



## Minister's Directive to Home and Community Care Support Services, Ontario Health, and Home and Community Care Health Service Providers on Personal Support Services Wage Enhancement in Response to COVID-19

### Minister's Directive to Home and Community Care Support Services, Ontario Health, and Home and Community Care Health Service Providers: Personal Support Services Temporary Wage Enhancement in Response to COVID-19.

**Effective April 1, 2021**

The *Local Health System Integration Act, 2006* (LHSIA) authorizes the Minister of Health to issue operational or policy directives to Local Health Integration Networks where the Minister considers it to be in the public interest to do so. Effective April 1, 2021, the Local Health Integration Networks are operating under the business name Home and Community Care Support Services and will be referred to as such throughout this Directive. Every Home and Community Care Support Services must comply with and carry out this Directive.

The *Connecting Care Act, 2019* (CCA) authorizes the Minister of Health to issue directives to Ontario Health (OH) and to Home and Community Care Health Service Providers (HCC HSPs) where the Minister considers it to be in the public interest to do so. OH and the HCC HSPs must comply with and carry out this Directive.

This Directive is in support of the temporary, targeted wage enhancement initiative that was first announced as part of the Ministry of Health's (the "Ministry") Integrated Capacity Plan for the response to the ongoing effects of COVID-19 and the annual flu season. This Directive does not replace, or otherwise amend the Minister's Directive to Local Health Integration Networks: Personal Support Services Temporary Wage Enhancement in Response to COVID-19 issued October 1, 2020 that provided for a temporary, targeted wage enhancement from October 1, 2020 to March 31, 2021.

A temporary wage enhancement (hourly wage increase) for eligible workers providing personal support services in the home and community care (HCC) sector aims to support a high-quality workforce of individuals performing publicly funded Personal Support Services (PSS workers), including but not limited to Personal Support Workers (PSWs), to meet Ontario's current demand for home and community-based services. It is expected to contribute to the stability of the PSS worker workforce to ensure continued service delivery during COVID-19

#### **DEFINITIONS**

In this Directive the following terms have the following meanings:

**"Home and Community Care Health Service Providers"** or **"HCC HSPs"** means the health service providers funded by Ontario Health under the authority of s. 21 of the CCA that are approved agencies under the *Home Care and Community Services Act, 1994*.

**"Direct Care"** means personal support services as part of an HCC Program whether the service is delivered in person or virtually.

**"Eligible Period"** means April 1, 2021 until the earlier of June 30, 2021 or the date on which Ontario Regulation 195/20 under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* either expires or is revoked.

**"HCC Program"** means the following publicly funded home and community care programs:

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- All programs in which personal support services (PSS) are provided under the *Home Care and Community Services Act, 1994 (HCCSA)* and provided by Home and Community Care Support Services or funded by OH, including but not limited to:
  - Home care provided by Home and Community Care Support Services organizations through Home and Community Care Support Services-contracted service provider organizations;
  - Palliative care provided in hospices;
  - Home care and PSS provided by OH-funded approved agencies;
  - Assisted living services in supportive housing;
  - Services for persons with Acquired Brain Injury;
  - Services for First Nations, Inuit, Métis and urban Indigenous communities;
  - Home care provided by OH-funded approved agencies in short-term transitional care and other transitional care models; and
  - The Family-Managed Home Care program alternately known as Self-Directed Care (SDC); and
- The Direct Funding Program (DFP) administered by the Centre for Independent Living Toronto (CILT) in accordance with Ontario Regulation 367/94 made under the *Ministry of Community and Social Services Act*.

“**Eligible Worker**” means an individual:

- who may or may not hold a PSW certificate; and
- who provides publicly funded PSS as part of an HCC Program.

“**Home Employer**” means the employer of an individual that is redeployed to perform services for an organization other than his or her employer.

**APPLICATION AND SCOPE**

This Directive applies to publicly funded PSS delivered by Eligible Workers as part of an HCC Program during the Eligible Period.

This Directive does not apply to the following services, providers and/or programs:

- Long-Term Care Homes; and
- Hospitals

**GENERAL MANDATORY REQUIREMENTS**

Effective April 1, 2021, I hereby issue the following Directive with respect to every Home and Community Care Support Services, OH and HCC HSP:

**Wage Enhancement for Eligible Workers**

- 1) OH, every Home and Community Care Support Services, and every HCC HSP will ensure that every Eligible Worker is provided with a temporary hourly wage increase of \$3 per hour

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in addition to the Eligible Worker's base hourly pay for every hour of Direct Care provided during the Eligible Period.

- 2) OH, every Home and Community Care Support Services, and every HCC HSP will ensure that employers and contract holders of Eligible Workers receive up to 22.7% of the total amount payable for the temporary hourly wage increase for Eligible Workers for statutory benefits related to the temporary hourly wage increase provided under paragraph 1.
- 3) OH will require its funded providers with an Eligible Worker, every Home and Community Care Support Services will require its contracted service provider organizations (SPOs) and SDC recipients with an Eligible Worker, and every HCC HSP that employs or holds the contract of an Eligible Worker is required and will require its contracted SPOs with an Eligible Worker to:
  - a) Pay all Eligible Workers a temporary hourly wage increase of \$3 per hour for every hour of Direct Care provided during the Eligible Period;

**Wage Restraint Legislation**

The continued payment of this temporary hourly wage increase to Eligible Workers is contingent upon the extension of Ontario Regulation 195/20 (O. Reg. 195/20) under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* (ROA). This regulation was originally an emergency order under the *Emergency Management and Civil Protection Act* and was moved over to the ROA when the declaration of emergency was lifted and the ROA came into force. It provides an exemption for employers who would otherwise be caught by the 1% salary rate increase limit provided for in the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*. The temporary hourly wage increase can only be paid to Eligible Workers for Direct Care provided while Ontario Regulation 195/20 is in force. The regulation is presently in force until May 20, 2021 and may be extended for periods of up to 30 days at a time.

- b) Apply the temporary hourly wage increase over and above any base hourly pay and any future wage increases or entitlements within the identified Eligible Period available to Eligible Workers in collective agreements or employment contracts in effect on April 1, 2021;
- c) Apply up to 22.7% of the total amount payable for the temporary hourly wage increase for Eligible Workers for statutory benefits related to the wage increase for the incremental increase in the cost of employer contributions to Canada Pension Plan, Employment Insurance, Employer Health Tax, and Workplace Safety & Insurance Board, as well as the incremental increase in the cost of providing statutory entitlements (e.g. holiday pay, vacation pay, or overtime, if applicable) resulting from the wage increase and in accordance with the *Employment Standards Act, 2000* or any applicable collective agreement(s);
- d) For greater certainty, only pay the temporary hourly wage increase to Eligible Workers for Direct Care provided while O. Reg. 195/20 is in force (The regulation is presently in force until May 20, 2021 and may be extended for periods of up to 30 days);
- e) Ensure that temporary hourly wage increases are not paid to Eligible Workers for Direct Care provided outside of the Eligible Period so as to avoid having to recover improperly spent funds;

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- f) Provide written notification to each Eligible Worker to whom this temporary hourly wage increase applies on or before May 14, 2021, articulating the following:
    - The temporary hourly wage increase has been extended and will be applied for publicly-funded PSS hours worked in the home and community care sector on or after April 1, 2021 and up to the first of the earlier of two dates: June 30, 2021 or the date upon which Ontario Regulation 195/20 made under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* expires or is revoked, whichever comes first.
  - g) Maintain records demonstrating payment of the wage increase to Eligible Workers;
  - h) Make records available to the Home and Community Care Support Services, OH, and Ministry upon request;
  - i) Submit to OH or to the Home and Community Care Support Services, as determined by the funding relationship, the following attestations that must be signed by an authorized representative of the funded organization (i.e. CEO or Board Chair), or, in the case of Home and Community Care Support Services-funded SDC, by the recipient of funding under the SDC agreement:
    - i. By May 1, 2021, an initial attestation (in a format to be provided by Home and Community Care Support Services or OH) attesting to the organization, recipient or provider's confirmation that they will comply with these requirements; and
    - ii. By June 30, 2021, a final attestation confirming compliance (in a format to be provided by Home and Community Care Support Services or OH).
  - j) Submit reports to Home and Community Care Support Services, OH and HCC HSP and the Ministry as required and outlined in terms and conditions of funding.
- 4) Every Home and Community Care Support Services will amend its agreements with its contracted SPOs and its SDC recipients that employ or contract with an Eligible Worker to reflect the above requirements. OH will amend its service accountability agreements with HCC HSPs and every HCC HSP will amend its agreements with its contracted SPOs that employ or contract with an Eligible Worker for the same purpose.

**Redeployed Workers**

- 5) Every Home and Community Care Support Services will ensure that the temporary hourly wage increase is provided to an Eligible Worker who remains employed by their HCC Home Employer and who is redeployed to work in another setting where the Eligible Worker does not have an employment contract with the receiving work setting and their employer is not providing the employee's services under a contract with the receiving work setting. Redeployment does not include services provided under direct contract with the receiving care setting. This should be treated as contracted services.

**Notification**

- 6) If O.Reg. 195/20 expires or is revoked, this will be conveyed in a timely fashion as follows:
  - a) OH will inform its HCC HSPs;
  - b) every Home and Community Care Support Services will inform its contracted SPOs and SDC recipients with an Eligible Worker; and
  - c) every HCC HSP will inform its contracted SPOs with an Eligible Worker.

**Auditing**

- 7) Random, periodic spot audits to confirm compliance will be conducted as follows:
  - a) OH will audit HCC HSPs;
  - b) every Home and Community Care Support Services will audit its contracted SPOs and SDC recipients with an Eligible Worker; and
  - c) every HCC HSP will audit its contracted SPOs with an Eligible Worker.

**APPLICATION OF 2014-16 PSS WAGE ENHANCEMENT DIRECTIVE**

In 2014, the ministry previously issued another Directive entitled “Directive to Local Health Integration Networks on Personal Support Services Wage Enhancement” with three subsequent addenda, a 2014 Directive Addendum regarding Self-Managed Care; Adult Day; Caregiver Support Respite; a 2015 Directive Addendum that was effective April 1, 2015, and a 2016 Directive Addendum that was effective April 1, 2016 (collectively, the “2014-16 PSS Wage Enhancement Directive”).

For greater certainty, this Directive does not amend, alter or otherwise impact the applicability of, or the requirements set out in, the 2014-16 PSS Wage Enhancement Directive, in particular, the requirements contained in the 2016 Directive Addendum providing for the minimum base hourly wage of \$16.50 per hour of those individuals providing publicly funded personal support services in the home and community care sector.

For clarity, the temporary hourly wage increases provided for in this Directive is on top of existing hourly wages payable to Eligible Workers for every hour of Direct Care provided during the Eligible Period negotiated by an employer and employees and/or unions. Employers must pay the \$3 temporary hourly wage increase in addition to a minimum base wage of \$16.50 per hour of Eligible Workers providing Direct Care during the Eligible Period.