

Tribal and Designees of Indian Health Programs Meeting Summary & Questions

Meeting Summary:

DHCS hosted a Tribal and Designees of Indian Health Programs Representatives meeting on November 2, 2022 from 9:30 a.m. to 3:00 p.m. via WebEx. The meeting materials were distributed before the meeting and are now posted on the [DHCS website](#).

Attendees included representatives from the following Tribes, Tribal Health Programs (THPs), and Urban Indian Health Organizations:

- Agua Caliente Band of Cahuilla Indians
 - American Indian Health and Services
 - Central Valley Indian Health, Inc.
 - Chapa-De Indian Health Program
 - Feather River Tribal Health, Inc.
 - Fresno American Indian Health Project
 - Greenville Rancheria
 - Indian Health Council, Inc.
 - K'ima:w Medical Center
 - Mathiesen Memorial Health Clinic
 - Northern Valley Indian Health
 - Pit River Health Service, Inc.
 - Riverside – San Bernardino County Indian Health
 - Scotts Valley Band of Pomo Indians
 - Sonoma County Indian Health Project
 - Southern Indian Health Council
 - Sycuan Medical Dental Center
- Indian Health Organizations:
- California Rural Indian Health Board (CRIHB)
 - California Consortium for Urban Indian Health (CCUIH)
 - Indian Health Services-California Area Office (IHS-CAO)

Items Reviewed:

- DHCS Director's Update (Slide 3)
- PATH, ECM, and Community Supports Update (Slides 4-12)
- Collaborative Planning and Implementation Initiative (Slides 13-21)
- Clinic Workforce Stabilization Retention Payment Program (Slides 22-26)
- Update on Health Equity and Practice Transformation Payments Program and Invitation to Participate (Slides 27-40)
- COVID-19 Vaccine Update (Slide 41-51)
- Medi-Cal Eligibility Division Update (Slide 52-60)
- Pharmacy Benefits Division Update (Slide 61-65)
- California Advancing and Innovating Medi-Cal (Cal-AIM) Justice-Involved Initiative (Slide 66-72)
- Children and Youth Behavioral Health Initiative Update (CYBIH) (Slide 73-91)
- Medi-Cal Managed Care Mandatory Enrollment Update (Slide 92-100)
- Items for Next Meeting/Final Comments (Slide 101)

For details on the items discussed during the meeting please refer to the [presentation slides](#) indicated above and other meeting materials available on the [DHCS website](#).

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Questions and Responses

DHCS Director's Update

1. **Question:** Can the Department please distribute information about the Consumer Advisory Committee so that it can be shared with interested parties who would like to join?

DHCS Response: Yes, the Department will send out information about the Consumer Advisory Committee. In addition, please note that there will be an application process to recruit members.

2. **Question:** Can the Department please provide an update on the Indian Health Program (IHP) Grant application?

DHCS Response: DHCS is currently reviewing the comments received for the IHP Grant allocation process. The Department will share a timeline for the IHP Grant as soon as it is available.

3. **Question:** How are Community Health Worker (CHW) services reimbursed?

DHCS Response: For Indian Health Services-Memorandum of Agreement (IHS-MOA) Clinics and Tribal Federally Qualified Health Centers (Tribal FQHCs), CHW services are reimbursed at the fee-for-service (FFS) rate. For Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs), CHWs are not a billable provider type, however, FQHCs and RHCs may request a Change in Scope-of-Service Request (CSOSR) so that the cost of providing CHW services can be incorporated in the facility's Prospective Payment System (PPS) rate.

For additional information on CHW services, please see the [CHW Provider Bulletin](#) on the [Medi-Cal](#) website. For managed care beneficiaries, please see the [Managed Care All Plan Letter \(APL\) 22-016 CHW Services Benefit](#) or any subsequent APL on the [DHCS Managed Care APL](#) website.

4. **Question:** Will Managed Care Plans (MCPs) provide reimbursement for CHW services?

DHCS Response: Yes, MCPs provide reimbursement for CHW services at the FFS rate when billed by an IHS-MOA or Tribal FQHC provider. For additional information, please see the [Managed Care APL 22-016 CHW Services Benefit](#) or any subsequent APL for CHW services on the [DHCS Managed Care APL](#) website.

5. **Question:** Will MCPs provide reimbursement to FQHCs for CHW services?

DHCS Response: MCPs do not provide reimbursement for CHW services because CHWs are not a billable provider type in FQHCs and RHCs.

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Clinic Workforce Stabilization Retention Payment Program

6. **Question:** Are Indian health clinics eligible to apply for retention payments?

DHCS Response: Yes, Indian health clinics are considered a qualified clinic and are eligible to apply for retention payments for their eligible employees. Also included are Indian health clinics located on tribal land adjacent to California that provide services to American Indians and their families who live in California.

7. **Question:** Are federal employees working for tribal health programs eligible to receive retention payments?

DHCS Response: In order to qualify for a retention payment, an individual must: (1) be directly employed by a qualified clinic as of the date of record, December 28, 2022; (2) may not be a manager or supervisor; and (3) must continue to be employed by the qualified clinic through the date the qualified clinic distributes the retention payments. If an employee is not directly employed by a qualified clinic, they would not be eligible.

8. **Question:** Are tribal health programs that are considered Medi-Cal border providers eligible to apply for the Clinic Workforce Stabilization Retention Payment?

DHCS Response: Yes, tribal health programs that are considered Medi-Cal border providers are eligible to apply for a retention payment on behalf of eligible employees. Indian health clinics that provide services to American Indians and their families who reside in California pursuant to the Indian Health Program, as set forth in Chapter 4 (commencing with Section 124575) of Part 4 of Division 106 of the Health and Safety Code, and Chapter 3.1 (commencing with Section 1500) of Division 1 of Title 17 of the California Code of Regulations, including Indian health clinics on tribal land adjacent to California in a neighboring state that provide services to American Indians and their families who reside in California, are eligible to apply for a retention payment on behalf of eligible employees.

9. **Question:** Are all provider types eligible for the retention payment, such as doctors, nurse practitioners, dentists, optometrists, nurses, etc.?

DHCS Response: Yes, all provider types, clinical and non-clinical staff, clerical workers, and any individual who is a direct employee of a qualifying clinic and meets the following requirements is eligible to receive the retention payment. To qualify for the retention payment, an individual:

- Must be employed by a qualified clinic as of the date of record, December 28, 2022;
- May not be a manager or supervisor; and
- Must continue to be employed by the qualified clinic through the date the qualified clinic distributes the retention payments to their employees.

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Please note that staff who received a retention payment under the [Hospital and Skilled Nursing Facility COVID-19 Worker Retention Payment \(WRP\)](#) are not eligible to receive a second payment under the Clinic Workforce Stabilization Retention Payment.

10. Question: Is it possible for managers and supervisors, who temporarily took on additional duties of other positions due to staffing issues, to qualify for retention payments?

DHCS Response: According to legislation, managers and supervisors are not eligible for retention payments. “Manager or supervisor” is defined as a qualified clinic employee who meets all six (6) of the following criteria:

- (1) Whose duties and responsibilities involve the management of the enterprise in which they are employed or of a customarily recognized department or subdivision thereof.
- (2) Who customarily and regularly directs the work of two or more other employees of the enterprise in which they are employed or of a customarily recognized department or subdivision of that enterprise.
- (3) Who has the authority to hire or fire other employees, or their suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight.
- (4) Who customarily and regularly exercises discretion and independent judgment.
- (5) Who is primarily engaged in duties that meet the test of the exemption. The activities constituting exempt work and non-exempt work shall be construed in the same manner as those items are construed in the following regulations under the Fair Labor Standards Act effective as of the date of this section: Sections 541.102, 541.104-111, and 541.115-116 of Title 29 of the Code of Federal Regulations. Exempt work shall include, for example, all work that is directly and closely related to exempt work and work that is properly viewed as a means for carrying out exempt functions. The work actually performed by the employee during the course of the workweek shall, first and foremost, be examined and the amount of time the employee spends on that work, together with the employer’s realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement.
- (6) Who must earn a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. “Full-time employment” is defined in subdivision (c) of Section 515 of the Labor Code as 40 hours per week.

11. Question: Are contractors excluded from the retention payment?

DHCS Response: Eligible employees must be directly employed by a qualified clinic. If a contracted individual is not an employee of the clinic, they do not qualify for this retention payment.

12. Question: Will employees who are funded through a SAMHSA, county, or state grant be eligible to receive retention payments?

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DHCS Response: If the individual is a direct employee of the clinic and meets the requirements of an eligible employee listed on the [DHCS Clinic Workforce Stabilization Retention Payments](#) website, then they are eligible for the retention payment.

13. Question: Will retention payments be taxed?

DHCS Response: Clinic Workforce Stabilization Retention Payments are taxable to the employee. The Department of Health Care Access and Information (HCAI), in consultation with appropriate stakeholders, is in the process of preparing a Technical Letter to provide guidance on how to report these payments. DHCS will update its FAQ page to link to this Technical Letter once it is published by HCAI. Employees and employers are also encouraged to consult a tax professional or tax attorney with questions about the tax treatment of employee retention payments.

14. Question: If an employee is on Workers Compensation until December 2022, but returns in January 2023, are they eligible for a retention payment?

DHCS Response: If the employee has taken approved leave, including leave under Workers Compensation, FMLA, Vacation, or participated in a labor dispute/job action during the qualifying period, but meets all other eligibility requirements, the employee is considered eligible for the retention payment.

15. Question: Can the Department clarify the date range for an individual to qualify for a retention payment who was recently promoted to a manager or supervisor position?

DHCS Response: To qualify for the retention payment, an individual must continue to be a direct employee of a qualified clinic, in a non-manager or non-supervisory role, as of the date of record (December 28, 2022), and continue to work through the date the retention payment is distributed by the qualified clinic.

16. Question: Will a doctor whose job duty includes 25% supervisory and 75% non-supervisory be eligible for the retention payment?

DHCS Response: Physicians employed in a managerial/supervisory role are ineligible to receive retention payments regardless of the shifts they cover or additional work they perform. However, if an otherwise eligible physician has the title or is referred to as a "manager" and/or a "supervisor" but does not meet all **six** requirements of being a "manager and supervisor" under Labor Code section 1491(h), then the physician is eligible for a retention payment. We encourage you to confirm the physician meets the definition of manager or supervisor.

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Next Steps:

- The next Tribal and Indian Health Program Representatives meeting will be on Monday, February 27, 2023. Registration information will be posted to the [DHCS' Indian Health Program](#) website when available.