

Action Request Transmittal Developmental Disabilities Services



Lilia Teninty

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Number: APD-AR-20-069

Issue date: 7/9/2020

Topic: Developmental Disabilities

Due date:

Subject: Contingency Funds / Retainer Payments

Applies to (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging: {Select type} | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input checked="" type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input checked="" type="checkbox"/> ODDS Children's Intensive In Home Services |
| <input checked="" type="checkbox"/> County DD program managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input checked="" type="checkbox"/> Support Service Brokerage Directors | <input checked="" type="checkbox"/> Other (<i>please specify</i>): |
| <input type="checkbox"/> ODDS Children's Residential Services | Developmental Disabilities Provider |
| <input type="checkbox"/> Child Welfare Programs | Agencies who deliver: DSA or |
| | Employment |

Reason for action:

Due to COVID-19 protection measures including (but not limited to) the Oregon Governor's Executive Order 20-12, Stay Home, Save Lives, as well as County Re-Opening plans, individuals with Intellectual and Developmental Disabilities (IDD) are not able to participate in day or employment services at the same level that they had prior to COVID-19 precautions.

Specifically, Day Support Activities (DSA) services and Employment Path services are typically not essential activities and at the issuance of this policy, must not occur in any group or congregate setting in which members of different residents or households come together, unless a provider is offering services in a county that is in Phase 2 and the provider has an approved Re Opening Plan as outlined in the [Employment and DSA Re Opening Worker Guide](#) or an exception has been granted for an essential business need. DSA and Employment Path services may continue in a 1:1 setting. Some providers are also offering DSA and Employment Path services remotely through online formats. However, even with the addition of 1:1 services and remote service, for many individuals there has been a significant reduction in hours.

Supported Small Group services are also only available if individuals can stay at least 6 feet away from others and the business is an essential business, or a business that is allowed in the current phase for the county of operation. This has caused significant reductions in Supported Small Group hours, as well.

At the issuance of this policy, ODDS is requiring that Discovery services be suspended until a Phase 2 Re Opening plan is submitted and approved, as outlined in the [Employment and DSA Re Opening Worker Guide](#). Again, limiting access to Discovery services.

If writing the Discovery Profile is the only thing left remaining prior to billing for the service, the Profile may be submitted for payment. Please note, conditions for approval have not changed. If the pandemic interrupted the delivery of the service, the provider may not bill for that Profile until the Profile is complete. However, the provider and the person can continue the service once the pandemic is over. The temporary suspension due to COVID-19 is an acceptable reason to extend the end date of service.

Job Coaching continues with individuals who are working. However, some individuals have experienced layoffs (either temporary or permanent), others have had a reduction in hours, etc. which has limited service delivery.

ODDS is extending contingency or retainer funding based on approval from Centers for Medicare and Medicaid Services (CMS) as outlined below:

- For Discovery, contingency funding will be offered at 75% of the average billing for October – December 2019, as ODDS is suspending this service until further notice.
- For DSA, Employment Path and Supported Small Group, ODDS will offer 75% of the average monthly billing for October – December 2019 for individuals who can no longer participate in the service due to COVID-19.

For individuals who continue to receive services but at less than 75% of their typical service hours, providers will continue to bill for services delivered. Upon review of monthly billings, ODDS will calculate the difference between 75% of the monthly average billings for October – December 2019 and what was paid via billings and then pay that difference as a retainer payment. Total payment to the provider for the time period will be equal to the 75% of their average monthly billing for October – December 2019. See attachment for additional detail.

- For Job Coaching Services, ODDS will pay 100% of average monthly billing for October – December 2019 for individuals still working when their hours are equal

to or less than average monthly billing for October – December, 2019 so long as direct and remote services are maintained as outlined in PT-20-039.

For individuals no longer working due to COVID 19, ODDS will pay providers retainer payment equal to 75% of average monthly billing for October - December 2019. For individuals working the same number of hours or who have had an increase in hours, providers will continue to bill based on the hours the person worked.

Please see attachments for additional detail.

Action Requested:

ODDS previously requested that providers not bill for services they received contingency funding for (typically the month of April), from the date of funding forward 30 days. Upon updated guidance from CMS, ODDS has directed providers to bill *all* services rendered, as outlined in the [Employment and DSA Re Opening Worker Guide](#), including for the month of April. At this time, it is critical that Employment and DSA providers remain up to date with their billing so that contingency funds can be calculated.

Contingency funding will be issued in two thirty-day increments. The first 30-day increment will be based on June 1 – June 30, 2020 billing data. ODDS will compare average utilization for each service by individual for October – December 2019 to billings completed June 1- June 30 to determine funding, as outlined above and in the attachment. The payment will be for the funding period of July 15, 2020 – August 15, 2020. The second 30 day increment will be based on July 1, 2020 – July 31, 2020 billing data. The payment will be for the period of August 16, 2020 – September 15, 2020. For this reason, it is critical that billing for services rendered, including remote services, are billed as soon as possible and kept up to date.

In order to accurately report funding to CMS and secure contingency funding, ODDS is requiring the following action to receive contingency funding occur during the funding period:

1. An Employment or DSA Provider must complete and submit the attached Grant Agreement to: acacia.mcquiereanderson@dhs.ohio.gov. The Grant Agreement includes:
 - An attestation from the provider that acknowledges the retainer or contingency funding will be subject to recoupment if inappropriate billing or duplicate payments for services occurred, as identified in a state or federal audit or any other authorized third party review. Note that “duplicate uses of available funding streams” means using more than one funding stream for the same person;
 - An attestation from the provider that it will not lay off staff, and will maintain

wages at or above existing levels; and

- An attestation from the provider that they had not received funding from any other sources, including but not limited to Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the Public Health Emergency, or that the retainer payments at the level provided by the state would not result in their revenue exceed that of the quarter prior to the Public Health Emergency. If a provider has not already received revenues in excess of the pre-Public Health Emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceed the pre-Public Health Emergency level, any retainer amounts *in excess* would be recouped.

2. An Employment or DSA Provider must include in the e-mail to request the funds and send the Grant agreement any and all federal relief funding that has been received for the COVID-19 Public Health Emergency, this includes (but is not limited to): Small Business Administration Loans, Personal Payroll Protection Loans, and/or CARES Act Funding. The information must include:

- The type of funding received;
- The amount of funding received; and
- The time period for which the funding is being or was utilized.

3. An Employment or DSA Provider must verify that they have submitted all June 1 – June 30, 2020 billings.

Contingency Funding requests may be submitted between July 15, 2020 and July 31, 2020. Requests submitted before July 15, 2020 may not be processed until July 15, 2020. Requests that are not complete will be returned for revision prior to processing. All information required to process a request must be submitted on or before close of business July 31, 2020 to be eligible for these funds.

Upon submission of this information (on or after July 15, 2020), ODDS will process the request for Contingency Funding within 5 business days. This will include evaluating whether or not other federal funding would exceed pre-Public Health Emergency level, in which retainer or contingency funding is not available. However, if funding does not surpass average billing, ODDS will account for the federal funding in calculating available contingency funds, if applicable.

Upon formal approval from CMS for three 30-day periods of Contingency Funding, ODDS will automatically calculate July 1 – July 31, 2020 payments for the period of August 15, 2020 – September 15, 2020, to be issued on or before August 24, 2020 to providers who have made this initial request. No further information will be required unless:

1. An Employment or DSA provider has received federal relief funding after their original request; or
2. An Employment or DSA provider would not like to receive the third 30-day period of Contingency Funding.

If either of these is true, the provider must contact ODDS at acacia.mcguireanderson@dhsoha.state.or.us immediately. If ODDS or any third party audit discovered federal funds that were paid but not reported during this time, ODDS has the right to recover contingency funding.

Training Plan:

Please join ODDS *Thursday, July 16 from 2:00-3:00pm* for a webinar to learn more information about the requirements of this contingency funding, as well as an opportunity to ask questions. Please submit any questions in advance of the webinar if possible to acacia.mcguireanderson@dhsoha.state.or.us. A Frequently Asked Questions document will be generated and posted on the [ODDS COVID-19 webpage](#) upon completion of the webinar for anyone who cannot attend.

Please register for July Provider Meeting on Jul 16, 2020 2:00 PM PDT at:

<https://attendee.gotowebinar.com/register/7635112505027765259>

After registering, you will receive a confirmation email containing information about joining the webinar.

Field/stakeholder review: Yes No

If yes, reviewed by:

If you have any questions about this action request, contact:

Contact(s): Acacia McGuire Anderson	
Phone:	Fax:
Email: acacia.mcguireanderson@dhsoha.state.or.us	

Retainer Payment for Job Coaching to Providers during COVID-19

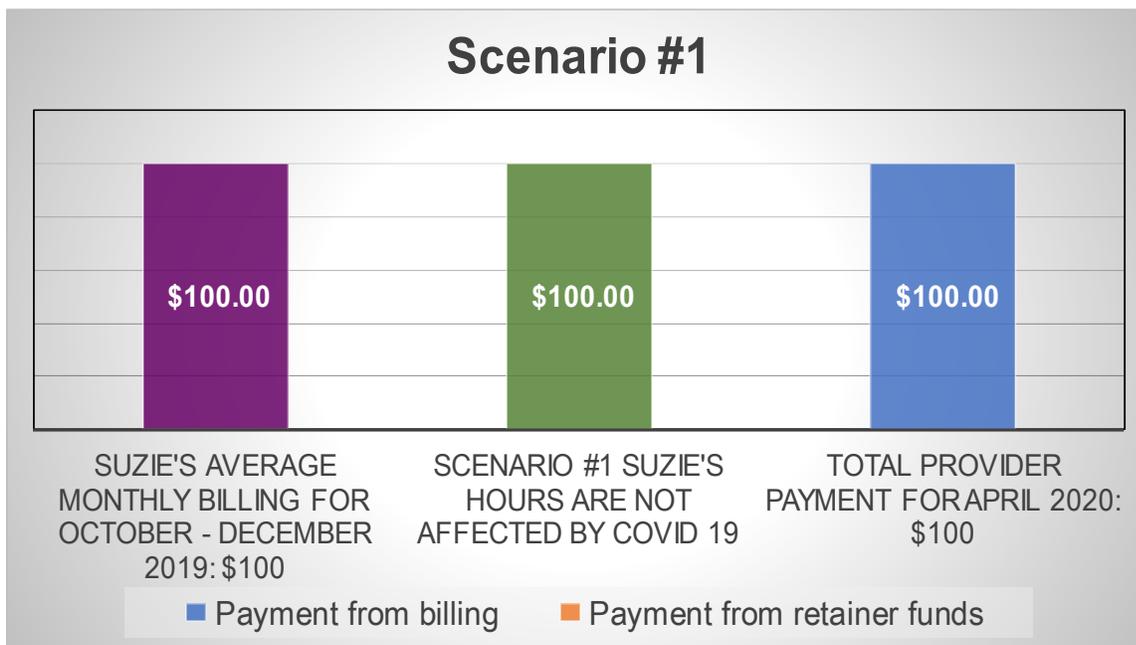
Important terminology and assumptions:

- Average Monthly Billing equals the average monthly billing for a service for an individual for the period of October-December 2019. For example: if billing for October=\$50; billing for November = \$100 and billing for December = \$150 then the average monthly billing would be \$100.
- Scenarios below will use April 2020 as an example only to clarify the retainer payment determination process, this would also be applicable to June or July billings, as outlined in the attached Action Request.

Scenario 1:

If number of hours Suzie worked in April 2020 did not go down compared to previous months:

- Provider will continue to bill and receive payments for services delivered to Suzie
- Provider is not eligible for retainer payments for Suzie

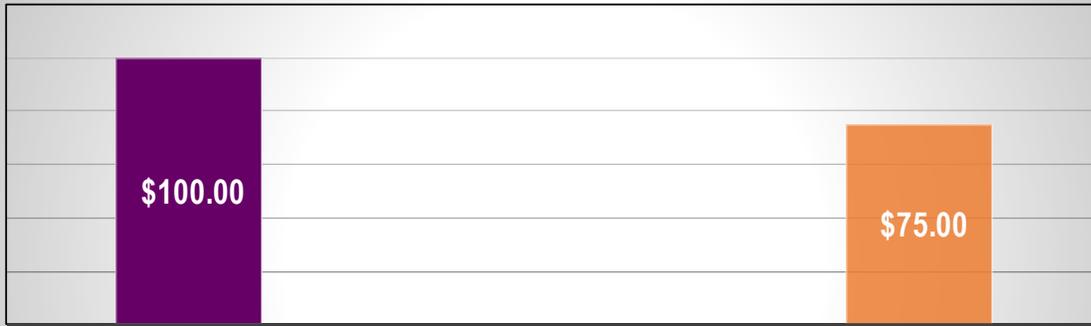


Scenario 2:

If Suzie is no longer able to receive Job Coaching services from provider due to COVID-19 related reasons:

- Provider is eligible for retainer payment for Suzie equal to 75% of their average monthly billing

Scenario #2



SUZIE'S AVERAGE MONTHLY BILLING FOR OCTOBER - DECEMBER 2019: \$100

SCENARIO #2 SUZIE IS NO LONGER WORKING DUE TO COVID 19: \$0

TOTAL PROVIDER PAYMENT FOR APRIL 2020: \$75

■ Payment from retainer funds

Scenario 3:

If in April 2020, Suzie had a reduction in work hours as reported by the provider due to COVID-19 related reasons:

- Provider continues to bill and receive payments for services delivered to Suzie but less than before due to COVID 19
- In addition to their reduced payment for Suzie, the provider receives a retainer payment equal to the difference between April 2020 billing for Suzie and 100% of the average monthly billing for Suzie:

Scenario #3



SUZIE'S AVERAGE MONTHLY BILLING FOR OCTOBER - DECEMBER 2019: \$100

SCENARIO #3 REDUCED BILLING FOR SERVICES DELIVERED TO SUZIE IN APRIL 2020 DUE TO COVID 19: \$60

TOTAL PROVIDER PAYMENT FOR APRIL 2020: \$100 AND 100% OF AVERAGE MONTHLY BILLING

■ Payment from retainer funds

■ Payment from billing

↔ Billing limit for retainer payment to apply

Retainer Payment (Contingency Funds) for Small Group, Employment Path and DSA to Providers during COVID-19

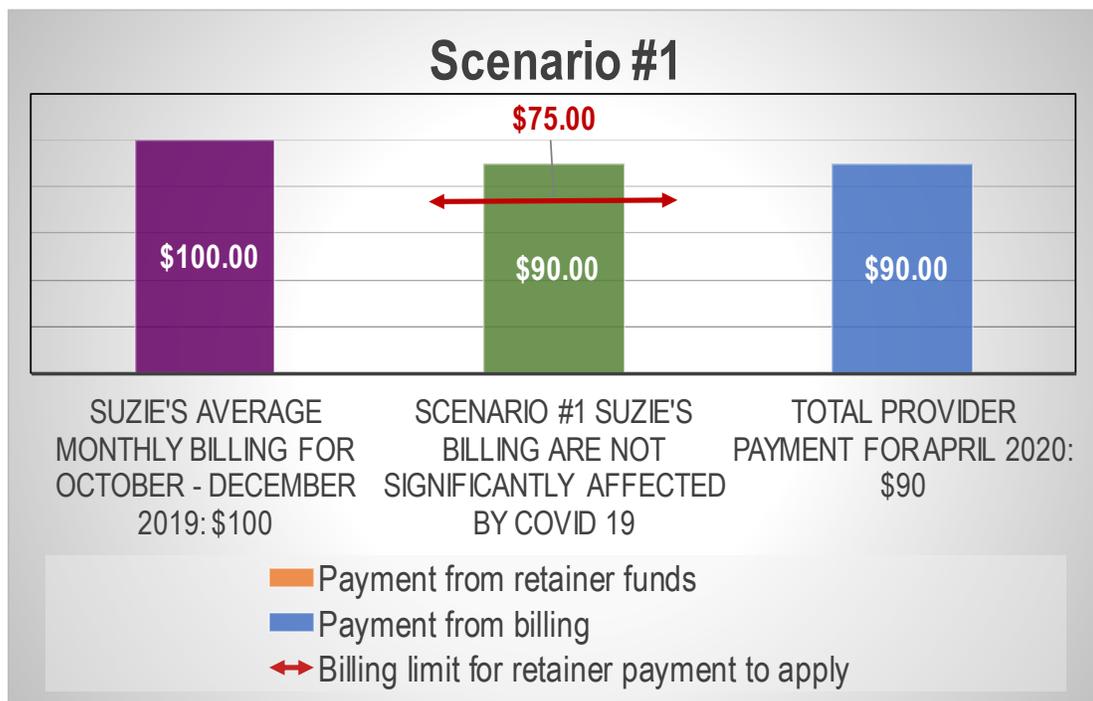
Important terminology and assumptions:

- Average Monthly Billing equals the average monthly billing for a service for an individual for the period of October-December 2019. For example: if billing for October=\$50; billing for November = \$100 and billing for December = \$150 then the average monthly billing would be \$100.
- Scenarios below will use April 2020 as an example only to clarify the retainer payment determination process. This would also be applicable for June and July 2020 as well.

Scenario 1:

If April 2020 billing for services for Suzie is MORE than 75% of average monthly billing for Suzie:

- Provider will continue to bill and receive payments for services delivered to Suzie
- Provider is not eligible for retainer payments for Suzie



Scenario 2:

If Suzie is no longer able to receive services from provider due to COVID-19 related reasons:

- Provider is eligible for retainer payment for Suzie equal to 75% of the average monthly billing for Suzie

Scenario #2



SUZIE'S AVERAGE MONTHLY BILLING FOR OCTOBER - DECEMBER 2019: \$100

SCENARIO #2 SUZIE IS NO LONGER WORKING DUE TO COVID 19: \$0 BILLED

TOTAL PROVIDER PAYMENT FOR APRIL 2020: \$75

- Payment from retainer funds
- Payment from billing
- ↔ Billing limit for retainer payment to apply

Scenario 3:

If April 2020 billing for services for Suzie is LESS or EQUAL to 75% of the average monthly billing for Suzie:

- Provider continues to bill and receive payments for services delivered to Suzie
- Provider receives retainer payment equal to the difference between April 2020 billing for Suzie and 75% of average monthly billing for Suzie:

Scenario #3



SUZIE'S AVERAGE MONTHLY BILLING FOR OCTOBER - DECEMBER 2019: \$100

SCENARIO #3 REDUCED BILLING FOR SERVICES DELIVERED TO SUZIE IN APRIL 2020 DUE TO COVID 19: \$60

TOTAL PROVIDER PAYMENT FOR APRIL 2020: \$75 AND 75% OF AVERAGE MONTHLY BILLING

- Payment from retainer funds
- Payment from billing
- ↔ Billing limit for retainer payment to apply

COVID-19 Contingency Funds (June and July 2020) State Grant Agreement

Day Support and Employment Providers

This grant is between [Insert Provider Name] and Department of Human Services Office of Developmental Disabilities Services (ODDS), in response to Governor Brown's Executive Orders and the steps being taken by ODDS regarding COVID-19. The purpose of the grant is to help ensure that Provider's Staff continue to be employed during the COVID-19 restrictions and that providers can continue to offer some DSA or Employment support (including remote support) as applicable during this time.

By accepting this funding award Provider is committing that it will remain open (or re-open) in some capacity for the time it accepts funding, retool its workforce or services in order to remain viable during this crisis, and help ensure it will have adequate capabilities to ramp up quickly and resume full normal operations in providing services to the agency's client population after the crisis.

Specifically, Provider is agreeing to:

- Continue to deliver services as possible per Executive Order 20-12 and as outlined in ODDS Employment and DSA Re Opening policy;
- Report work staff will be doing during this time and what staff may be available to provide services in Residential or In-Home settings. This must be reported as outlined in [AR 20-036](#) and using the spreadsheet: [Staffing Support Availability Workgroup DSA and Employment Providers](#); and
- Intend to resume regular services as soon as it is possible.

Per Center for Medicaid and Medicaid (CMS) guidelines, the provider is attesting that:

- The retainer or contingency funding will be subject to recoupment if inappropriate billing or duplicate payments for services occurred, as identified in a state or federal audit or any other authorized third party review. Note that "duplicate uses of available funding streams" means using more than one funding stream for the same person; *and*
- They will not lay off staff during the time for which the Contingency Funds are received; *and*
- They will maintain staff wages at or above their current wages during the time for which the Contingency Funds are received; *and*
- No funding from any other sources, including but not limited to Small Business Administration loans, that would exceed your revenue for the last full quarter prior to the Public Health Emergency, or that the retainer payments at the level provided by the state would not result in your revenue exceeding that of the quarter prior to the Public Health Emergency; *or*
- If funding from other sources was received, that that funding is reported to ODDS to be used in calculating any retainer payments or contingency funds; *and*
- They understand retainer or contingency funding is not available if other funding received amounts to revenue equal to that of the quarter prior to the Public Health Emergency.

ODDS will calculate the average of payments made to Provider based on October 2019 to December 2019 averages by individual and services for the services included in the grant type.

To receive funding Provider must complete and submit a weekly report of staffing to ODDS via the Staffing Support request as outlined in [AR 20-036](#) and using the spreadsheet: [Staffing Support Availability Workgroup DSA and Employment Providers](#). ODDS reserves the right to confirm data. If it

is found that Provider has not met the requirements outlined in this grant, Provider must return funding received within 45-days.

ODDS reserves the right to end this grant at any time.

Submission of this Grant Agreement with the grant request, serves as official agreement from the provider agency.