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American Rescue Plan Act (ARPA)

Nursing Facility Workforce Relief Program

Guidance and Frequently Asked Questions

NOTE: Funds for this program were appropriated by the Ohio 134th General Assembly and received by the State of Ohio from the U.S. Department of the Treasury (U.S. Treasury) under the American Rescue Plan Act (ARPA). If the U.S. Treasury issues future guidance and clarifications that impact this program, then specific guidelines listed in this document may change. If applicable, changes will be added to this document as an addendum in the Frequently Asked Questions section.

Purpose

The purpose of this document is to provide Nursing Facility Workforce Relief Program recipients funding information, guidance, and answers to frequently asked questions. For additional information and requirements of the funding, please refer to the Subaward Terms and Conditions.

Funding Information

Funds to support this grant program were awarded to the State of Ohio from the U.S. Treasury as Coronavirus State and Local Fiscal Recovery Funds (Assistance Listing No. 21.027), authorized pursuant to the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021). Funds are identified as federal award identification number SLFRP0130 with a federal award date of May 17, 2021, provided by the U.S. Treasury to the State of Ohio.

Pursuant to Section 280.28 of Amended Substitute House Bill 45 (H.B. 45) of the 134th General Assembly, the Ohio Office of Budget and Management (OBM) was appropriated \$350,000,000 to provide a lump sum payment to nursing facilities that are Medicaid providers. In accordance with this authority, nursing facility providers must use the funds received under this section only for workforce expenses that are not covered by Medicaid managed care organization contracts or the general Medicaid rate. The Ohio Department of Medicaid has provided OBM with a list of eligible nursing facilities and their associated distributions of funding as calculated using the methodology prescribed in Section 280.28. This information will then be used by OBM in making lump sum distributions to those nursing facilities that apply for funding.

Funds provided pursuant to this grant program are considered subawards from the State of Ohio's allocation of Coronavirus State Fiscal Recovery Funds. Recipients receiving this funding (hereafter referred to as "subrecipients" or "providers") must adhere to the provisions of this federal award including, but not limited to, the requirements of section 602 of ARPA, the U.S. Treasury's Award Terms and Conditions, Final Rule, and all other federal, state, or local laws, rules, regulations, executive orders, or guidance applicable to such funding. In addition, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, including Subparts A, B, C, D, E, and F, applies to this funding unless otherwise indicated by the U.S. Treasury.

Eligibility

The Ohio Department of Medicaid has provided OBM with a list of eligible nursing facilities and their associated distributions of funding as calculated using the methodology prescribed in Section 280.28 of H.B. 45 (134th General Assembly). The distribution methodology and data are not subject to review or appeal.

Use of Funds

As prescribed by Section 280.28 of H.B. 45 (134th General Assembly), funds are provided in a lump sum distribution to be used for eligible workforce relief. Effective April 1, 2022, the U.S. Treasury published the [Final Rule](#) detailing the provisions for the use of Coronavirus State and Local Fiscal Recovery Funds. Eligible uses of funds must align with both state and federal law, including Section 280.28 of H.B. 45 and the U.S. Treasury's Final Rule.

Workforce relief is an eligible use of funds under the Final Rule when it is provided as a form of “premium pay” to eligible workers performing essential work during the COVID-19 pandemic. As detailed above, subrecipients are responsible for establishing a workforce relief program that adheres to all applicable state and federal laws, rules, regulations, and guidance associated with this program. Therefore, subrecipients must use the workforce relief lump sum distribution for the sole purpose of establishing a program to provide premium pay to eligible workers in accordance with the U.S. Treasury’s Final Rule.

The Final Rule notes that ARPA defines “eligible workers,” in part, as “those workers needed to maintain continuity of operations of essential critical infrastructure sectors.” In addition, ARPA and the Final Rule require that eligible workers perform “essential work.” Therefore, subrecipients must undergo the following steps to provide premium pay to eligible workers¹:

- 1) **Identify an “eligible” worker.** The health care sector is specifically identified in the Final Rule as an eligible sector for premium pay, thus nursing facility workers are deemed “eligible.”
- 2) **Verify that the eligible worker performs “essential work,”** meaning that:
 - a. The work is not performed while teleworking from a residence; and
 - b. The work involves either:
 - i. regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or
 - ii. regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work.
- 3) **Confirm that the premium pay “responds to” workers performing essential work during the COVID-19 public health emergency.**

The Final Rule adds another provision requiring a written justification detailing how the premium pay is otherwise responsive to workers performing essential work during the public health emergency if a worker provided premium pay does not meet either of the following criteria:

- Eligible worker receiving premium pay is earning (with the premium included) at or below 150 percent of their residing state or county’s average annual wage for all occupations, as defined by the Bureau of Labor Statistics’ [Occupational Employment and Wage Statistics](#), whichever is higher, on an annual basis; or
- Eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions.
- ***Subrecipients providing premium pay to workers not meeting either of the above criteria will be required to provide written justification to OBM as part of their quarterly reporting process.***

¹ See the U.S. Treasury’s [Final Rule Overview](#), pages 35-36 for specific details on premium pay eligibility.

Premium Pay Guidelines

The U.S. Treasury emphasizes the need to prioritize premium pay for lower-income workers. The Final Rule provides the following guidelines:

- Premium pay may be awarded to eligible workers up to \$13.00 per hour.
- Premium pay must be in addition to wages or remuneration (i.e., compensation) the eligible worker otherwise receives.
- Premium pay may not exceed \$25,000 for any single worker during the program.
- Premium pay may be awarded in installments or lump sums (e.g., monthly, quarterly, etc.) and may be awarded to hourly, part-time, or salaried or non-hourly workers.
- Premium pay must be paid in addition to wages already received and may be paid retrospectively. However, a subrecipient **may not** use funds to reimburse itself for premium pay or hazard pay already received by the worker, and **premium pay may not be paid to volunteers.**

Subrecipients are required to establish a premium pay program meeting the requirements of the U.S. Treasury's Final Rule and formally document requirements and eligibility for their facility. Transfers of ownership or other changes in leadership does not change the criteria of this program requiring payments to be made to the eligible workforce.

Performance Period

Eligible workers may be compensated premium pay for eligible time worked during the public health emergency which began on January 27, 2020 and ends on May 11, 2023. Premium pay must support time worked during this specific period only. Funds from this grant program must be fully expended by June 30, 2024.

Responsibilities, Records, & Future Audits

Funds are subject to future audits to ensure appropriate use with ultimate recoupment by the U.S. Treasury. Records shall be maintained for a period of five (5) years after all funds have been expended or returned to the U.S. Treasury by the State of Ohio, whichever is later, for the entire program. Furthermore, records must be made available to OBM, the Ohio Auditor of State, Independent Public Auditors that perform audits on behalf of Ohio Auditor of State, the federal government, and/or other oversight entities for audit or review.

Frequently Asked Questions

1) Who will receive funding?

Section 280.28 of Ohio H.B. 45 (134th General Assembly) established that nursing facilities that are Medicaid providers are the eligible entities for this grant program. Eligible nursing facilities are required to apply for the funding in the Ohio Grants Portal and agree to the Terms and Conditions of the funding prior to receiving payment.

2) How can the nursing facility use the funding?

Funding must be used for a workforce relief premium pay program to make payments to eligible essential workers in accordance with the U.S. Treasury's requirements. Payments may not cover costs already reimbursed by another source such as Medicaid managed care organization contracts or general Medicaid rates. See the "Use of Funds" section above for more details.

3) How will the allocation be determined?

Eligibility of nursing facilities was determined by the Ohio Department of Medicaid and the associated distribution was calculated using the methodology prescribed in Section 280.28 of H.B. 45 (134th General Assembly).

4) Will funds be disbursed directly to eligible providers or is there an application process?

Eligible nursing facilities must complete an application and provide a signed Terms and Conditions prior to receiving the funding. The grant application can be found at <https://grants.ohio.gov/fundingopportunities.aspx>. Applicants should locate the funding opportunity Nursing Facility Workforce Relief Program and click the hyperlink. The Terms and Conditions document attached to the funding opportunity is required to be signed by an Authorized Representative and uploaded as part of the application process. After clicking the register button, complete the grant application on the next page (ensure your pop-up blocker is disabled in your settings) and upload the signed Terms and Conditions.

5) What information is required to apply?

To apply for this grant, an applicant must provide a valid Medicaid Provider Number, National Provider Identification Number (NPI), Medicare ID Number, and Tax Identification Number (TIN). In addition, subrecipients are required to provide in the application an active Unique Entity Identifier (UEI) registered with SAM.gov (System for Award Management).

6) What is the Unique Entity Identifier and are subrecipients of this program required to have one?

Yes, federal regulations require subrecipients to have a UEI. The UEI is a number assigned by SAM.gov to identify entities that are doing business with the government in a variety of ways, including as grant recipients.

7) Is there a difference between receiving a UEI and registering in SAM.gov? Is SAM.gov registration required?

Yes, there is a difference, and subrecipients are required to complete the registration process in addition to receiving a UEI. The U.S. Treasury reporting requires the State of Ohio to collect information from subrecipients about the SAM.gov registration status. The SAM.gov registration process goes beyond simply validating an entity's legal business name and address; it also requires assertions, representations, certifications, and other information about your entity. We also strongly encourage entities to make their SAM.gov registration public. As part of the application approval process, OBM verifies that an UEI is active in SAM.gov. Private profiles restrict access to do this validation and will require additional details to be requested from the subrecipient.

Visit [SAM.gov](https://sam.gov) and the [Federal Service Desk](#) websites for more information, user guides, and FAQs.

8) What if I have multiple Medicaid Provider Numbers, National Provider Identification Numbers, and/or Tax Identification Numbers?

It is necessary to apply multiple times if you have multiple Medicaid provider numbers, NPIs, and/or TINs. For example, if you have one Medicaid ID number, but an NPI for each of your locations, you will have to apply for each separately (using one NPI each time).

9) What is required to apply for a nursing facility provider that does not have a Medicaid Provider Number or National Provider ID?

Eligible subrecipients of this program must have a Medicaid Provider Number and National Provider ID to apply for this grant.

10) What is required for an application to be approved?

Applications will be approved and payments made if the content can be validated with the State's payee record and conforms with information provided by the Ohio Department of Medicaid. Other required items include the signed Terms and Conditions uploaded to the application and the subrecipient's active UEI in SAM.gov. Applications that do not meet these requirements will be rejected and reasoning provided. Eligible applicants will be required to resubmit the application and correct the error identified.

11) What questions will be required to be answered as part of the application?

Be aware that the application cannot be saved to come back and complete later. An applicant should be prepared to respond to the following questions as of the date of the application:

- What is the average annual wage of all employees employed by the facility?
- What is the total number of Full Time Employees/Equivalent (FTE) employed by the facility?

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- What is the total number of Part Time Employees/Equivalent (PTE) employed by the facility?
 - What is the *estimated* number of Full Time Employees/Equivalent (FTE) that will be provided premium pay as part of this program?
 - What is the *estimated* average annual wage for Full Time Employees/Equivalent (FTE) that will be provided premium pay as part of this program?
 - What is the *estimated* number of Part Time Employees/Equivalent (PTE) that will be provided premium pay as part of this program?
 - What is the *estimated* average annual wage for Part Time Employees/Equivalent (PTE) that will be provided premium pay as part of this program?
 - What is the *estimated* number of contractors that perform the role of an essential worker and will be provided premium pay as part of this program?

Additional questions will be asked to confirm an applicant has selected a State of Ohio Supplier ID in the Payment Information section and attached signed Terms and Conditions to the application.

12) What payment method will be used to distribute funds?

Subrecipients will be required to become payees within the State of Ohio's accounting system. Eligible subrecipients with an approved registration will be paid based on information within the State of Ohio's accounting system. Subrecipients can verify if they have a payee record by using the lookup functionality on the application. A subrecipient that has received Medicaid funds or CARES Act provider relief payments in the past may not necessarily have a payee record in the State of Ohio's accounting system. A payee record is required to process the application for payment.

Visit <https://ohiopays.ohio.gov> for more information about becoming a payee or to update existing banking information in OhioPays. This site also provides [FAQs](#) and [Help Documents](#).

13) The application form requires an Authorized Representative and a Grant Contact, what is the difference?

The Authorized Representative is the main executive within the jurisdiction that can authorize acceptance of the funds on behalf of the jurisdiction. The grant contact will be the contact for monitoring or other questions regarding the funds and its use. Applicants can enter the same person for both contacts, if applicable, but must have two different e-mail addresses listed.

14) Can providers spend the funds on other needs that do not meet the criteria of premium pay?

No. Funds must be used in accordance with Section 280.28 of H.B. 45 (134th General Assembly) and the U.S. Treasury's [Final Rule](#).

15) Can premium pay be provided to eligible workers for time worked during the early part of the pandemic?

Yes. Premium pay may be provided retrospectively for work performed during the COVID-19 public health emergency, where those workers have yet to receive additional compensation for their services during the pandemic. Premium pay must be entirely additive to a worker's regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker's normal earnings. Funds may not be used to reimburse premium pay or hazard pay already provided to an employee prior to this award. To make retroactive premium payments, a subrecipient must make a new cash outlay for premium payments and the payments must be in addition to any wages or remuneration the eligible worker already received. Premium pay may only be paid for time worked during the public health emergency; therefore, time worked after the public health emergency ends is not eligible.

The U.S. Treasury encourages prioritizing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many months.

16) Are there caps on the amount of premium pay that can be provided to an eligible worker?

Yes, premium pay is limited to \$13.00 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed \$25,000 per eligible worker.

17) Can premium pay be provided to an eligible worker that was already provided premium or hazard pay in the past?

Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work. Please be aware of the premium pay caps.

18) Can a subrecipient provide premium pay to a contractor that performs the role of an essential worker and meets the criteria?

Possibly. The subrecipient would be responsible for documenting the eligibility criteria and justification of paying the contract employee(s). Additional tax requirements may apply. Please refer to the site below for additional details and/or consult a tax professional.

IRS fact: <https://www.irs.gov/newsroom/irs-updates-frequently-asked-questions-for-states-and-local-governments-on-taxability-and-reporting-of-payments-from-coronavirus-state-and-local-fiscal-recovery-funds>

19) When is a subrecipient required to submit a written justification to OBM?

A written justification is **NOT** required when:

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- The worker's pay (with or without the premium) **is equal to or below the 150 percent threshold** of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' [Occupational Employment and Wage Statistics](#); **or**
 - The worker is **not exempt from the Fair Labor Standards Act overtime provisions**.

If using the Average Mean Wage (AMW) for the State of Ohio for eligibility, the AMW is \$53,170 annually and 150% of that wage is \$79,755. To use a regional amount, see the following website: <https://data.bls.gov/oes/#/home>.

20) If required to provide a written justification, what should be included and how should it be submitted?

The written justification should be on subrecipient's letterhead and must include a description of the essential worker's duties, health, or financial risks faced due to COVID-19, and how the subrecipient determined that the premium pay was responsive. The subrecipient may redact individual names in the submitted justification, but, at a minimum, must provide a listing of the specific job titles/classifications by number of employees. The unredacted listing must be maintained for future reference during monitoring and/or audit purposes.

21) Do subrecipients need to withhold income and employment taxes on the premium payment?

Yes. Premium pay amounts paid to employees are considered wages. Employers generally must withhold federal income tax as well as social security tax and Medicare tax from employees' wages. (Employers also may have to pay federal unemployment tax on the wages.) More information on withholding federal income tax, social security tax, and Medicare tax can be found in Publication 15, Employer's Tax Guide. Please refer to the site below for additional details and/or consult a tax professional.

IRS fact: <https://www.irs.gov/newsroom/irs-updates-frequently-asked-questions-for-states-and-local-governments-on-taxability-and-reporting-of-payments-from-coronavirus-state-and-local-fiscal-recovery-funds>

22) How does overtime pay impact premium pay eligibility?

Overtime and bonuses count toward the 150% pay threshold. However, the 150% pay threshold does not consider other sources of income earned by an employee such as income from an outside second job. For an hourly employee, or an employee that does not have a year's worth of earnings, an employer should calculate the hourly wage at an annual rate by multiplying the hourly rate by forty hours per week and then by fifty-two weeks per year.

23) Can subrecipients transfer or subgrant the funding to another entity?

No. Section 280.28 of H.B. 45 (134th General Assembly) specifically defines eligible recipients and the use of funds and does not provide additional authority to transfer or subgrant the funding.

24) Where can I find the federal guidance on the use of funds?

For federal guidance on the use of these funds, please refer to the U.S. Treasury’s [website](#) and its associated resources, including those provided below. In addition, the Terms and Conditions signed by an Authorized Representative of the nursing facility contains detailed references to the federal requirements.

Please also see:

- [HB 45 \(134th General Assembly\)](#)
- [Overview of Final Rule](#)
- [Final Rule](#)
- [Final Rule FAQs](#)
- [Compliance and Reporting Guidance](#)

25) Will reporting be required?

Yes. Subrecipients must report on the use of funds awarded and will be provided with an appropriate form and instructions for submission to OBM’s Ohio Grants Partnership following the distributions of funds. Records must include detailed documentation of premium pay disbursements. Reporting will begin the first quarter following receipt of funds. The following is the timeline for reporting:

Reporting Cycle	Reporting Period	Due Date
Cycle 1	January 1 – March 31, 2023	April 30, 2023
Cycle 2	April 1 – June 30, 2023	July 31, 2023
Cycle 3	July 1 – September 30, 2023	October 31, 2023
Cycle 4	October 1 – December 31, 2023	January 31, 2024
Cycle 5	January 1 – March 31, 2024	April 30, 2024
Cycle 6 & Closeout	April 1 – June 30, 2024	July 31, 2024

26) What types of information will be required as part of the reporting requirement?

Each quarter, reporting will be required on the total premium pay provided in both dollars and associated number of Full and Part-time Employees/Equivalent. Data on average annual wage and position titles and function funded may also be requested. See the additional reporting related FAQs for more details to include deadlines.

27) Where is reporting completed?

Reporting is performed in the Ohio Grants Portal. The Grant Contact entered on the application will receive an email upon approval of the application with directions to access the Ohio Grants Portal. The Grant Contact is the only representative provided access to complete reporting. The Ohio Grants Portal has a planned upgrade on or after April 2023. This update may require a new log-in to be established. Additional details on this process, along with a job aid, will be distributed closer to the first deadline.

28) How should funds be tracked?

Subrecipients must have the ability to show the activity that supports the use of funds and be able to show all funds have been exhausted by the period ending June 30, 2024.

29) What documentation should I keep for this grant?

Subrecipients must account for all expenses with supporting documentation that validates the funds were expended in accordance with all applicable federal and state laws, rules, regulations, and guidance as well as the entity's policies. Documentation such as payroll records should substantiate that costs were allowable and incurred within the period of performance. Additionally, the policy a facility creates to determine premium payment amounts and eligibility must be documented and retained.

The general ledger should clearly account for (a) the receipt of the grant and (b) all associated payments that are part of the award.

Facilities will not be required to provide detailed financial documentation as part of the quarterly financial status reporting process. **However, his documentation should be ready and kept on hand for future reference during audits or monitoring of funds. See requirements within this document and the Terms and Conditions regarding records retention.**

30) Will there be monitoring over the use of these funds?

Yes. As the prime recipient, OBM must comply with 2 CFR 200.332, which requires monitoring of subrecipient activity. Monitoring of these funds will be done by the Ohio Grants Partnership section of OBM.

31) How long should subrecipients retain records relating to the ARPA and supporting expenditures?

Records shall be maintained for a period of five (5) years after all funds have been expended or returned to the U.S. Treasury by the Grantor (State of Ohio), whichever is later.

32) Are these funds subject to the Single Audit Act?

Yes. In accordance with the provisions of 2 CFR Part 200, Subpart F - Audit Requirements, subrecipients that expend \$750,000 or more in federal awards are required to have a single or a program-specific audit conducted for that year. Subrecipients should be aware of this requirement, especially if these funds create the need for a Single Audit to be performed for the first time. Reach out to ARPAprovider@obm.ohio.gov if there are any questions regarding this requirement.

33) Are administrative costs an eligible use?

No. Funds must be used in accordance with Section 280.28 of H.B. 45 (134th General Assembly) and the U.S. Treasury's [Final Rule](#). For purposes of the Nursing Facility Workforce Relief Program, employees' premium pay and covered benefits are an eligible use of awarded funds.

34) Can funds be garnished or used for another purpose other than those specified as part of this subaward?

No. Subrecipients are required to sign Terms and Conditions as part of accepting these funds. Funds must be used for the subgrant purpose and may not be garnished by debt collectors or other collection agencies. If a subrecipient changes management or ownership, the funds must still be accounted for by the original recipient and shown as appropriately expended.

35) What is the process for returning unexpended funds to the State of Ohio?

The performance period for this grant program ends on June 30, 2024. Repayment of unexpended funds must be made by July 31, 2024. Returns can be made via check payable to the Treasurer of the State of Ohio and mailed to:

Ohio Office of Budget and Management
ATTN: Fiscal Section – Nursing Facility Workforce Relief Program Return
30 E. Broad St., 34th Floor
Columbus, OH 43215

36) How will communications regarding this program be sent?

The Ohio Grants Partnership, a section of the Office of Budget and Management, will be administering this funding. All communication will be sent via email to the Authorized Representative and Grant Contact entered on the application. Be careful to ensure this contact information is accurately entered on the application. If a change is needed, please email ARPAprovider@obm.ohio.gov.

37) Who do I contact with questions?

The Ohio Grants Partnership is available to answer any related questions or concerns that you may have via e-mail to: ARPAprovider@obm.ohio.gov

