

## **2021 Nursing Home Minimum Staffing Statute Wage Pass-through Policy & Procedures**

### **Rate Pass-Through Requirement**

Effective October 1, 2021, eighty percent (80%) of any rate increase pursuant to subsection (a)(2)(vi) of this section shall be dedicated to increase compensation for all eligible direct-care workers in the following manner.

### **Definition of Compensation**

Compensation increases shall include base salary or hourly wage increases, benefits, other compensation, and associated payroll tax increases for eligible direct-care workers.

### **Definition of Direct Care Staff**

Direct-care staff shall include registered nurses (RNs), licensed practical nurses (LPNs), certified nursing assistants (CNAs), certified medication technicians, licensed physical therapists, licensed occupational therapists, licensed speech-language pathologists, mental health workers who are also certified nurse assistants, physical therapist assistants, housekeeping staff, laundry staff, dietary staff or other similar employees providing direct-care services; provided, however that this definition of direct-care staff shall not include exempt employees under the FLSA or employees who are contracted or subcontracted through a third-party vendor or staffing agency.

### **Reporting Requirement**

By July 31<sup>st</sup> of each year, nursing facilities shall submit to EOHHS a certification (**attached**) that they have complied with the provisions above, including information on how each individual eligible employee's compensation increased, information regarding hourly wages prior to the increase and after the compensation increase, hours paid after the compensation increase and associated increased payroll taxes. A collective bargaining agreement can be used in lieu of the certification form for represented employees. All data reported on the compliance form is subject to review and audit by EOHHS. The EOHHS audits may include field or desk audits, and facilities may be required to provide additional supporting documents including, but not limited to, payroll records.

### **Non-Compliance**

Any facility that does not comply with the terms of this certification shall be subjected to a clawback and a twenty-five percent (25%) penalty of the unspent or impermissibly spent funds, paid by the nursing facility to the State, in the amount of the increased reimbursement subject to this provision that was not expended in compliance with the facility's certification.

**Certification of Wage Pass-Through Form (2021)**

Nursing Facility \_\_\_\_\_ NPI \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

List below the names of all Direct Care Workers, as defined above, employed as of October 1, 2021.

Last Name	First Name	Job Title	SS# (last four digits)	Date of Hire	Hourly rate (including payroll taxes) prior to rate increase*	Hourly rate (including payroll taxes) after rate increase*	Monthly cost of all other benefits prior to rate increase	Monthly cost of all other benefits after rate increase

\* Time-limited wage add-ons from the Paycheck Protection Program and/or other short-term stimulus funds used to temporarily increase employee compensation should not be included in comparison of base hourly wage rates.

**Attestation**

I, \_\_\_\_\_, hereby attest that eighty percent (80%) of the rate increase received by \_\_\_\_\_ [Agency] effective October 1 was dedicated to increased compensation for eligible direct care workers. I further attest that, to the best of my knowledge and belief, the above information is accurate and complete as of the date below. \_\_\_\_\_ [Agency] has maintained records to support this attestation, and hereby acknowledges that such records may be subject to inspection or audit by EOHHS.

Nursing Facility \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_