



**Rate Setting for Non-State Providers:
Direct Support and Clinical Compensation Increases**

AMENDMENTS TO 14 NYCRR Part 641

**Effective Date: Thursday, January 1, 2015
Permanently Adopted: Wednesday, March 25, 2015**

- **14 NYCRR Part 641 is amended by the addition of a new Subpart 641-3 to read as follows:**

Subpart 641-3. Direct Support and Clinical Compensation Increases.

641-3.1. Applicability. On or after January 1, 2015, rates of reimbursement for providers that operate eligible programs as defined in this Subpart will be revised to incorporate funding for compensation increases to their direct support professional employees. Such rate increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's rate issued for January 1, 2015 or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

641-3.2. Definitions. As used in this Subpart, the following terms shall have the following meanings:

- (a) Direct support professionals are those defined as Direct Care and Support per Consolidated Fiscal Report (CFR) Appendix R and reported on the CFR under the Position Title code identifiers of 100 or 200. Contracted staff salary information will not be utilized.
- (b) Clinical staff are those defined as Clinical per CFR Appendix R and reported on the CFR under the Position Title code identifier of 300. Contracted staff salary information will not be utilized.
- (c) Eligible Rate Based Programs shall mean any of the following services: supervised community residences (including supervised IRAs), supportive community residences (including supportive IRAs), ICFs/DD or group day habilitation programs.

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(d) Other Eligible Programs shall mean community habilitation, day treatment, supported employment, agency sponsored family care, respite and free standing respite, and prevocational services.

641-3.3. Increases for Eligible Rate Based Programs

(a) January 1, 2015 Increase. Rates for Eligible Rate Based Programs will be revised to incorporate funding for compensation increases to direct support professional employees. Such rate increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's rate issued for January 1, 2015 or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

(b) April 1, 2015 Increase. In addition to the compensation funding effective January 1, 2015, providers that operate supervised IRAs, including supervised community residences, supportive IRAs, including supportive community residences, ICFs/DD or group day habilitation will receive a compensation increase targeted to direct support professional and clinical employees to be effective April 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits. The April 1, 2015 direct support professional compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase and will be an augmentation to the January 1, 2015 increase.

(c) Calculations. The basis for the calculation of provider and regional direct care, support and clinical salary averages and associated fringe benefit percentages will be the data in providers' July 1, 2010 - June 30, 2011 or January 1, 2011 - December 31, 2011 CFRs.

(1) The January 1, 2015 and April 1, 2015 Direct Support Professionals compensation increase funding formula will be as follows:

(i) The annual impact of a two percent increase to 2010-11 or 2011 salaried direct care, salaried support dollars and associated fringe benefits will be calculated.

(ii) The annual impact of the two percent increase for salaried direct care dollars, salaried support dollars and associated fringe will be added to the appropriate operating components in the rate methodology. This will result in a recalculation

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of provider and regional average direct care wages, provider and regional average employee-related components, provider and regional average program support components, and provider and regional average direct care hourly rates.

(iii) The provider direct care hourly rate - adjusted for a wage equalization factor will be recalculated to utilize the provider average direct care hourly rate and regional average direct care hourly rate (as calculated in (ii) above).

(iv) An identification will be made of the dollar difference between the provider direct care hourly rate - adjusted for a wage equalization factor, which is in the rate in effect on 12/31/2014, and the provider direct care hourly rate- adjusted for a wage equalization factor, as calculated in (iii) above.

(v) The rate difference identified in (iv) above will be multiplied by the calculated direct care hours in the rate in effect on 12/31/2014 to calculate the additional funding generated by the direct care compensation adjustment.

(vi) The rate add-on for the compensation increase shall be determined by dividing the additional funding, as calculated in (v) above by the rate sheet units in effect on January 1, 2015.

(2) The April 1, 2015 Clinical compensation increase funding formula will be as follows:

(i) The annual impact of a two percent increase to 2010-11 or 2011 salaried clinical dollars and associated fringe benefits will be calculated.

(ii) The annual impact of the two percent increase for salaried clinical dollars and associated fringe will be added to the appropriate operating components in the rate methodology. This will result in a recalculation of provider and regional average employee-related components, and provider and regional average clinical hourly wages.

(iii) The provider clinical hourly wage - adjusted for a wage equalization factor will be recalculated to utilize the provider average clinical hourly wage and the regional average clinical hourly wage (as calculated in (ii) above).

(iv) An identification will be made of the dollar difference between the provider clinical hourly wage - adjusted for a wage equalization factor, which is in the rate

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in effect on 12/31/2014, and the provider clinical hourly wage- adjusted for a wage equalization factor, as calculated in (iii) above.

(v) The rate difference identified in (iv) above will be multiplied by the provider salaried clinical hours in the rate in effect on 12/31/2014 to calculate the additional funding generated by the clinical compensation adjustment.

(vi) The rate add-on for the compensation increase shall be determined by dividing the additional funding, as calculated in (v) above by the rate sheet units in effect on January 1, 2015.

(3) Rates for individuals identified by OPWDD as qualifying for specialized template populations funding shall be adjusted as follows:

(i) January 1, 2015 Increase. The fees for specialized template populations funding will be revised to incorporate funding for compensation increases to direct support professional employees. Such fee increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's fee issued for January 1, 2015 or in a subsequent fee with the inclusion of funding in the amount necessary to achieve the same funding impact as if the fee had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

(ii) April 1, 2015 Increase. In addition to compensation funding effective January 1, 2015, the fees for specialized template population funding will be revised to incorporate funding for a compensation increase to direct support professional and clinical employees to be effective April 1, 2015. The April 1, 2015 direct support compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase and will be an augmentation to the January 1, 2015 increase.

(iii) Calculations.

(a) The portion of the fee that is identified as direct care and support will be increased by 2% and multiplied by the fee sheet fringe benefit percentage to calculate the additional direct support compensation increases for January first, two thousand fifteen and April first, two thousand fifteen.

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(b) The portion of the fee that is identified as clinical will be increased by 2% and multiplied by the fee sheet fringe benefit percentage to calculate the additional clinical compensation increase for April first, two thousand fifteen.

641-3.4 Rates and Fees for Other Eligible Programs

(a) For a provider that operates any Other Eligible Programs, the provider's rate or fee for each such program will be revised to incorporate funding for compensation increases to their direct support professional employees. Such rate or fee increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's rate or fee issued for January 1, 2015 or in a subsequent rate or fee with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate or fee had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

(b) April 1, 2015 Increase. In addition to the compensation funding effective January 1, 2015, a provider that operates any Other Eligible Programs will receive a compensation increase targeted to direct support professional and clinical employees to be effective April 1, 2015. The April 1, 2015 direct care compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase and will be an augmentation to the January 1, 2015 increase.

(c) Calculations.

(1) The portion of the rate or fee that is identified as direct care and support will be increased by 2% and multiplied by the rate or fee sheet fringe benefit percentage to calculate the additional direct care compensation increases for January 1, 2015 and April 1, 2015.

(2) The portion of the rate or fee that is identified as clinical will be increased by 2% and multiplied by the rate or fee sheet fringe benefit percentage to calculate the additional clinical compensation increase for April 1, 2015.

641-3.4 Rates and Fees for Specialty Hospitals

(a) January 1, 2015 Increase. The rates of reimbursement for specialty hospitals as defined in Part 680 of this Title will be revised to incorporate funding for compensation

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increases to direct support professional employees. Such rate increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's rate issued for January 1, 2015 or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

(b) April 1, 2015 Increase. In addition to the compensation funding effective January 1, 2015, providers that operate specialty hospitals will receive a compensation increase targeted to direct support professional and clinical employees to be effective April 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits. The April 1, 2015 direct support professional compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase and will be an augmentation to the January 1, 2015 increase.

(c) Calculations. The basis for the calculation of direct care, support and clinical salary averages will be the data from the provider's January 1, 2011 - December 31, 2011 CFR. The fringe benefit percentage will be that fringe benefit percentage utilized in the provider's December 31, 2014 specialty hospital rate.

(1) The January 1, 2015 and April 1, 2015 Direct Support Professional compensation increase funding formula will be:

(i) The annual impact of a two percent increase to 2011 salaried direct care and salaried support dollars and associated fringe benefits will be calculated.

(ii) The annual impact of the two percent increase for salaried direct care dollars, salaried support dollars and associated fringe will be added to the appropriate operating components in the provider's specialty hospital rate.

(iii) The rate add-on, as calculated in (ii) above, shall be added to total allowable costs and those allowable costs shall be divided by the total patient days in the December 31, 2014 rate.

(2) The April 1, 2015 Clinical compensation increase funding formula will be:

(i) The annual impact of a two percent increase to 2011 clinical dollars and associated fringe benefits will be calculated.

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(ii) The annual impact of the two percent increase for salaried clinical dollars, and associated fringe will be added to the appropriate operating components in the provider's specialty hospital rate.

(iii) The rate add-on, as calculated in (ii) above, shall be added to total allowable costs and those allowable costs shall be divided by the total patient days in the December 31, 2014 rate.

Note: All new material.