



GWY.9 DBF
CHEROKEE NATION®
FINANCIAL RESOURCES



To: CN Coronavirus State and Local Fiscal Recovery Funds – Documentation of Uses
From: Janees Taylor, Treasurer
Date: September 9, 2021
Re: Premium Pay Justification

This memo documents the use of the Cherokee Nation's (CN) Coronavirus State and Local Fiscal Recovery Fund (as provided under Title IX of the American Rescue Plan Act) for the payment of Premium Pay to Cherokee Nation employees. As required according to the Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) Interim Final Rule, these payments will be issued to workers who are relied on to maintain a continuity of operations in essential critical infrastructure sectors including healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services, as well as those providing vital government services critical to protecting the health and wellbeing of our tribal citizens. This Premium Pay is entirely additive to these workers' regular wages and in no instance is used to reduce or substitute for normal earnings. In some cases, Premium Pay will increase a worker's annual pay above 150 percent of the eligible worker's residing State's average annual wage. However, service of our citizens is considered a vital and essential service, and the workers who provided and continue to provide this service at a risk to their own personal health and safety through in-person contact and the handling of things handled by others are deserving of a payment that is considered a premium, but that is still fair, reasonable, and appropriate.

The Cherokee Nation developed a COVID-19 Safety Premium Pay Policy that outlines guidelines for both the retrospective lump sum payment and any further potential monthly payments. The policy is a stringent one that follows the guidance provided in the CSLFRF Interim Final Rule and states:

COVID-19 Safety Premium Pay will be provided to all departments within Cherokee Nation tribal government when community spread of the COVID-19 virus reaches thresholds described further in this document. The effective date of the Premium Pay shall be June 1, 2020 to December 31, 2024 or until funds are expended. This means employees will get retroactive pay and those Health employees, previously compensated for Premium Pay from June 2020 to December 2020 shall only be compensated for premium pay periods beginning January 1, 2021 to December 31, 2024.

Both the Retrospective Lump Sum and future Premium Pay payments will be based on the following risk-creating criteria:

- 1) *The Cherokee Nation Health System's seven-day average of total positive cases is greater than 50; and*
- 2) *The Cherokee Nation Health System's seven-day average positivity rate is greater than 10%.*

Premium Pay will be processed monthly, but calculated on a weekly basis using the criteria above. The weekly data will be evaluated on Sunday through Saturday. If the criteria is met, at any time during the week, the weekly amount will be paid. The Office of the Treasurer will provide an employee list monthly to each Executive Director. Each Executive Director will complete the spreadsheet and supply the listing to Financial Resources staff for processing.

Tribal administration outlined the following eligibility requirements:

- 1) *Cherokee Nation employee must be an "active" status employee in the tribe's Human Resources system at the time of payment processing.*
- 2) *Employee must be actively working during a work week (described above) to be eligible.*
 - a. *Employees must NOT be on a Leave of Absence nor placed on Administrative Leave for the entire week.*
 - b. *Employees will be considered active when coding time to Annual Leave, Sick Leave, Mental Wellness or Holiday Leave, unless on leave status for the entire week.*

Fair, reasonable, and appropriate Premium Pay Levels were developed according to eligibility guidelines in the Interim Final Rule and are based on a tiered system:

Level 1: *(Most at Risk) Direct Care Workers \$275 per week (estimated \$1,100 monthly)*

Level 2: *(Elevated Risk) Onsite Workers \$175 per week (estimated \$700 monthly)*

Level 3: *(Moderate Risk) Some onsite/some work from home \$75 per week (estimated \$300 monthly)*

Level 4: *(No Risk) Strictly working from home or on leave the entire week \$0*

The levels are further defined in the policy:

Level 1 (Most at Risk): *Employees working in the following departments who come in direct contact with patients or children under 12 years of age:*

HEALTH CARE: Employees involved in direct patient care, including but not limited to; Emergency Department, Urgent Care, Intensive Care Unit, Med/Surge, Labor & Delivery, Surgery, Respiratory Therapy, Laboratory staff, and Radiology staff. Others considered as

level 1 are housekeeping staff conducting terminal cleans, employees working in the Mab Clinic, employees working drive thru testing and EMS staff responding to calls.

CHILD CARE: In-classroom childcare providers in direct contact with children under 12 years of age, including Head Start/ECU, Child Development Center, Immersion School Teachers and support staff.

Level 2 (Elevated Risk): *scheduled to work onsite everyday but not deemed a “Most at Risk Direct Care Employee” as defined above.*

Level 3 (Moderate Risk): *Employees that work from home and onsite as part of regular schedule*

Level 4 (No Risk): *Employees on telework or leave status for the entire week will not receive any Premium Pay for that week. Employees who are not working onsite or who are on any leave status, or a combination of both, for the full week do not qualify. Employees must have worked onsite during the week to receive premium pay for that week.*

While, in some cases, Premium Pay will increase a worker’s annual pay above 150 percent of the eligible worker’s residing State’s average annual wage, these payments are distributed in a fair and equitable manner based on the risk exposure of the employee. When it is taken into account that services provided by a tribal government to assist its citizens are essential, the payments are based on risk exposure, and that the majority of recipient employees can also be assumed to be members of disproportionately impacted communities characterized by their minority and low-income populations, it is clear that Cherokee Nation Premium Pay payments meet the guidelines for allowable use of the Coronavirus State and Local Fiscal Recovery Fund.