with separate requirements.

#### **14. Will the payments be audited?**

The Department plans to conduct audits on a random sample of participating Provider Agencies and as needed on a risk basis.

## Technical Registration and Payment FAQs for Provider Agencies

#### **15. How does my Provider Agency register for this initiative?**

A Provider Agency that delivers HCBS under any of the Sections of Policy listed above under FAQ #2 had to register for this initiative by December 17, 2021.

#### **16. Does my Provider Agency calculate the amount of the supplemental payments?**

No. The Department is using claims data to calculate the amount of payments. Each Provider Agency will receive two supplemental MaineCare payments totaling approximately 10% of its eligible HCBS revenue for CY 2019. The first payment will be made in January 2022 and will be approximately one-quarter of the total. The second and final payment will be made following the January payment.

#### **17. How did the Department calculate the amount of my Provider Agency's payment? What if my Provider Agency is new and did not have a full year of revenue in CY 2019?**

Payments were calculated using the following algorithm:

- a. If a provider had 12 months of payments in CY 2019 (incurred basis), CY 2019 payments were used as a basis to calculate the payment.
- b. If a provider DID NOT have 12 months of payments in CY 2019 (incurred basis), CY 2021 payments were annualized and used as the basis.
- c. If a provider DID NOT have 12 months of payments in CY 2019 (incurred basis), OR any CY 21 payments, we selected the larger of their CY 2020 or SFY 2021 total incurred payments.

If your revenue was unusual during this period (for example, you merged with another Provider Agency) and you have questions, please send an email to [bonuspayments.hcbs@maine.gov](mailto:bonuspayments.hcbs@maine.gov).

**18. (December 6, 2021 Update) We have expanded significantly since 2019 through acquisition of another agency, and we're concerned that CY 2019 base will not adequately**

**capture our current size and not provide sufficient budget to give bonuses to the staff we acquired in our mergers. What should we do?**

Since the acquired agency is no longer in existence and cannot register, please send details on which agencies you acquired, and evidence of the acquisition to [bonuspayments.hcbs@maine.gov](mailto:bonuspayments.hcbs@maine.gov). With that information, we will add to your agency's payment what would have gone to the acquired agency.

**19. (December 6, 2021 Update) We did not acquire an agency, but when a large agency in our area closed, we hired many of their staff and significantly expanded our business after CY 2019. Can the Department use a more current period as our base?**

Please send the details of your business expansion to [bonuspayments.hcbs@maine.gov](mailto:bonuspayments.hcbs@maine.gov), and if we are able to verify revenue increases of at least 25% since CY 2019, we will use a more recent period for your base.

**20. (December 6, 2021 Update) We are in the process of merging with another agency. The merger will not be complete by the time the portal closes but is likely to be complete by January when the Department issues payments. What should we do?**

We recommend that both agencies register, and we further recommend that in your merger agreement, you include clear language about ownership of any future bonus payment assets that may be paid to the acquired agency.

**21. (December 6, 2021 Update) Our agency just started providing services this month. Do we qualify?**

In order to make a bonus payment, the Department must have some claims history. Therefore, in order to qualify, an agency must have started operating and billing MaineCare no later than October 1, 2021.

**22. (December 6, 2021 Update) A suggestion has been made to add the words "or will pay" to the attestation item "the provider agency has paid the bonuses between July 1, 2021 and March 31, 2022," as many providers will have not paid bonuses before December 10, 2021 when the attestation is due.**

The Department agrees and has made this edit to the attestation on the registration form.

**23. What if providers do not use all the funding?**

Any portion of a supplemental payment that is not used in accordance with guidance contained in the registration [form](#) must be returned to the Department.

**24. Where do I find my Provider Agency's Vendor Code (VC) number?**

VC numbers can be found on your remittance advice attached to each MaineCare-related payment, either in hard copy or by email.

**25. What do I enter in the registration portal if my agency has more than one VC number?**

Only one registration form and VC number is required per Provider Agency. Select one of the agency's VC numbers associated with an eligible section of policy. The Department will review all VC numbers associated with the Provider Agency, and all eligible section(s) of policy, by VC number, in the payment calculation once an agency registration form has been received.

**26. If my agency has more than one VC number, do I need to register more than once?**

No, you only need to register once. If you have multiple VC numbers and/or provide services under multiple sections of policy, your organization will receive a payment for all eligible services.

**27. How do I set up a new VC number for an existing/eligible agency?**

Please email [bonuspayments.hcbs@maine.gov](mailto:bonuspayments.hcbs@maine.gov) for assistance.

**28. Will each agency receive some form of payment statement or document to show each agency's bonus payment amount?**

Yes, a standard remittance advice (RA) will be provided. The number on the RA will include this prefix: HCBSWRKFRC.

**29. How will my Provider Agency receive its bonus payment amount? (e.g. A check in the mail? A direct deposit?)**

Your agency will receive payment in the same form and manner in which your agency currently receives payments from the Department.

**30. If my Provider Agency is still active, but no longer providing a particular service that it offered in CY 2019, will my Agency receive bonus payment funding for those services?**

Payment will be based on any eligible HCBS service(s) that your Provider Agency continues to provide.

**31. We have independent contractors who provide regular services to our clients and receive an IRS 1099 form from us. Can our bonus policy include 1099 contractors?**

You may include 1099 contractors in your policy, though the Department advises you to thoroughly analyze the implications of doing so. Paying bonuses to 1099 contractors may have tax implications and could cause contractors to be viewed as employees in a broader labor practices context. Also, the 1099 contractor could be receiving bonuses from other providers as well, resulting in excessive aggregate bonus payments.

**32. I have a question that is not answered in these FAQs. What should I do?**

Please email [bonuspayments.hcbs@maine.gov](mailto:bonuspayments.hcbs@maine.gov) with any remaining questions.

