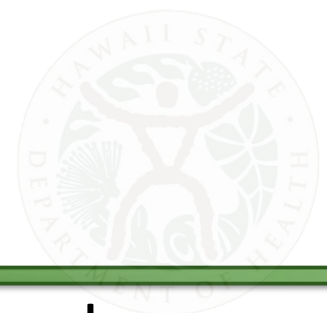




New Federal Requirements for Retainer Payments

Hawaii State Department of Health
Developmental Disabilities Division
July 23, 2020



Appendix K Background

- Used to amend 1915(c) waivers to offer additional flexibility during emergencies
- Subject to federal approval; DDD has had three submittals approved
 - Add flexibility for existing services (e.g., telehealth, location of service)
 - Create new service (Medical Respite)
 - **Establish retainer payments**
 - Add flexibility for administrative requirements



Appendix K Timeline

March 5: Governor declares state emergency

March 13: President declares national emergency

March 27: Hawaii receives approval of initial Appendix K (amended service requirements, allowed use of telehealth, established retainers payments)

May 5: Hawaii receives second approval of Appendix K (amended service requirements, allowed certain services in facilities, Medical Respite, revised day/employment retainers payments)

May 18: Hawaii receives third approval of Appendix K (changed reporting requirements)

June 30: CMS publishes guidance for retainer payments



Background: Purpose of Retainers

- Support providers experiencing revenue losses due to reduced services
 - Ensure participants have programs to return to after the public health emergency
 - Stabilize the direct support workforce
 - Cover certain fixed costs (e.g., program facilities, shared staffing)



Background: Services with Retainers

- ResHab
- Day Services
 - Adult Day Health (ADH)
 - Community Learning Services-Group (CLS-G)
 - Individual Employment Supports-Job Coaching (IES-JC)



New Federal Guidance on Retainers



- Issued on June 30 in the form of frequently asked questions.
 - DDD participated in an all-states call where further clarification was provided and had a separate call directly with CMS to ask additional questions
 - Do not anticipate further formal guidance
- Two major clarifications
 - Retainers subject to several controls (“guardrails”)
 - Retainers limited to three 30-day periods



Guardrails

- Providers must make several attestations regarding any service for which a retainer is claimed
 - Did not receive ‘funding streams’ that ‘duplicate’ retainer payments
 - Did not receive revenue in a calendar quarter that exceeded that service’s revenue in Oct.-Dec. 2019
 - Did not lay off staff or reduce wages
- DDD has developed a form to collect attestations



Guardrails (cont. 2 of 5)

- Attestations only cover retainer payments for periods after June 30
 - Rules are therefore different for retainers for periods before June 30 and retainers after that date
 - Providers may consider applying the guardrails (especially the duplicate payment and maximum revenue controls) to retainer payments for periods before June 30
- If an audit finds non-compliance with any of the attestations, any retainer payments are subject to recoupment





Guardrails (cont. 3 of 5)

- Duplicate uses of available funding streams
 - Providers should not make a claim for a retainer payment for a service during a period in which that service received a 'duplicate payment' from another funding source
 - Other funding streams only cover public funding (local, state, or federal) sources
 - Providers should apply reasonable cost allocation principles to determine benefitting services for funding received from other sources



Guardrails (cont. 4 of 5)

- Excess revenue
 - In any given calendar quarter, a service's revenue from retainer payments and other public funding sources cannot exceed that service's revenue in October through December 2019
 - Providers should apply reasonable cost allocation principles to determine benefitting programs for funding received from other sources



Guardrails (cont. 5 of 5)

- Staff retention
 - To bill for a retainer payment for a service, a provider cannot layoff or reduce the wages of any staff directly involved in that service as of June 30, 2020
 - The requirement that providers maintain at least 75 percent of their pre-Covid payroll will not be a requirement of retainer payments claimed for periods after June 30



Three 30-Day Periods

- Retainer payments limited to three 30-day periods
 - Despite unique and ongoing nature of the pandemic, CMS is firm that this is the maximum available in the initial 12-month period for Appendix K applications
- 30-day periods are defined in terms of billing days, rather than calendar days



Three 30-Day Periods (ResHab)



- ResHab
 - Typically provided every day
 - Billing therefore limited to three 30-day periods
 - Provider should bill the periods that are most advantageous
 - Example (for a participant who already has 21 absences)
 - Participant is absent August 1-9: provider can bill 9 days, first 30-day period ends August 31
 - Participant is absent September 5-15: provider can bill 11 days, second 30-day period ends October 5
 - Participant is absent October 9: provider can bill 1 day, third 30-day period ends November 8
 - Provider cannot bill any further absences

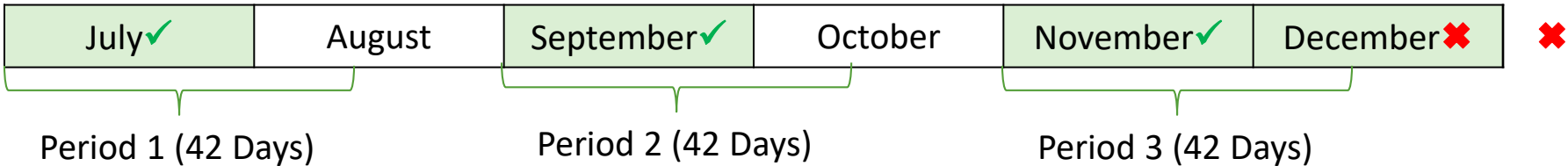
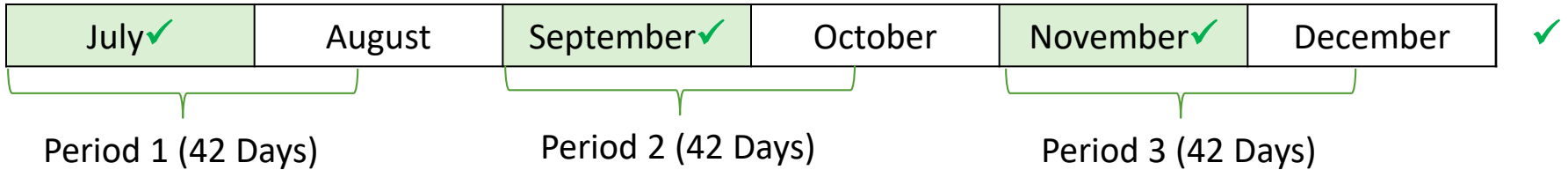
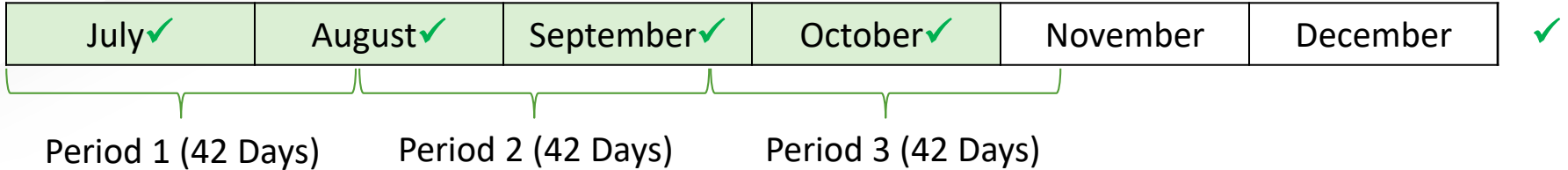


Three 30-Day Periods (Day Services)

- ADH/ CLS-G/ Job Coaching
 - Typically provided five days per week (Job Coaching may be less) so 30 service days are spread over 42 calendar days
 - But, Hawaii's retainer payments cover a 30-day period
 - Providers will have two options and should bill what is most advantageous
 - Bill the retainer for four consecutive months (~120 days covered is within the 126 days that would be covered by three 42-day periods) OR
 - Bill the retainer for any three non-consecutive months



Illustrations of Allowed/ Unallowed Retainer Day Services Billing (Green = Billed Month)



Additional Questions?

Please email -

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