Maryland
DEPARTMENT OF HEALTH
DEVELOPMENTAL DISABILITIES ADMINISTRATION

Frequently Asked Questions (FAQs)

Provider Retainer Payment

These Frequently Asked Questions (FAQs) are specific to the Retainer Payments associated with Public Health Emergency (PHE) and available through the DDA's Appendix K approval. These include previously issued FAQs on 3.04.21 and 3.15.21 as well as additional responses from questions received through the end of April 2021. They have been organized into topic specific categories to help you find those questions and responses most relevant to you. To go directly to a specific section, you can click on the link in the Table of Contents below.

This is a live document and will be updated as additional categories and questions are added and updated. Questions received that are similar in nature were consolidated to best summarize the answers and resources.

Table of Contents

- Issue Date: **04.28.2021**
- Revised Date: **N/A**

I. Attestations *(New 4.27.21)*

1. ***Does the attestation need to be completed if you are receiving no outside funding?***
   - Yes, attestations are needed if you received retainer day payments. If you are not billing any retainer days there is no attestation required.

2. ***One attestation was submitted for the period 03/13/20 through 03/31/21 by the due date of 04/10/21. Do we now need to go back and submit two separate attestations?***
   - You must submit an attestation for any and every quarter in which retainer days were billed. In the above example, if retainer days were billed on all four quarters, then you would need an attestation for each of the four quarters. Please refer to the revised guidance (April 15, 2021) for the updated schedule on the website. We updated it due to the confirmation from CMS that the guardrails are applicable and retroactive to March 13, 2020. https://dda.health.maryland.gov/Pages/DDA_Appendix_K.aspx

II. Guardrails

A. Other Sources of Revenue

1. ***Can we apply for retainer days following access to a PPP loan? (New 4.27.21)***
   - Agencies are not permitted to use multiple streams of assistance to support the same service or program, or profit from the PHE. The DDA will be using the quarterly attestations and the year-end reconciliation to determine recoupments of the retainer day payments.

2. ***Is the expectation to consider PPP loans as revenue even though these have not yet been forgiven and therefore are not yet on the books as revenue? (New 4.27.21)***
   - These resources will be viewed as income to assess whether multiple revenue streams were used to support DDA programs and to ensure that agencies don't stand to profit from the PHE.

- Issue Date: **04.28.2021**
- Revised Date: **N/A**

3. ***What if the PPP funds were used exclusively for a non DDA program, such as a special education school? Would we still have to count it for DDA revenue? (New 4.27.21)***
    - No. The guardrail stipulates that the provider can not use multiple streams of revenue for the same purpose or can not exceed its revenue prior to the quarter before the PHE. If these guardrails are met retainer day revenue would not be recouped.

4. ***Does CMS require a look at total revenue or is this a state decision to look at total provider revenue? (New 4.27.21)***
    - The DDA is following the CMS requirement that the guardrails must be applied as total revenue for the DDA programs and services. The guardrail stipulates that the provider can not use multiple streams of revenue for the same purpose or can not exceed its revenue for these programs the quarter prior to the PHE.

5. ***We have received revenue from several sources during the PHE. How will the DDA assess recoupments? (New 4.27.21)***
    - The DDA will be using the quarterly attestations and the year-end reconciliation to determine recoupments of the retainer day payments.

6. ***Are restricted grants and other private funds or donations counted as revenue? (New 4.27.21)***
    - Any funds going toward the delivery of DDA services and programs that receive retainer day revenue are subject to the guardrails.

7. ***Our retainer days were submitted correctly, but we did receive a PPP loan, what should we do at this point? (New 4.27.21)***
    - If the retainer days were submitted correctly, the provider must still submit the quarterly attestations pertaining to the guardrails contained in the CMS guidance. During year-end reconciliation, the provider will need to report the receipt of funding during the period of time to determine if federal requirements were met.

8. ***Do the guardrails suggest we can not have received other sources of funding at all during appendix K or those funds can not be used for the same time period that the retainer days were billed for? (New 4.27.21)***
    - The guardrails contained in the CMS guidance on use of retainer days stipulates that (1) the provider cannot use revenue from other sources and revenue from retainer days paid for the same program (duplicate uses), (2) revenue from retainer payments cannot cause an provider to exceed its revenue prior to the quarter before the PHE minus savings achieve from staff layoffs and/or furloughs, and (3) the provider cannot

layoff staff at the same time as they are receiving retainer payments or it will be subject to recoupment of retainer day payments.

9. ***Are the guardrails compared to DDA advance payments in the quarter or the earned revenue based on actual attendance?***
    - Guardrails are not compared to any advance payments that are made in the invoicing process. They would apply to the quarter of actual certified and earned attendance recorded in PCIS2.

10. ***If a provider's revenue (including retainer days) in FY20 Q3 & Q4 are greater than that of the quarter prior to the PHE, are those subject to recoupment? Should providers do error updates to move those retainer days to future quarters where revenue is decreased?***
    - Based upon the current guidance the answer is yes.

B. Furloughs and Layoffs

1. ***Is the updated retainer guidance indicating that billing would reduce from 80% to 60% only in those quarters where staff were furloughed? Additionally, is the furlough of provider staff limited to those staff dedicated to DDA programs and services? (New 4.27.21)***
    - Yes, the current guidance allows providers to bill up to 60 % of retainer days in quarters when there were staff laid off or furloughed. For example, in residential programs, if the provider bills $100 during the period of the PHE while it laid or furloughed staff the adjustment would be a recoupment of $40 during year end reconciliation. For agencies claiming retainer payments for Meaningful Day services, as identified in the Appendix K, a maximum of 80% of the retainer payment may be claimed. In these instances, if the provider were to typically bill $100 during the period of the PHE, a maximum of $80 would be claimed for the retainer payment. Given the guardrails, this means that up to 60% of the $80 payment could be claimed. Staff layoffs or furloughs pertains to revenue and expenses associated with the provision of services funded by DDA.

2. ***If the staff who were laid-off/furloughed were administrative vs. DSPs do the guardrails still apply? (New 4.27.21)***
    - Yes, if the administrative staff support the delivery of services funded by DDA and therefore are supported by the retainer day revenue.

3. ***If employees were laid off due to issues unrelated to COVID, does this still need to be factored as part of the attestation? (revised guidance 4.27.21)***
    - Yes, the guidance from CMS is that the guardrail applies when staff have been laid off or furloughed during the PHE. There is nothing about the reason(s) staff were laid off. When completing attestations, employers are responsible for review and evaluation of employee separations to ensure these are accurately categorized as layoffs, furloughs or terminations due to cause.

4. ***Does a reduction in day program staff result in a loss of ability to access retainer days in Personal Supports or Residential? (New 4.27.21)***
    - No. Please follow the guidance that allows for up to 60% of retainer days in the event of staff layoffs or furloughs.

5. ***If we have laid off staff, but have already submitted and been paid for Retainer Days, how will we notify DDA that we are now not eligible for these days. When can we expect recoupment of these days? (New 4.27.21)***
    - Complete the quarterly attestation and the staff layoff guardrail form that notifies DDA that staff was laid off while retainer days were billed. Based upon the flexibility granted by CMS, DDA has decided to allow providers to bill up to 60% of retainer days even if the provider laid off staff during the time retainer days were billed. To effectuate this, DDA will recoup the difference of retainer day funds during year-end reconciliation through the cost reporting process..

6. ***What if you laid off staff in a different quarter during Appendix K than the quarter you are billing retainer days? (New 4.27.21)***
    - The provider is able to bill up to 60% of the retainer day payment. If the total revenue as a result of the retainer days exceeds the amount of revenue earned the quarter prior to the PHE, minus savings as a result of staff layoffs or furloughs, then the DDA will recoup the difference.

7. ***If staff reduction occurred during the PHE due to an employee's decision (i.e., health risk, child care), will this impact the provider's ability to bill the full retainer day rate? (New 4.27.21)***
    - If staffing reduction was not the result of provider layoff or furlough, the full retainer payment can be billed but with consideration for needing to maintain the guardrail of not exceeding revenue the quarter prior to the PHE.

- Issue Date: **04.28.2021**
- Revised Date: **N/A**

III. Cost Reporting

1. ***We received a PPP loan in May 2020. It was recorded as a liability, not revenue, in our audited FY20 financial statements. How do we report it on the Cost Report since only revenue is required and must tie to our financial statements? (New 4.27.21)***
   - On tab F-NOI (Net Operating Income) of the Cost Report template, under section number 4 on Financial Statements, is where you would explain that you received a PPP loan that is reported on your Financial Statement as a liability. Please refer to sample illustration of tab F-NOI below. However, if the funds were used along with retainer day revenue for DDA programs, during the course of the PHE, the retainer day payments are subject to recoupment.

<u>*EXAMPLE*</u>: F-NOI (Net Operating Income)

4 <u>Explanation of Total Revenues/Expenses on Audited Financial Statements</u>

Use the box below to describe any discrepancies between the totals on the cost report and the totals on the audited financial statements

- Issue Date: **04.28.2021**
- Revised Date: **N/A**

2. ***Will the DDA be asking us to disclose the time period that we are using PPP funds to support programs? If so, we have our PPP recorded as a liability on our audited financials, there is nothing to show DDA in the cost report or financial statement the time period for which those funds are used. (New 4.27.21)***
    - Yes, the purpose of the quarterly attestation is for the provider to state whether or not the guardrail has been met for that quarter. We will be looking at the cost report during year-end reconciliation to verify that attestation. If the additional sources were used along with retainer days revenue in support of the DDA services the retainer day revenue would be subject to recoupment.
3. ***How do we reflect attendance discrepancies between PCIS2 and our cost report submission? (New 4.27.21)***
    - The Schedule G on the cost report is used to note and explain attendance discrepancies between the provider record of attendance and PCIS2.
4. ***What were the changes, if any, to the Cost Report Template? If we are not making any changes to FY20 can we use the previous template?***
    - The current FY 20 cost report template posted on the DDA website was updated to accommodate the appendix K authority, and is the correct version of what should be used for FY20 FPS reconciliations..
5. ***Our annual audit has already been completed. How should we report additional revenue related to retainer payments to reconcile the cost report to the audited financial statements?***
    - You should have your auditor complete an addendum to the financial statement to capture that revenue related to retainer payments.
6. ***We self-insure for MD Unemployment. When the State of Maryland presented the invoice for Q3 and Q4 2021 payments, the State does not show the amount of the Federal payment of 50%. Are we required to show this 50% Federal payment of these costs on the cost report as Federal revenue?***
    - Retainer payments should be included and shown as 100% DDA revenue, not split.

▸ Issue Date: **04.28.2021**
▸ Revised Date: **N/A**

IV. Error Updates

1. ***For the automatic conversion of "V" to "C" retainer days, when will this occur?***
    - The automatic conversion of "V" to "C" retainer days is complete. There are no longer any "V" days entered after March 13, 2020. You may confirm these changes by reviewing each person's attendance calendar or the Attendance Summary Report for any given month. Only "V" days for Residential Service were converted. No other code changed.
2. ***How will a provider know when their error updates have been processed?***
    - Providers will be notified when error updates submitted have been processed. Once completed, providers will be able to review people's calendars in PCIS2 to verify the change. Any changes made requiring additional payment, will be adjusted on a future quarterly invoice.
3. ***What is the general guidance for submitting error updates required by this guidance?***
    - Any error update that was submitted to change a retainer day prior to the updated guidance has been discarded in order to set a new starting point. This does not affect error updates submitted for any other reason. After carefully reviewing the guidance memo, Providers should review the attendance currently recorded in PCIS2 for the people they serve to ensure it accurately reflects services delivered and accurate use of "C" Days. When calendar changes are required, providers should submit error updates to their regional office for processing. The error update process is the only way changes can be made to a calendar retroactively. When calendar changes are completed within PCIS2, providers will be notified by email. Please attach no more than 10 error update forms in any one email sent to a regional office.
4. ***While a residential program is under quarantine due to COVID exposures, should the "C" days be used for the duration of the quarantine or should "P" days be used?***
    - For residents quarantined in the house, Isolation Days should be used. For residents not served C Days should be used.

- Issue Date: **04.28.2021**
- Revised Date: **N/A**

5. ***If we submit error updates to remove FY20 retainer billing, how long until we can start entering those days in future PCIS2 billing (January, February)?***
    - You can begin entering any available days as soon as they are available under your count.

V. Retainer Day Policy

1. ***Is the 120 retainer hours for Personal Supports for the duration of PHE not 120 per month?***
    - 120 retainer hours for the duration of the Appendix K.
2. ***In the original Appendix K, we were told that a data patch would be done for Personal Supports the hours to cover the day program closure. Is this correct or were these hours to be entered in PCIS2?***
    - Additional PS Hours were added to each persons authorized service
3. ***Are "C" days not allowed when a residential client is hospitalized with COVID?***
    - As per DDA Appendix K #1 - Retainer Payment Guidance - Revised Feb 11, 2021 -- COVID Day - C Days can be used when a person is hospitalized with COVID. The guidance notes retainer payments are for direct care staff and providers who normally provide services that include habilitation and personal care, but are currently unable to due to: (1) health and safety risk; (2) State mandates; (3) complications experienced during the COVID-19 pandemic because the participant is sick due to COVID-19; (4) the participant is isolated or quarantined based on local, State, federal and/or medical requirements/orders; and/or (5) is staying with family/friends due to concerns of getting the virus if they remain in the residential home.
4. ***How are the numbers calculated for personal support per month, in consideration with months with 31 days? Providers are not paid fully for those months with 31 days using this numbers?***
    - Retainer Days/Hours are available for the duration of Appendix K and are not affected by the number of days in a month.

5. ***What are some of the reasons we may need to use retainer days for residential providers?***
    - Some examples include a person decided to stay with family and not remain in the group home during the public health emergency or the person was hospitalized.
6. ***How do you submit retainer hours for personal support clients that have services in LTSS?***
    - There is an invoice posted on the DDA website:

      https://dda.health.maryland.gov/Pages/DDA%20Forms.aspx
7. ***What are some of the reasons we may need to use retainer days for residential providers?***
    - Some examples include a person decided to stay with family and not remain in the group home during the public health emergency or the person was hospitalized.
8. ***How do we get a payment remittance report on LTSS?***
    - In the provider portal, on the report page there is a remittance report that can be run. To run the report you have to input the criteria, time period, provider details, etc., and then run the report.

▸ Issue Date: **04.28.2021**
▸ Revised Date: **N/A**