

# UNDERSTANDING APPENDIX K DAY PROGRAM RETAINER PAYMENT FUNDING

**REQUIREMENTS AND STRATEGIES FOR COVID-19  
SERVICE DELIVERY TO SUPPORT INDIVIDUALS AND  
FAMILIES AND ACHIEVE FULL AVAILABLE  
REIMBURSEMENT**

# Housekeeping

- Please mute phones
- Ask questions in the GoTo question box
- Slide deck and recording WILL be sent out later today

# BASIS FOR RETAINER PAYMENT

- As of 4/16/20 "retainer days" changes to a semi-monthly "retainer payment"
- Calculated from average of DH, PV, and CH (and Respite if requested) revenue from 7/1/19 - 12/31/19
- Adjusted for 1/1/20 and 4/1/20 minimum wage, DSP and Clinical increases
- Reportedly includes the impact from the 7/1/19 rate rebasing
- 80% guaranteed each month starting 4/16/20 until disaster ends
- Contingent upon signed agreement/attestation committing to retain staff

# COMMITMENTS REQUIRED IN AGREEMENT/ATTESTATION

- STAFF RETENTION COMMITMENTS:
- Must try to retain staff during agreement as compared to before crisis
- From 4/16/20, No layoffs or furloughs of CFR 100, 200 or 300 Staff in day services funded under retainer payment program (DH, PV, CH)
- If you did this prior to 4/16/20 ask them to return
- Paid child care, sick leaves permitted
- voluntary unemployment, or disciplinary-type terminations permitted

# AGREEMENT/ATTESTATION COMMITMENTS

## CONT'D

- DEPLOY AVAILABLE STAFF TO PROVIDE SERVICES:
  - In Residential Programs (Yours or Another Agency's)
  - In Emergency Intensive Respite Centers (Yours or Another Agency's)
  - To Individuals and Families You Support in the Community

# AGREEMENT/ATTESTATION COMMITMENTS

## CONT'D

- OTHER COMMITMENTS:
- Enter into cooperative agreement with at least one agency to lease staff, if needed and available
- (must have agreement but actual staff leasing subject to need and availability)
- Execute agreement ASAP and submit copy to OPWDD by 6/15/20
- Submit Monthly Revenue Report to OPWDD Identifying Retainer Revenue (80%) and DH, PV and Com Hab Billed Revenue (20%)
- Combined Revenue Exceeding 100% Subject to Repayment
- Federal COVID-19 and/or FEMA grant revenue also reported but not necessarily included in reconciliation

# PROGRAMS INCLUDED UNDER RETAINER PAYMENT

- Day Habilitation including Without Walls Day Habilitation and Supplemental Day Habilitation
- Prevocational Services Programs including Site-based and Community-based programs
- Community Habilitation (will be covered starting 3/18 closure date but payment for 3/18–4/15 delayed pending ID of mechanism).
- Respite Revenue Can Be Included in the Calculation of Your Average Retainer Payment and once included, can be provided and billed as Community Habilitation
- SEMP is NOT covered under retainer payments, pre or post 4/15/20

# RETAINER PAYMENT CALCULATION

- Includes all revenue for your Day Habilitation Programs, Prevocational Programs, Community Habilitation Programs and Respite Programs (if you elect to include Respite)
- For the period of July 1, 2019 thru December 31, 2019 (including any impact due to the 7/1/19 rebasing)
- Adjusted for the January 1, 2020 DSP and minimum wage increases, and the April 1, 2020 DSP and Clinical increases
- Averaged Per Month by “Unique” Number of Individuals Served During the Period Above (a smaller subset of total so as to ensure all retainer payment units can be billed by the provider).

# ELECTING TO INCLUDE RESPITE REVENUE

- Before you decide to include respite revenue in your monthly retainer payment calculation, consider the following:
- Did you deliver a significant amount of respite during 7/1-12/31/19?
- If yes, did a large portion occur during last summer and if so, do you think you will lose such revenue this summer during ongoing closure?
- Com Hab has lower rate for group, respite is same fee whether individual or group. But how likely is group during the PAUSE?
- Most, if not all, will want to include respite revenue in the calculation.
- If so, provide respite as Com Hab service during remainder of crisis.

# RETAINER PAYMENTS

- The 80% calculation is based upon average monthly claims for DH, PV and CH combined (including respite, if elected).
- You will get a monthly average retainer amount for each individual, which is billed semi-monthly, which you will first bill on 5/1/20.
- First payment estimated to be received 6/10/20 (for 4/16-5/15/20).
- You remain eligible for the monthly retainer payment: 1)as long as you submit a signed attestation; 2) enter into a cooperative staffing agreement with another agency; 3) deploy or utilize such staff when available and needed; 4) do not lay off or furlough 100, 200 or 300 staff; 5) continue to provide essential supports and services to individuals and families; 6) file required monthly revenue reports.

# HOW TO SUPPLEMENT 80% RETAINER FUNDING

- You are allowed to provide and bill for “regular” eMedNY units of Day Hab, Com Hab and Prevocational services for all individuals, except,
- You **cannot** bill for regular eMedNY units (such as DH) for any individual for whom you are billing the **Enhanced IRA Rate**.
- **But you can bill for regular eMedNY units for services delivered to Supervised IRA individuals for whom you bill your regular IRA rate.**
- Example: if individual attends another agency’s DH (and you receive enhanced IRA rate) you cannot separately bill for DH for such individual.
- You must adhere to minimum time durations to bill a unit (e.g. 4 hours, not counting meal time, for a full DH or SBPV unit).
- You must meet ADM service documentation requirements

# Supplementing 80%: Day Hab in the IRA

- How does Appendix K waiver of service delivery standards apply, for example, to Day Habilitation delivered in a Supervised IRA?
- Existing Staff Action Plan and Goals may not be appropriate during the crisis (community participation, learning how to shop, count money, volunteer, etc.).
- All individuals must learn and practice safe COVID-19 behavior: social distancing, hand washing, use of face mask, etc.
- Waiver applies to scope, frequency, location and duration of services as well as person-centered planning. Need to obtain CCO verbal approval (can be retroactive), with written revisions within 60-days following end of disaster for change in service type or change in service location.

# Supplementing 80%: Supportive IRAs

- Community Habilitation can be provided and billed for services delivered to individuals in Supportive IRAs.
- Up to 6 hours per weekday/30 hours per week may be billed
- ADM service documentation requirements apply
- This additional revenue counts towards your 20%
- SEMP could be delivered as an alternative, not counting toward 20% (Job Coach may already know and work with individual and could count all related time in delivering and documenting “soft skills” and COVID-19 safe behaviors important to learn and practice upon return to work).

# Supplementing 80%: Supporting Individuals and Families at Home

- Zoom or other remote group services may be a way to deliver interesting, informative, fun and/or healthy supports
- For Day Habilitation (and SBPV) you must meet and document the 2-hour or 4-hour half/full unit duration
- Two-hour morning group? Lunch with family exempted. Two-hour afternoon group? This would equal a full unit, but challenging.
- Individual Community Habilitation delivered in shorter durations, including 15-minute phone contact may be more realistic for some but even 1-hour of CH does not approximate a full unit of Day Hab.

# Supporting Individuals and Families cont'd

- Our day services also serve as weekday relief from caregiving.
- Can you imagine the stress of 24/7 care every day, with no break, for the entire crisis? Even harder where the individual presents significant medical/behavioral challenges.
- Have you tried ordering groceries on-line? (a two-hour nightmare for placing an order, with many substitutions, and delivery a week later)!
- We have drivers and vans and often, bulk food purchasing arrangements with SYSCO, UFSO or others.
- Could this help some of our families? This is all billable time during the disaster period (most likely Com Hab unless time exceeds 2 hrs.).

# FAQs

- Q: Do I have to have a **cooperative (staff leasing) agreement** with another agency?
- A: Yes. The purpose is to afford day program-only providers with available staff the opportunity to work and provide essential services during the crisis. If your agency needs staff, but the day services agency has already fully deployed available staff, they have met their obligation; if they have available staff but you (the residential agency) do not need them, you have met yours. But if they have available staff, and you need staff, and they are unwilling to redeploy, their ongoing participation in the program is in jeopardy.

# FAQs

- Q: Can I **lay off or furlough staff** in the CFR 100, 200 or 300 class if they refuse to work?
- A: Yes. The purpose of the lay off/furlough restriction is to protect workers essential to the operation who are available and willing to work. It is not intended to support wages of staff who are unwilling to work or unwilling to be reassigned to provide supports during the crisis.
- Q: Can I lay off or furlough drivers or aides who transport To/From day habilitation or Site-based Prevocational programs?
- A: Not if they are willing and available to work. They can be reassigned to other programs or functions to help during the crisis.

# FAQs

- Q: Can I lay off or furlough production workers or floor supervisors in work centers or integrated businesses?
- A: The retainer funding and the Enhanced IRA rates are designed to help agencies pay for necessary staff who are willing and able to work. These staff can be reassigned to residential programs or other programs where needed. However, work center or integrated business production components are outside the scope of waiver prevocational program funding and therefore, the agency is not obligated under the retainer program agreement/attestation to retain such staff.

# FAQs

- Q: Can I bill monthly retainer payments and regular eMedNY DH, PV, and/or CH revenues exceeding 100% of typical monthly funding?
- A: Yes, but there is a monthly reconciliation provision whereby any excess will be recouped. However, since the final month reconciliation will also represent a cumulative reconciliation for the entire period, the “excess” in one month could supplement a shortfall in another month.
- Q: Why must Federal COVID-19 or FEMA grant funds be included in the monthly revenue report?
- A: We believe that where a review demonstrates that a portion of the retainer funding was not needed, the principle that Medicaid is the payer of last resort could be used for purposes of adjustment.

# QUESTIONS?

- We may have a few moments to try to answer questions at this time, typed and submitted via the GoTo “question” panel function.
- Otherwise, feel free to email your questions to me at:
- [kemmerj@thearcny.org](mailto:kemmerj@thearcny.org)
- Or you can call me at: 518-583-1201
- Thank you all for the great work you do and especially throughout the COVID-19 disaster!