

Home Care Developments

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DOH CLARIFIES FMAP PROGRAM ON WEBINAR

Today, the DOH held a webinar to discuss the FMAP program. The information in this alert is relevant only to the 200+ LHCSAs that received an award letter from the DOH on or about December 23, or who believe they were the 1/3 highest-billing LHCSAs in 2019.

Initially, on today's webinar, the DOH emphasized that 235 LHCSAs were selected for distribution of FMAP funds, not "approximately 250" as originally indicated. The DOH also emphasized that this pool of selected LHCSAs will receive approximately 361 million, to be used for qualified expenses, and subject to CMS approval. However, additional funding (approximately 1.1 Billion) may be forthcoming, to be distributed under different criteria. Thus, providers who did not receive funding under this initial distribution may qualify for funding under future programs.

The following are relevant points from today's webinar, in no particular order:

- The State chose to select LHCSAs based on "MAP and MLTC revenue because MLTC and MAP product lines account for the majority of Medicaid expenditures in long-term care."
- The amount of the award each selected LHCSA received was "calculated based on each agency's managed care utilization during the first six months of SFY 22 (4/1/21-9/30/21), limited to personal care services provided to Medicaid enrollees in MLTCP and MAP plans from April 2021 through September 2021."
- Award amounts were determined by the DOH. The MLTC will receive instructions from the DOH about the amount of funding that will be sent to the individual LHCSAs on the DOH's list.
- The DOH stated that selected LHCSAs will receive their awards, generally, from each plan they work with. However, the DOH will combine some award amounts so that only one plan is making the distribution to the provider.
- The awards must be paid by the State to plans by the end of the current State FY, which is March 31, 2022. However, the funds from the plans must be distributed to the LHCSAs promptly thereafter, sometime in the FY that begins April 1, 2022. The LHCSAs must spend their funds by the end of March 31, 2023.
- The payments from the State to the plans (for distribution to providers) will be a one-time payment to the plans.
- The DOH will attempt to increase the character limits (currently set to 1500) for purposes of providers submitting their narrative explanations of how they will spend the FMAP funds.
- Providers' questionnaires must include data concerning 2022 spending.
- Plans cannot direct how LHCSAs can spend the FMAP funds.
- The State will only distribute the FMAP money to the selected agencies. If an agency is disqualified from receiving their award, the award will be rolled over to the next round of spending. New agencies will not be selected to receive funds that another agency was disqualified from receiving.
- Agencies that fail to satisfy requirements are subject to audit and recoupment. "Agencies must keep track of spending and clearly document all award expenditures. Agencies will not be required to provide documentation in their quarterly reports, but must keep documentation available until March 31,

- 2028.”
- NHTD/TBI staff can benefit from the funds, however the DOH will confirm this point later on.
 - LHCSAs that operate Statewide but only received an award for a certain portion of the State will be required to report data in the questionnaire for the entire Agency.
 - The State will provide updated guidance about nurse supervision spending and/or nursing services.
 - Agencies can use the award to raise wages or incentivize recruitment of direct care workers “and nursing staff providing, or supervising the provision of, personal care or nursing services.”
 - “Funding cannot be used to cover existing expenses or legal requirements, even if they fall into allowable categories. Funding must be spent on new or augmented programs, services or purchases.”
 - “Signing bonuses are allowable for new employees as long as they are not being hired from another LCHSA. Reimbursement for the completion of a PCA/HHA training program that occurs just prior to the hiring of a newly certified employee is allowable.”
 - Agencies can use funding to “pay for consultant fees as long as the scope of work being covered is strictly focused on one of the approved investment areas.”
 - The DOH emphasized that they will not permit agencies to use a new-hire incentive payment to “lure away” a worker from an agency.
 - Purchasing PPE is one of the allowable expenses, but since agencies are already required to provide PPE, the DOH will consider how FMAP funds can be used towards PPE.
 - The questionnaire and attestations are not going to be used by the DOH to determine who to provide the FMAP to.
 - Capital expenditures are not allowable uses of this funding.
 - The DOH does not intend to release the list of the awardees because they do not have CMS approval. It is their intention to disclose the list of approved entities once CMS approval is received.
 - Funding cannot be used for CDPAP expenses.
 - Only investments that do not fall within an area or category provided in the guidance require individual approval from the DOH. Approval must be requested by January 12, 2022.
 - The award amounts provided in the DOH’s award letters are approximate. That approximate amount must be used by the agencies when completing their questionnaire. “Agencies will be able to adjust their budgets in quarterly reports and will need to justify any changes in their spending plans.”
 - A project or program to draw in a more diverse staff “could be fundable” under FMAP.
 - An additional nurse hire to support staff for purposes of VBP would “generally” be an allowable expense.
 - Only LHCSAs selected by the DOH are required to respond to the DOH’s survey, which is due by January 14.
 - Survey responses should only include data regarding LHCSA services, not CDPAP.
 - Agencies cannot use the FMAP funding to pay for overtime costs, because overtime costs are already a required expense.
 - Agencies that believe they are qualified but did not receive an award letter should email the DOH at LHCSA.FMAP@health.ny.gov
 - Marketing for new clients is not fundable by FMAP. However, recruitment efforts that are new “could be” fundable.
 - The DOH will allow agencies to make changes to budgets and allocations. Agencies will report such changes in their quarterly submissions to the State.

The DOH will issue updated FAQs, thus some of the responses provided above may change.

Please let us know if you have any questions about the FMAP. The State has imposed parameters and restrictions on how funds should be used, and due to the risk of recoupment by the State, conversations about certain aspects of FMAP should be had with counsel under attorney-client privilege.



SUPPORTING LHCSAs' FMAP PROGRAMS

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Assistance with quarterly reporting to the DOH

Value Based Services

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Developing a diversity and cultural competency program

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Create a great offer by adding words like "free" "personalized" "complimentary" or "customized." A sense of urgency often helps readers take an action, so think about inserting phrases like "for a limited time only" or "only 7 remaining"!

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