

# MN Department of Human Services (DHS) Nursing Facility Rates and Policy (NFRP) COVID-19 Frequently Asked Questions

Posted April 20, 2020

This content is subject to change and is based on current information available as of the posted date.

This resource should not be relied upon as constituting professional accounting or legal advice or be used as a substitute for consultation with professional accounting or legal advisors. The user of this resource should take caution to use it in a manner that conforms with current state and federal laws and regulations.

- 1) If nursing facilities are awarded a Minnesota Department of Health (MDH) COVID-19 related grant (for example a portion of the MDH ORHPC \$50M/\$150M grant), would funds received for the MDH grant need to offset costs on the MN nursing facility cost report regardless of whether or not the DHS expedited payment was applied for?**

DHS Response: Yes, if nursing facilities are awarded grants through MDH the costs need to be offset on the both the MN Annual and Statistical Cost Report and any related NFRP COVID-19 reimbursement form applications once the nursing facility is notified of such awards. Payments for COVID-19 costs that are received from other grants, through loan forgiveness, tax credits, or federal funds must offset the costs on the DHS Annual and Statistical Cost Report. Documentation will be required to be submitted with the DHS Annual and Statistical Cost Report to support the payments received and the offset of costs. Authority for the offset requirement includes: M.S. 256R.02, Subd. 6: *"Applicable credit" means a receipt or expense reduction as a result of a purchase discount, rebate, refund, allowance, public grant, beauty shop income, guest meals income, adjustment for overcharges, insurance claims settlement, recovered bad debts, or any other adjustment or income reducing the costs claimed by a nursing facility.* 256R.10, Subd. 6. *Applicable credits must be used to offset or reduce the expenses of the nursing facility to the extent that the cost to which the credits apply was claimed as a nursing facility cost. Interest income, dividend income, and other investment income of the nursing facility or related organization are not applicable credits except to the extent that the interest expense on working capital debt is incurred and claimed as a reimbursable expense by the nursing facility or related organization.* CMS PRM Chapter 21: *Any grants, Federal or private or gifts received by State and local government for operating expenses must be offset against allowable costs.*

- 2) If a Nursing Facility (NF) applies for one of the CARES Act small business loans, will the proceeds need to be offset against any M.S. 12A.10 reimbursements and/or the annual cost report?**

DHS Response: Yes, nursing homes will need to offset any costs that are paid for in which funds from the CARES Act small business loans were used on the NFRP COVID-19 reimbursement application form and/or the annual cost report provided that the small

business loan was forgiven in part or in whole. Documentation will be required to show what costs were paid, and in the case of the DHS Annual Statistical Cost Report, where the costs were reported for the costs that were forgiven. The approval letter provided by the SBA loan processor awarding the facility a small business loan will be required to be submitted to DHS. If the SBA loan is forgiven the facility will be required to submit documentation to DHS showing that the loan was forgiven and the amount of the loan forgiveness. The documentation must include all documentation that was submitted to the SBA loan processor for determination of eligibility of the costs to be forgiven including, but not limited to, the IRS Form 941 and state quarterly unemployment insurance tax reporting forms or equivalent payroll records that correspond to the covered period, and evidence of business rent, mortgage **interest** payments, or utility bills that the loan proceeds were used to pay. The offset of costs will occur when an SBA loan is partially or fully forgiven. Costs that are not entirely incremental (e.g. not above and beyond normal expenses) and associated with the COVID-19 pandemic may result in a future rate reduction.

**3) How will the federal expanded family/medical leave be handled? Since the Families First Coronavirus Response Act (FFCRA) program is voluntary for exempted health care providers, how does DHS view the increased costs of a nursing facility that has opted to be excluded?**

DHS Response: If facilities partake in the expanded family/medical leave, the costs must be offset by any associated federal funds that the facility receives. If facilities are going to opt out of the expanded family/medical leave, there may not be an incremental cost increase. Adjustments for accruals are accounted for during the last period of the cost report. Any sick leave or paid time off paid out during routine payrolls will be accounted for in the payroll costs that the facilities will be reporting on the NFRP COVID-19 reimbursement application forms. All costs, either reimbursed by federal funds or applied for through the NFRP COVID-19 reimbursement application forms process, will need to be offset from the costs reported on the cost report. The Cost Report Instruction Manual for the RYE 9/30/2020 will address how providers need to adjust these costs.

**4) If COVID-19 had a significant impact on census will this be considered by DHS, and if so, how?**

DHS Response: DHS will not be posting an expedited reimbursement form that would make accommodations for a fluctuation in census as previously mentioned in the Frequently Asked Questions document. CMS has issued initial advanced and accelerated payments in addition to issuing stimulus payments to providers. The accelerated and advance payments program provides emergency funding and addresses

cash flow issues based on historical payments when there are natural disasters. There will also be a federal grant opportunity for providers to apply for revenue losses.

- 5) How are nurse consultants and other shared corporate staff treated under the M.S. 12A.10 reimbursement? If it's just existing salaried staff then there would be no incremental cost to report on the NFRP COVID-19 reimbursement application form, but if temporary staff or consultants are added, how should that be reported?**

DHS Response: A nurse consultant, under M.S. 256R.02, Subd. 17, must be allocated proportionately by resident days or by direct identification through payroll. The nurse consultants must be onsite at the nursing facility for reimbursement on the COVID-19 applications forms. Shared corporate staff are not allowed on the NFRP COVID-19 application forms, unless there are a corporate nurse consultant that works directly onsite at the nursing home(s). If temporary outside consultants are added, those consultants should be reported on the NFRP COVID-19 reimbursement application form in Other Direct Care costs.

- 6) If the last date of the payroll before a facility's COVID-19 response falls before March 13, is that the base payroll period?**

DHS Response: Yes, if you want to go the least administratively burdensome route. There is *some* flexibility. The base payroll period must include at least two full consecutive payroll periods that ends closest to March 13, 2020. The base payroll period may include more than two full pay periods but not less than two. It will be administratively easier if you choose to use the date of your last payroll period prior to March 13<sup>th</sup> as the end date of your base payroll period. If you have a pay period that includes dates both before and after March 13<sup>th</sup>, and you want to seek expedited reimbursement for COVID-costs for this partial pay period, you may do so, but will be required to use the new "Crossover" version of the reimbursement request form.

- 7) If a facility has to pay to put Supplemental Nursing Services Agency (SNSA) pool staff up in a hotel, is that an eligible cost related to pool staff? The hourly rate the SNSA charges a nursing facility is the max allowable so travel/hotel expenses would be above the maximum.**

DHS Response: Hotel and travel costs for SNSA (aka pool) staff are allowable on the NFRP COVID-19 reimbursement application forms to the extent that these are incremental cost increases attributable to responding to the COVID-19 pandemic. Please keep in mind that the hotel and travel costs are subject to the principles of prudent and cost-conscious buyer, and, all other pertinent regulations. For example, a \$300 a night hotel bill is not going to be deemed as reasonable and necessary and reflective of a prudent buyer because there are less expensive options available.

Nursing facilities may pay the actual cost of travel and housing for SNSA staff to the employee, the agency, or another vendor without violating the limitation of maximum allowable charges under statute. A “per diem” travel charge or hourly travel fee is not an allowable expense on the DHS NFRP COVID-19 reimbursement application forms nor the cost report as these costs may not be reflective of the actual costs related to travel and housing. The hotel and travel costs for SNSA staff are not classified as direct care costs; they are classified as administrative costs.

**8) The nursing facility is cross-training hospital nurses and clinic nurses to work in the nursing facility in the event the facility needs to pull them in time of need. Are these costs associated with this cross-training allowable on the NFRP COVID-19 application forms?**

DHS Response: Yes, these costs are allowable; however, the costs must be directly identified to the nursing home. Hospital and clinic employees should clock in and out of the nursing home nursing departments or be prepared to have timesheets and payroll reports available for the hospital and clinic employees.

**9) Will this type of COVID-19 reimbursement be available to the Home Health Care side?**

DHS Response: The permissions for NFRP under M.S. 12A.10 do not apply to home health. NFRP cannot speak to what other efforts might be underway to help home health care.

**10) What are the criteria for claiming reimbursement for paid time off to employees relating to COVID-19?**

DHS Response: The cost of paid time off to employees should be included on the payroll costs reported in Section I of the DHS COVID-19 reimbursement application form. Any incremental costs relating to paid time off will be evaluated during the review of payroll costs submitted on the NFRP COVID-19 reimbursement applications forms.

**11) What are the limits to these amount paid per hour as "hazard" pay?**

DHS Response: The determination of “hazard” pay needs to be addressed by the individual facility. Many factors go into determining what the pay should be such as geographical area and area competitors. Facilities do need to keep in mind that the hazard pay is subject to the Medicare principle of prudent and cost-conscious buyer. Nursing facilities should be prepared to provide a written personnel policy, if requested by DHS, as it relates to hazard pay, temporary pay increases, or special bonuses. Please keep in mind that these costs cannot be reimbursed from DHS to nursing facilities prospectively.

**12) A nursing facility is thinking of a bonus per hours worked during this time, would this be reimbursable on the NFRP COVID-19 application form?**

DHS Response: The nursing facility may be reimbursed for employee bonuses through the NFRP COVID-19 expedited reimbursement process provided that the nursing facility shows incremental costs from their base payroll period that was used on the first NFRP COVID-19 reimbursement application form that was submitted.

**13) There has been discussion of adding additional staff or increasing staff hours. Will this be considered allowable costs on both the COVID-19 Application forms as well as the cost report?**

DHS Response: Yes; however, if you apply for the DHS COVID-19 expedited reimbursement, those costs and hours must be offset as an adjustment on the cost report. Please keep in mind that the costs should be reasonable, ordinary, and what a prudent buyer would pay.

**14) If we set up an isolation area that reduces capacity is the lost revenue considered a cost of setting up the isolation beds?**

DHS Response: CMS guidance was issued in regards to a stimulus package that has been rolled out to healthcare providers, including skilled nursing facilities. The federal stimulus payments, if accepted by providers, can be applied to lost revenue. CMS will require providers to account for the way the stimulus funds are applied to costs in their facility and documentation will be required to be sent to CMS. Since this federal funding is available, DHS will not consider lost revenue to be an allowable cost on the DHS COVID-19 expedited reimbursement forms.

**15) Will staff in-service training be an allowable cost on the DHS COVID-19 expedited reimbursement form?**

DHS Response: Yes, staff in-service training incremental costs is allowable on the DHS COVID-19 expedited reimbursement form. Costs for staff in-service training should be included in Section I – Direct Care Staffing Costs and Section II – Non-Direct Care Staffing Costs.