

Response to The Demeuse E-mail

The Question

We recently heard from one of our provider sources that, effective October 1, 2025, the wages in the budgets should not be built based on the PIHP standardized rate. However, the SD Technical Guide clearly states that wages should be built using the PIHP rate, inclusive of insurance, taxes, and related costs.

Is this change accurate? Do you have any information on this? This is the first time I've heard of it.

What the Response Got Right

- The document the questioner referred to as the “SD Technical Guide” is the *Self-Direction Technical Requirement Implementation Guide v2.3* (March 2024).
- The Ms. Demeuse’s response to the question correctly pointed out that the Implementation Guide does not provide for establishment of staff wages directly from the provider rate established by the PIHP.
- The response further correctly quoted the Implementation Guide that “the service cost [under self-determination] must not be less than the contracted, provider rate for the same service for the same level of need for that individual.”

A Couple of Additional Points

- Note that the quoted provision of the Implementation Guide establishes a **floor**, not a ceiling, to the individual SD rate established via the costing out process set forth in Bulletin 25-41.
- Note further that the Implementation Guide, though important, is currently a “best practices” document and is not binding policy. Bulletin MMP 25-41 **is** binding policy, as is the related Bulletin MMP 25-31.

What the Response Got Wrong—Everything Else

- Beyond the limited points made above, virtually everything in Ms. Demeuse’s response to the quoted question was wrong.
- MDHHS has told us it will disavow Ms. Demeuse’s response to the question
- My view – and I hope MDHHS will say this as well – is that the Demeuse e-mail is completely worthless and should not be relied on for any reason whatsoever.

The Main Misinterpretation of MMP 25-41

The limit of the budget is based on those standardized rates that the person would have used if they were not using self-directed services. This means a complete provider rate matching the person's level care at the amount, scope and duration identified in the plan. Once the IPOS is finalized those authorized, medically necessary services are the basis for the top of the budget.

THIS IS JUST PLAIN WRONG

The Main Error–The Old PIHP Rate Is Irrelevant

- the factors listed in Bulletin 25-41 to be considered in setting staff wages and, consequently, SD CLS rates, are all specific to the individual’s efforts to hire and retain staff, whereas a pre-existing provider rate is not.
- Relatedly, the factors listed in the Bulletin all relate to SD staff, not agency provider staff.
- Under MMP 25-41, the “standardized rates that the person would have used if they were not using self-directed services” do not play a role in determining the amount of the budget. The amount of the budget is the sum of three separately defined elements:
 - Staff wages and related employment expense, including such matters as taxes, workers’ compensation, benefits (if offered), Unemployment Insurance, etc.; plus
 - The anticipated costs of the activities and community involvement set forth in the IPOS; plus
 - The anticipated transportation costs incurred in connection with the matters set forth in the IPOS.

No Pre-Set Maximum

- Bulletin 25-41 does not provide for a pre-determined maximum budget amount or maximum CLS rate, and neither does the Implementation Guide.
- Any effort to apply a pre-determined maximum rate for SD CLS under the HSW would be contrary to at least the provisions of Bulletins 25-31 and 25-41 and the MPM on the next slide

What a Pre-Set Maximum Would Violate

- MPM §2.5D, relating to “pre-set limits of the cost . . . of services” and the requirement of the same section that “determination of the need for services shall be conducted on an individual basis.”
- The requirement of Bulletin 25-41, p.2, that the budget shall be “sufficient to implement the IPOS.” Sufficiency is an inherently fact-based determination to be made on a case-by-case basis with regard to each individual’s circumstances. Even if some form of pre-determined maximum were otherwise authorized (it is not), it would have to give way to the individualized determination of sufficiency that must be made in each instance.
- The requirement that the budget be set “during the PCP process” (Bulletin 25-41, p.1). Under Bulletin 25-31 (at p. 2), “PIHP decisions, specifically including utilization management, **will not replace the PCP process.**” Use of a pre-set maximum CLS rate would “replace” the PCP process with a “PIHP decision” and thus cannot be part of budgeting under Bulletin 25-41.