

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

AUGUST 16, 2022

Initial Health Care Worker Bonus Requires Filing by September 2

On August 3, 2022, Gov. Kathy Hochul announced the Health Care and Mental Hygiene Worker Bonus program, also known as the HWB program. Enacted in New York's Fiscal Year 2023 budget, the program allocates \$1.3 billion for the payment of recruitment and retention bonuses to certain health care and mental hygiene workers. The bonus program is part of the state's efforts to increase New York's health care workforce by 20% over the next five years as a response to the staffing crisis seen during the COVID-19 pandemic.

The initial filing period for an employer to apply for the bonus payments is open now with a deadline of September 2, 2022. **Qualified Employers** must identify their **Eligible Workers**, compute the appropriate bonuses and complete the necessary paperwork before this deadline. Additional filing deadlines follow every six months through May 2024.

What Entities are "Qualified Employers?"

Qualified employers include (i) health care providers (with at least one employee) that bill for services under the Medicaid state plan or a home or community-based services (HCBS) waiver; (ii) providers that have a provider agreement to bill for Medicaid services provided or arranged through a managed care organization to a managed long-term care plan; (iii) certain educational institutions; (iv) providers, facilities, pharmacies and school-based health centers licensed under the state Public Health Law, Mental Hygiene Law or Education Law; and (v) certain programs funded by the Office of Mental Health (OMH), the Office for the Aging, the Office of Addiction Services and Supports (OASAS) and the Office of People with Developmental Disabilities (OPWDD).

Who is Eligible to Receive This Bonus?

Eligible employees are those who (i) make less than \$125,000 annually (exclusive of overtime and bonus pay); (ii) are continuously employed by a qualified employer for the duration of at least one vesting period; (iii) work in a position included on the **Eligible Worker Titles** list, which consists of "front-line health care and mental hygiene practitioners, technicians, assistants and aides that provide hands-on health or care services to individuals;" and (iv) remain employed through the time of the bonus payment. Eligible employees can be full-time, part-time or temporary employees, but not be suspended or excluded from the Medicaid program during the vesting period.

What are the Vesting Periods?

The vesting periods are a series of six-month periods between the dates October 1, 2021, through March 31, 2024, as follows:

Vesting Period	Vesting Period Start Date	Vesting Period End Date	Employer Submission Start Date	Employer Submission Close Date
One	October 1, 2021	March 31, 2022	August 3, 2022	September 2, 2022
Two	April 1, 2022	September 30, 2022	October 1, 2022	October 31, 2022
Three	October 1, 2022	March 31, 2023	April 1, 2023	May 1, 2023
Four	April 1, 2023	September 30, 2023	October 1, 2023	October 31, 2023
Five	October 1, 2023	March 31, 2024	April 1, 2024	May 1, 2024

What is an Eligible Worker Title?

Under the HWB program, only employees in designated job titles are eligible. They include workers who provide hands-on assistance with health services (i.e., clinical) or care services (i.e., non-clinical). To be “front-line,” such workers must provide or directly support the provision of health or care services to patients **and work under one of the titles specified by the Department of Health (DOH)**. A complete list of eligible worker titles is available [here](#).

What are the Bonus Amounts?

Bonus amounts vary from \$500 to \$1,500 per vesting period depending on the average number of hours worked by the eligible employee. Any individual employee is only eligible for two bonus payments and \$3,000 in total bonus payments over the course of the program.

How Does a Qualified Employer Submit to the State for These Bonuses?

Qualified employers are required to submit claims for bonus payments for their eligible employees. Claims must be submitted during the 30-day window identified by DOH for each vesting period as set forth in the table above.

The qualified employers must provide eligible employees with an employee attestation form and request that the form be completed and returned to the employer. An employer must have a completed employee attestation at the time of filing.

The qualified employer calculates the bonus payments due, based on hours worked by eligible employees, completes an employer attestation and files through an electronic portal established for the HWB program. Further information on the required forms and filing procedures are [here](#). As noted, for the October 2021 through March 2022 vesting period, the filing window is now open. The submission deadline is Friday, September 2, 2022.

Bonus payments will be included as a separate line item in the employer’s Medicaid remittance. Once received, payments must be made to employees within 30 days.

Employers face monetary penalties for the failure to file for at least 90% of the bonus payments due to their employees. Further, separate documentation of the entire process of determining employee eligibility, computing bonus amounts, communications with employees, filing and ultimately payment is critical because significant program audits are anticipated. Records must be maintained for at least six years.

If you have any questions regarding the information presented in this memo, please contact [Thomas Eron](#), [Catherine Graziose](#), any attorney in Bond's [Labor and Employment practice](#) or the attorney at the firm with whom you are regularly in contact.

