



In furtherance of our efforts to stabilize the workforce in the non-profit sector, OPWDD is offering a one-time Direct Service Retention Bonus. Upon the submission of a signed Attestation by a Provider, the Provider may be entitled to receive a payment targeted to Direct Care, Support, Clinical, and/or Production staff.

This guidance, and the related Attestation, apply only to the Direct Service Retention Bonus Initiative. All payments made by providers to Direct Care, Support, Clinical, and Production staff associated with the Direct Service Retention Bonus, *are defined as a "Special Occasion" bonus to staff.*

Additionally, this Direct Service Retention Bonus and the related guidance and Attestation detailed herein are separate and distinct from any initiatives approved by the Centers for Medicare and Medicaid Services (CMS) through the American Rescue Plan Act or otherwise authorized by state law.

Each provider agency wishing to participate in the OPWDD Direct Service Retention Bonus Initiative must acknowledge and attest that it will adhere to the following requirements prior to receiving any payments:

- The Provider must retain all records necessary to document the distribution of the Direct Service Retention Bonus payments including, but not limited to, employee payroll records consistent with the New York False Claims Act and all other applicable state and federal laws and regulations. Such information shall be available in a form and format that will facilitate it being furnished upon request to OPWDD and/or other regulatory authorities.
- The Provider must expend all Direct Service Retention Bonus Initiative payments exclusively for the purpose specifically identified by OPWDD. The payment made to provider agencies will be inclusive of the funds to be distributed to qualifying staff and any related mandatory fringe benefit costs.
- The supplemental payment is based upon the Provider's *certified* Consolidated Fiscal Report (CFR) for the period of July 1, 2021 – June 30, 2022 ("2021-22") or January 1, 2022 – December 31, 2022 ("2022") on file with OPWDD as of December 8, 2023.
- The Provider must only distribute Direct Service Retention Bonus payments to Direct Care, Support, Clinical, and Production staff, including contracted staff, that are appropriately reported as Direct Care staff (job position title code series 200), Support staff (job position title code series 100), Clinical staff (job position title code series 300), and/or Production staff (job position title code series 400) in the agency's *certified* CFR supporting OPWDD-licensed programs/services.

- If an employee in a nonqualifying position performs work in a position that is allocated between a 100-199, 200-299, 300-399 and/or 400-499 job position title code, disbursements to that employee shall be based on a proportional allocation of effort between the time spent in the Direct Care, Support, Clinical, or Production position(s) versus the nonqualifying position.
- Similarly, if an employee's position in a qualifying job position title code is allocated between OPWDD-licensed programs/services and those licensed or funded by another organization, disbursements to that employee shall be based on a proportional allocation of effort between the time spent in the OPWDD licensed programs/services and those funded by another organization.
- The Provider must expend all funds it receives from this Direct Service Retention Bonus Initiative through distributions to eligible Direct Care, Support, Clinical and/or Production staff on payroll at the time such payments are received, no later than 11:59 PM Eastern Time (ET) on March 31, 2025.
- If the Provider fails to expend all of the supplemental payments it receives to all of its eligible employees, consistent with its Distribution Plan, by 11:59 PM ET on March 31, 2025; or it is determined that the Provider was ineligible to receive the supplemental payments; or the Provider does not participate in the required reporting processes; or in any other manner, violates the terms and conditions of this Direct Service Retention Bonus Initiative, OPWDD will conduct an immediate recoupment or take other action necessary to retrieve up to 100% of the Direct Service Retention Bonus payments the Provider received.
- To receive a supplemental payment under this initiative, the provider must have had a *certified* CFR on file with OPWDD by December 8, 2023, for the 2021-22 or 2022 reporting period and reported costs for qualifying job position title codes in OPWDD-licensed programs/services.
- The payments to qualifying employees must be in the form of a discrete and designated salary increase. Enhancements to, or payments for, Fringe Benefits are not an acceptable use of supplemental payments made to providers, unless related to the mandatory Fringe Benefit costs associated with the designated salary increase.
- Payments to qualifying staff, including payments made by a Fiscal Intermediary agency which is identified as the employer of record, must be made in accordance with an agency-specific Distribution Plan. The Distribution Plan may address the Provider's unique recruitment and retention challenges. The Distribution Plan must

specifically detail the methodology the Provider will utilize to distribute payments to eligible staff. The Distribution Plan must be in the form of a document that is signed by the agency's Chief Executive Officer (CEO)/Executive Director and an officer of the agency's Board of Directors/Governing Body. The signed Distribution Plan must be made available and clearly communicated to all employees prior to payment. The Distribution Plan, including all supporting payroll records, must be retained by the Provider and furnished upon request to OPWDD and/or other regulatory agencies.

- The Provider must, through a schedule which is a part of its Distribution Plan or a separate schedule, clearly distinguish between eligible direct employees and eligible contract staff and must also clearly identify the qualifying OPWDD program(s)/service(s) that the eligible employee and/or contracted staff worked in, the percentage of time/hours worked in the program(s)/services(s) and the amount distributed to each employee and/or contracted staff. The schedule must be in a format that will ensure that OPWDD will have the necessary information to be able to adjust CFR data to remove these one-time payments for analytical or other purposes.
- The Provider must submit all reports required by OPWDD in conjunction with this Direct Service Bonus Retention payment to enable an evaluation of the effect of the payments on workforce retention in the form and format and within the timeframes delineated by OPWDD.

This *completed* Attestation must be submitted electronically to OPWDD no later than 11:59 PM ET on Thursday, February 22, 2024, to qualify for this Direct Service Bonus Retention payment. Completed attestations must be submitted to OPWDD electronically at: LocalAssistanceInquiries@OPWDD.NY.GOV. When submitting the attestation, please reference "Direct Service Retention Bonus Attestation" in the subject line of the e-mail.

The provider agency agrees to the above terms and conditions identified in the preceding pages and will participate in the Direct Service Retention Bonus Initiative for OPWDD-reimbursed programs and services. The provider agency understands that OPWDD reserves the right to request additional information and that your agency's continued participation in, and retention of payments derived from, the Direct Service Retention Bonus Initiative is subject to ongoing compliance with the above requirements and any subsequent guidance that may be given.

Agency Name: _____

Agency 5-Digit Corporation ID: _____

Name of Officer of Agency Board of Directors/Governing Body: _____

Signature: _____

Title/Role (i.e., President, Treasurer): _____

Date Signed: _____

Name of CEO or Executive Director: _____

Signature: _____

Date signed: _____