

**NEW YORK STATE OFFICE FOR THE AGING**

2 Empire State Plaza, Albany, NY 12223-1251

Andrew M. Cuomo, Governor

Corinda Crossdale, Director

An Equal Opportunity Employer

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|----------------------------|------------------------|
| <b>PROGRAM INSTRUCTION</b> | <b>Number 16-PI-05</b> |
|                            | <b>Supersedes</b>      |
|                            | <b>Expiration Date</b> |

**DATE:** February 19, 2016

**TO:** AAA Directors

**SUBJECT:** 2014-15 Appropriation for Direct Care Worker Program

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**ACTION REQUESTED:** This PI is issued to modify program requirements included in 15-PI-08, issued May 21, 2015. AAAs must review this PI, paying particular attention to modified program requirements that are bolded within this directive.

AAAs must certify that they will use the Direct Care Worker program funds to provide up to 2% salary and related fringe benefit increases to direct care staff and direct support professionals. AAAs must complete specific claim forms, as outlined below, to request reimbursement for these expenditures. AAAs must also ensure that contract agencies who wish to be reimbursed from Direct Care Worker Program funds provide the same certification and documentation. Salary increases that took effect on or after 1/1/14 are eligible to use as a basis for claiming reimbursement under the Direct Care Worker Program.

**RESPONSE DUE DATE:** AAAs must submit completed certifications for the AAA and all appropriate contractors, with original signatures, by **March 31, 2016. (AAAs that have previously submitted these documents do not need to re-submit.)**

Final claims for reimbursement under the 2014-15 Direct Care Worker Program must be submitted for payment by **March 31, 2016.** Final claims for the Direct Care Worker Program for subsequent State Fiscal Years will follow NYSOFA vouchering procedures for State funded programs; see 08-PI-03. In accordance with those procedures the final claim for the 2015-16 Direct Care Worker Program is due at NYSOFA June 30, 2016.

**PURPOSE:** To communicate requirements that govern the use of \$930,000 appropriated in the 2014-15 Enacted Budget for the purpose of providing salary and salary-related fringe benefit increases for Direct Care Staff, Direct Support Professionals, Clinical Staff, Foster Parents and Adoptive Parents (hereinafter referred to as simply “direct care workers”). As described below in the background section of this Program Instruction, the 2014-15 Direct Care Worker Program will fund up to 2% of salary and salary related fringe benefit increases for direct care workers that became effective on or after 1/1/14. The allocation schedule for the 2014-15 Direct Care Worker Program previously transmitted with 15-PI-08 is attached for your reference.

The 2015-16 enacted State Budget also includes \$7,400,000 to continue to fund up to 2% of the salary increases as described below in the background section of this Program Instruction. The allocation schedule for the 2015-16 Direct Care Worker Program was included in 15-PI-15 which transmitted the final 2015-16 State Program allocations. A copy of that allocation schedule is attached for your reference.

**BACKGROUND:** Part I of Chapter 60 of the New York State Laws of 2014 (copy is attached) requires the Director of the Office for the Aging to develop standards that require a local government or provider agency that receives funding under the Direct Care Worker Program to develop a plan of implementation to ensure that AAA and contractor direct care workers, as appropriate, receive up to a 2% salary increase effective on 1/1/15 and a second salary increase up to 2% effective on 4/1/15. For the 1/1/15 to 3/31/15 period, subject to the availability of funds, AAAs may be reimbursed for up to 2% of AAA and contractor direct care workers salary and salary-related fringe benefit increases that became effective on or after 1/1/14. For the 4/1/15 to 3/31/16 period, subject to the availability of funds, the 2% direct care worker raises or salary related fringe benefit increases paid out of 2014-15 funding during the period of 1/1/15 to 3/31/15 will continue to be funded through 3/31/16 and in addition, any direct care worker raises or salary related fringe benefit increases, up to 2%, that began on or after 1/1/15 and that are paid during the period 4/1/15 to 3/31/16 will also be reimbursed.

AAA's may request reimbursement for up to 2% salary increases and the salary-related fringe benefit increases for all direct care staff and direct support professionals paid under ANY State or Federal funding stream. For example, salary increases for Case Managers funded under either Title III-B or EISEP are eligible for reimbursement under these funds. Attached to this PI is a schedule that breaks down the local awards and shows the value of direct care staff and direct support professionals salary and salary-related fringe benefits that each AAA's award can be used for the period from 1/1/15 to 3/31/15.

Under the terms of the statute, each local governmental unit or direct contract provider receiving this funding must submit a written certification attesting that the funding received will be used solely to support salary and salary-related fringe benefit increases for direct care workers. NYSOFA is requiring each AAA and each AAA contractor that wishes to be reimbursed for direct care worker salary and salary-related

fringe benefit increases to submit the attached “CERTIFICATION PURSUANT TO PART I OF CHAPTER 60 OF THE LAWS OF 2014” to NYSOFA. When claiming under this program, AAAs must submit the attached Direct Care Worker Program Claiming Addendum Form in order for NYSOFA to reimburse these expenditures (see “Application” and “Claiming” below).

**No precedence over local Labor/Management agreements:** The laws governing this program are not intended to override, supersede or otherwise change any collective bargaining agreements and/or other Labor/Management agreements that are entered into by Aging Network Organizations. If workers were not or are not receiving raises effective on or after January 1, 2014 then the AAA or its contractors funded under the Direct Care Worker Program may not claim reimbursement for those staff.

**Identifying Direct Care Workers:** While the Aging Network may not utilize all of the types of staff mentioned in the statute, the NYS Division of the Budget has defined “Direct Care Staff, Direct Support Professionals, Clinical Staff, Foster Parents and Adoptive Parents” as any paid staff whose job can be accurately correlated to the 100, 200 or 300 series of jobs listed on Appendix R of the New York State Consolidated Fiscal Claiming and Reporting Manual. A copy of Appendix R is attached to 15-PI-08 and a listing of the same positions and position code numbers are included in the Excel file that is to be used for claiming under this program. AAAs and their contractors must look at the job descriptions of their staff to see if the duties performed are consistent with job titles for Direct Care Workers that are included in this list.

**Certification:** By statute, in order to access the funding, AAAs and their contractors must complete the attached “Certification Pursuant to Part 1 of Chapter 60 of the Laws of 2014.” **The certification requires each AAA or AAA contractor ensure that the applicable County Legislature, Board of Supervisors, Board of Directors or other applicable governing body approve a resolution attesting that the funding received will be used solely to support salary and salary-related fringe benefit increases for direct care staff, direct support professionals, clinical staff, foster parents and adoptive parents.**

**Application:** The application for these funds will consist of the following:

- Chief Executive Officer certification form (“CERTIFICATION PURSUANT TO PART I OF CHAPTER 60 OF THE LAWS OF 2014”) for your AAA;
- Chief Executive Officer certification form (“CERTIFICATION PURSUANT TO PART I OF CHAPTER 60 OF THE LAWS OF 2014”) for each of the Contractors that will seek reimbursement for costs eligible under the program;

If any AAA has difficulty obtaining documentation from any contractor, do not hold up your submission of the AAA’s and other Contractor’s documentation. NYSOFA will issue NGAs but will not reimburse for specific contractor costs until the requisite documentation is obtained from each specific contractor and submitted to NYSOFA.

**Claiming:** If the AAA or Contractor have staff who are considered direct care workers as defined in this PI and these staff received increases in salaries or salary-related fringe benefits, the amount of those increases not exceeding 2% may be claimed as expenses under the Direct Care Worker Program as follows:

- For payroll costs beginning January 1, 2015, AAA Contractors with eligible staff as defined in this PI who have submitted the requisite application materials to the AAA (see above) and who have received an increase in salary and/or salary-related fringe benefits may claim reimbursement from the AAA for the portion of the increases in staff salaries and/or salary related fringe benefits that do not exceed 2%.
- For payroll costs beginning January 1, 2015, AAAs with eligible staff, as defined in this PI who received an increase in salaries or salary related fringe benefits, up to 2% over prior payroll costs, will compile reimbursement data for themselves and their contractors to complete the attached “CLAIMING ADDENDUM Pay Raises for Direct Care Workers” and submit the same to NYSOFA with a “CLAIM FOR PAYMENT” form.
- **A worksheet showing detailed information on direct care staff and direct support staff of the AAA and each of its contractors must be completed with each Claim for Payment; a template of this worksheet in MS Excel will be made available on the AAARIN site. The worksheet requires each AAA to list all AAA and contractor staff for whom Direct Care Worker funding will be requested – name, title, base salary or hourly rate prior to wage increase(s). Also included is a column to indicate the employer of the direct care worker – i.e., AAA or contractor’s name.**
- **AAAs must have completed the certification including assurance that the requisite Board resolution has been enacted and have submitted copies of all certifications for both the AAA and all of its contractors prior to reimbursement. AAAs are reminded that similar to other NYSOFA funded programs, all claims for payment for the Direct Care Worker funding must be based on actual expenditures incurred and paid by the AAA or its contractors prior to requesting reimbursement for those expenditures. AAAs and their contractors must maintain detailed back-up to support claims for payment as they will be reviewed as part of NYSOFA Fiscal Assessments.**

Where allowable, AAAs are encouraged to provide up to 2% salary increases for direct care worker staff as well as to encourage contract agencies to provide similar increases to their direct care workers which may then be funded by this discrete funding stream.

**ATTACHMENTS:**

- Certification Pursuant to Part I of Chapter 60 of the Laws of 2014 (1 Page)
- Claiming Addendum – Pay Raises for Direct Care Workers (1 Page)
- 2014-15 and 2015-16 Direct Care Worker allocation schedules (i.e., 15-PI-15 & 15-PI-08, including Bill Language – Part I of Chapter 60 of the Laws of 2014)

**PROGRAMS AFFECTED:**

- |   |   |   |   |                                 |
|---|---|---|---|---------------------------------|
| <input checked="" type="checkbox"/> Title III-B | <input checked="" type="checkbox"/> Title III-C-1 | <input checked="" type="checkbox"/> Title III-C-2 |   |                                 |
| <input checked="" type="checkbox"/> Title III-D | <input checked="" type="checkbox"/> Title III-E   | <input checked="" type="checkbox"/> CSE           | <input checked="" type="checkbox"/> WIN | <input type="checkbox"/> Energy |
| <input checked="" type="checkbox"/> EISEP       | <input type="checkbox"/> NSIP                     | <input type="checkbox"/> Title V                  | <input type="checkbox"/> HIICAP         | <input type="checkbox"/> LTCOP  |
| <input type="checkbox"/> Other:                 |   |   |   |                                 |

**CONTACT PERSON:** Fiscal Team

**TELEPHONE:** 518-473-4808

**New York State Office for the Aging**  
**CERTIFICATION PURSUANT TO PART I OF CHAPTER 60 OF**  
**THE LAWS OF 2014**

Name of Organization: \_\_\_\_\_

Organization's Address: \_\_\_\_\_

Name of Responsible Official: \_\_\_\_\_

Title of Responsible Official: \_\_\_\_\_

Contact Phone Number/Email Address: \_\_\_\_\_

The undersigned hereby certifies and attests to the following pursuant to Part I of Chapter 60 of the Laws of 2014 ("Part I of Chapter 60"):

- The undersigned is the above named official for the above named organization and duly authorized by the organization to provide this attestation and certification on its behalf.
- The funding provided to the above named organization pursuant to Part I of Chapter 60 for the period beginning January 1, 2015 will be or was used solely to provide salary increases and salary-related fringe benefit increases for direct care staff and direct support professionals as defined by the Director of the NYS Office for the Aging (Director) and in accordance with standards prescribed by the Director.
- The funding provided to the above named organization pursuant to Part I of Chapter 60 for the period beginning April 1, 2015 will be or was used solely to provide salary increases and salary-related fringe benefit increases for direct care staff, direct support professional and clinical staff as defined by the Commissioner and in accordance with standards prescribed by the Commissioner.
- Such funding will not be and was not used for any other purpose or expense.
- The County Legislature, Board of Supervisors, Board of Directors or otherwise named Governing Body of the above named organization have approved a resolution attesting that the funding received will be used solely to support salary and salary-related fringe benefit increases for the staff described above.

I understand that my signature represents that I am signing and responding to all certifications and attestations listed above.

Officer's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Signature of Official Named above*

New York State Office for the Aging  
CLAIMING ADDENDUM  
PAY RAISES FOR DIRECT CARE WORKERS

AAA: \_\_\_\_\_

Program: Direct Care Workers

Voucher Period Begin: \_\_\_\_\_

Voucher Period End: \_\_\_\_\_

- A. Value of AAA Staff raises<sup>(1)</sup> included in this claim: \$ \_\_\_\_\_
- B. Value of Salary related Fringe Benefit cost increases<sup>(2)</sup> for eligible AAA Staff included in this claim: \$ \_\_\_\_\_
- C. Value of Contractor Staff raises<sup>(1)</sup> included in this claim: \$ \_\_\_\_\_
- D. Value of Salary related Fringe Benefit cost increases<sup>(2)</sup> for eligible Contractor Staff included in this claim: \$ \_\_\_\_\_
- E. Add items C. and D. \$ \_\_\_\_\_

I certify that the information reported on this form is correct.

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Signature

Title

Date

Footnotes:

1) Raises must be effective on or after January 1, 2014; they must be made within the constraints of standing Labor Agreements; they must be given to eligible staff as defined in 15-PI-08; no more than a 2% increase over the prior salary costs for any individual may be included in the above amounts; and the raise portion of the salary costs may not be incurred prior to January 1, 2015.

2) Fringe Benefit cost increases must be effective on or after January 1, 2014; they must be made within the constraints of standing Labor agreements; they must be given to eligible staff as defined in 15-PI-08; no more than a 2% increase over the prior Fringe Benefit costs for any individual may be included in the above amounts; and the added Fringe Benefit costs may not be incurred prior to January 1, 2015.

**IMPORTANT MANDATORY REQUIREMENT: On the first claim containing expenses for raises to salaries or increased salary related fringe benefits, the AAA must submit the "CERTIFICATION PURSUANT TO PART I OF CHAPTER 60 OF THE LAWS OF 2014" for the AAA and any contractors that are claiming these expenses.**