



FLORIDA HOSPITAL ASSOCIATION

POLICY DOCUMENT

MINIMUM WAGE INCREASE

ISSUE BRIEF

JANUARY 2023

Eligible Direct Care Workers

Section [408.822](#), Florida Statutes, defines a direct care worker as a certified nursing assistant, home health aide, personal care assistant, companion series or homemaker services provider, a paid feeding assistant trained under s. [400.141\(1\)\(v\)](#), Florida Statutes, or any individual who provides personal care defined under statute to individuals that are elderly, developmentally disabled, or chronically ill.¹ The requirement applies to direct care workers that have direct contact with a Medicaid patient that receives a Medicaid reimbursable service. It does not apply to individuals that do not provide a Medicaid reimbursable service and whose primary responsibility is primarily administrative. Nursing home providers are exclusively obligated to increase all employees' minimum wage to \$15.00 per hour. For further examples of direct care employees, visit [here](#).

AHCA recently clarified that the \$15.00 per hour minimum wage requirement applies only to direct care workers and the attestation language will refer to the General Appropriations Act. Further clarification can be found [here](#).

The proviso also creates a private right of action for direct care workers that are not receiving a wage of at least \$15.00 per hour. In the event the worker prevails they "shall recover the full amount of any back wages unlawfully withheld plus the same amount as liquidated damages and shall be awarded reasonable attorney's fees and costs. In addition, they shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement in employment and/or injunctive relief."

Fund Distribution

The total \$600 million in allocated funding will be applied to specific Medicaid fee-for-service (FFS) reimbursement fee schedules and managed care rates as directed by the GAA. As noted above, there is \$31.3 million allocated in the budget for inpatient and outpatient rates. The impacted FFS Medicaid reimbursement fee schedules are being posted to the Provider Reimbursement Schedules and [Billing codes page](#) once the increases are final. All fee schedule increases are to be completed by October 1, 2022, and retroactively effective on July 1, 2022. The remaining impacted fee schedules will be continuously updated on AHCA'S website.

[Chapter 408 Health Care Administration 2022](#)

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All full and limited providers received a welcome letter containing a Florida Medicaid ID during the enrollment process to access the Secure Web Portal to sign the supplemental wage agreement on or about August 4, 2022. Any issues regarding accessing the Secure Web Portal should be directed to [AHCA's website](#) for further instructions. Hospital and Ambulatory Surgical Center (ASC) Inpatient [here](#) and Outpatient Services Fee-for-Service Rates are listed [here](#). The Intermediate Care Facilities for the Developmentally Disabled (ICFDD) Fee-for-Service Rates are listed [here](#). A full list of Medicaid Fee-For-Service schedules receiving an increase is listed on page 4 of this brief.

Deadline

As stated in the requirements section, all providers that are subject to Medicaid funding must complete the supplemental wage agreement by October 1, 2022, located in the Secure Web Portal. Those that do not complete the agreement by the given date will be subjected to an audit. Providers that enroll past October 1st will have the same effective date of July 1, 2022.

Managed care plans are also required to complete the agreement by October 1st for the sole purpose of raising wages of employees of Medicaid providers including 1099 employees who provide services under the Florida Medicaid Program to at least \$15.00 per hour.

On August 22, 2022, AHCA sent postcards to actively enrolled Medicaid providers regarding the supplemental wage agreement. Then AHCA sent an electronic [alert](#) on August 30, 2022, with a notification that this postcard was mailed to actively enrolled Medicaid providers regarding the supplemental wage agreement. The alert noted that some providers may have received the Agency's postcard who do not bill under the impacted fee schedules and therefore are not required to sign the supplemental wage agreement. The alert was sent to clarify which providers must sign the supplemental wage agreement. Medicaid providers that bill using the fee schedules [listed below](#) must sign the supplemental wage agreement.

Lawsuit and Request for Hearing

On September 27, 2022, a group of providers including ambulance, home health, and assisted living facilities, enacted a two-pronged legal strategy to challenge implementation of the law. First, they have filed a lawsuit to enjoin the provision permitting employees to sue if they have not received a sufficient pay increase to meet the \$15.00 per hour requirement. The complaint alleges that this provision violates the Constitution's requirement that laws included in the budget must only be related to the budget. Second, they have asked AHCA for a hearing on the definition of "direct care worker." The request to AHCA notes that the definition is subject to Florida's Administrative Procedure laws and that AHCA must, in compliance with the statutes, grant a hearing.

Resources

[Florida Medicaid Provider Minimum Wage FAQs \(myflorida.com\)](#)

[Florida Medicaid Provider Minimum Wage Requirements](#)

[Minimum Wage Fee Schedule Increases](#)

Florida Medicaid Provider Fee-For-Service Schedules Receiving an Increase²

- Assistive Care Services Fee Schedule
- Behavioral Health Overlay Services
- Birthing Center Fee Schedule
- Child Health Targeted Case Management Services Fee Schedule
- Community Behavioral Health Services
- Dental Fee Schedule
- Hearing Services Fee Schedule
- Home Health Visit Services Fee Schedule
- Licensed Midwives Fee Schedule
- Medical Foster Care Services Fee Schedule
- Mental Health Targeted Case Management Services Fee Schedule
- Occupational Therapy Services Fee Schedule
- Personal Care Services Fee Schedule
- Physical Therapy Fee schedule
- Practitioner Fee Schedule
- Practitioner Laboratory Fee Schedule
- Prescribed Pediatric Extended Care Services Fee Schedule
- Private Duty Nursing Services Fee Schedule
- Radiology Fee Schedule
- Respiratory Therapy Services Fee Schedule
- Specialized Therapeutic Services
- Speech-Language Pathology Services Fee Schedule
- Transportation Services Fee Schedule
- Visual Services Fee Schedule
- FQHC/RHC Rates
- Hospice Room & Board Rates and Level of Care
- Hospital and ASC Inpatient and Outpatient Services Fee-for-Service Rates
- ICF/IID Fee-for-Service Rates
- Nursing Home Fee-for-Service Rates

² [Minimum Wage Fee Schedule Increases](#)