

COVID-19 Related, Waiver of SNSA Maximum Charges Request Form for Medicaid Certified Nursing Facilities

This Request Form applies to Minnesota licensed nursing facilities that are Medicaid certified. This Request Form is required to be completed and approved PRIOR to contracting with a SNSA for payment of nursing services that exceed the current maximum charges allowed in law, MS 144A.74:

SNSA Maximum Charges 2020

Statewide Maximum Allowed Charges Effective January 1, 2020 – December 31, 2020	Statewide Maximum Allowed Holiday Charges Effective January 1, 2020 – December 31, 2020
RN \$57.65	RN \$99.15
LPN \$46.01	LPN \$80.97
CNA \$29.73	CNA \$51.74
TMA \$32.88	TMA \$49.52

Information about the waiver

The waiver allows the State Emergency Operations Center (SEOC), in consultation with the Department of Human Services (DHS) Nursing Facility Rates and Policy Division, to set new maximum charge amounts for supplemental nursing services agencies (SNSAs) **on a case by case basis and must be consistent with the State of Minnesota COVID Emergency Response**. This waiver will be in place for the duration of the peace-time emergency and up to 60 days past the end of the emergency.

Conditions for Accessing the SNSA Maximum Charge waiver:

- The waiver is necessary to provide staff to work in nursing facilities that are serving residents with COVID-19.
- The waiver is needed to stabilize an existing or an expected COVID-19 related staffing emergency. Once the facility is COVID-19 free, should there be a need to pay an amount in excess of the maximum charges, the nursing facility must contact DHS for an extended authorization.
- The entire amount billed to the nursing facility, that is in excess of the maximum charges {less associated payroll taxes}, should be paid to the employee working in the nursing facility as either an increased hourly rate of pay, shift differential, hazard pay, or overtime pay; this is referred to as the pass through requirement. The SNSA may charge the nursing facility for the employer associated payroll taxes for the increased pay for the employee. Alternatively, the SNSA must provide documentation to the commissioner describing the reasons and emergency situation justifying why the pass through requirement cannot currently be met and the duration for which a waiver of this requirement is necessary. An authorized representative from the SNSA must sign the required Attestation Form that any amounts in excess of the maximum charges that are permitted under this waiver will be paid to the applicable employee(s) in addition to their regular wages, or provide justification as to why the pass through requirement cannot currently be met and the duration for which a waiver of this requirement is necessary. The purpose of this waiver is to increase the pay to

the frontline worker. This waiver is not intended to provide additional profits to staffing agencies but rather to serve as an incentive to frontline workers to work in nursing facilities with COVID-19. This attestation must be provided to the state before any application to waive the maximum charges will be approved. The required Attestation Form is available at [COVID-19: Nursing Facility News / Minnesota Department of Human Services](#)

- The amount in excess of the maximum charges must abide by the general cost principles contained in [Sec. 256R.10 MN Statutes](#) meaning the cost is ordinary, necessary, and related to resident care. Per the Provider Reimbursement Manual 2102.2, it is the intent that costs be reasonable, ordinary and what a prudent buyer would pay. It is the expectation that providers seek to minimize its costs and that its actual costs do not exceed what a prudent and cost-conscious buyer would pay for a given service. <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals-Items/CMS021929>
- Under Minnesota Statutes 144A.70 to 144A.74, Registration of Supplemental Nursing Services Agencies, the commissioner of health is responsible for the oversight of supplemental nursing services agencies through annual unannounced surveys, complaint investigations, and other actions necessary to ensure compliance with sections 144A.70 to 144A.74. Section 144A.72, Subdivision 1, SNSA REGISTRATION REQUIREMENTS, includes, in part, as a condition of registration that the supplemental nursing services agency shall retain all records for five calendar years. All records of the supplemental nursing services agency must be immediately available to the department. **These records may include SNSA payroll records, financials and any other documents necessary to ensure compliance with the requirement that the entire amount in excess of the maximum charges is paid to the employee for which the Medicaid certified nursing facility was charged.**
- The amount billed to the nursing facility (and collected by the SNSA) during the COVID peacetime emergency may not exceed the maximum charges without an approval letter from DHS.
- SNSA costs that exceed the maximum charges in law, that are in compliance with the criteria specified in this document and are approved in response to the SNSA Waiver Request Form, are eligible for reimbursement to the nursing facilities from DHS under M.S. 12A.
- SNSA costs in excess of the maximum charges that were not approved by DHS are not eligible for reimbursement from DHS under M.S. 12A.10.
- SNSA costs in excess of the maximum allowable charges are not an “allowable cost” on the Minnesota Nursing Facility Cost Report.

Required Information

1. Today's date:
2. Facility information
 - a. Name of licensed Nursing Facility:
 - b. Street Address:
 - c. City/State/Zip:
 - d. Corporation, association, governmental unit, person or partners legally responsible for the operation of this nursing facility:
 - e. Administrator name, email and phone number:
 - f. Name of Individual Requesting Waiver, email and phone:

- g. Requested Effective Date of Approval:
3. Name of SNSA with whom nursing facility has or will be contracting with for nursing personnel:
4. Is this SNSA on the MDH list of MN registered SNSA's? ☐ yes ☐ no
5. What is the total hourly rate the SNSA will be billing the nursing facility for during this COVID waiver?
- RN:
- LPN:
- CNA:

NOTE: A contract between the nursing facility and SNSA is required and must be made immediately available to DHS upon request. The contract is expected to reflect the amounts listed above. These hourly amounts must exclude all broker charges, vendor management fees, software or website use fees, and per diems for lodging, travel, etc.

Please estimate how many of each type of nursing personnel and for how long the nursing personnel will be needed.

In the space below, please describe the circumstances in your facility demonstrating the need for a waiver due to an existing or expected staffing emergency:

Submission

Submit this form and the signed attestation from the SNSA along with and any supporting documentation to: Mary.Cahill@state.mn.us. If the requestor is not the facility administrator, copy the facility's administrator on the email.

DHS and SEOC will review each waiver of SNSA Maximum Charges request and follow up with the requestor and/or facility administrator as needed.

Notification of Approval or Denial of Request

DHS, in consultation with SEOC will approve or deny the waiver request and notify the requestor and facility administrator by email.