

**DOH RESPONSE TO COMMENTS  
TO THE  
TEMPLATE LHCSA AMENDMENT**

Generally: These templates were drafted at the request of the MLTC plan trade associations and are solely to be used as an optional tool to assist plans who are getting started with VBP contracting.

- Use of the templates in any form is not mandatory.
- If the templates are used, they may be modified.
- The templates are not to be considered guidance.
- The templates are not intended to be inclusive of every possible VBP contracting arrangement between the parties.

**I. DEFINITIONS**

- One commenter suggested that the templates add certain definitions, including Attributed Enrollee, OQPS and Aggregated Provider.
  - *Response:* The definitions of Attributed Enrollee has been added. The definitions of OQPS and Aggregated Provider have not been added because they are not terms used in these optional templates. Plans and providers may add definitions and negotiate the specific terms relating to their contracts.
- With respect to the definition of “MLTC Level 1 VBP Arrangement,” several commenters noted that this template should be tied to the financial levels that actually materialize and that obligations not exceed the specific funding provided.
  - *Response:* MLTC Level 1 VBP Arrangements are a performance bonus agreement, the terms of which are negotiated by plans and providers. The Department neither prohibits nor mandates the negotiation of financial terms that exceed any stimulus funding related to VBP implementation.
- Also in the definition of “MLTC Level 1 VBP Arrangement,” one commenter requested a statement that approaches to improve outcomes and reduce costs may continue outside of an arrangement that constitutes an MLTC Level 1 VBP Arrangement.
  - *Response:* These templates were drafted at the request of the MLTC plan trade associations and are solely to be used as an optional tool to assist plans who are getting started with VBP contracting. Such a statement is not required in this tool. These templates are not to be considered guidance.

**II. MEASURES**

- One commenter said that the reference to Category 1 MLTC VBP measures, other than the PAH measure, is confusing.
  - *Response:* For MLTC, the PAH measure is a required pay-for-performance measure in VBP contracts. Other Category 1 and 2 measures can be selected and used at the discretion of the contracting parties.
- One commenter requested that the Department further define and clarify Measurement Years and how they form the basis of payments.
  - *Response:* Such guidance will be coming shortly through a webinar hosted by the Department’s Division of Finance and Rate Setting.

- One commenter noted that the Department’s calculation of the PAH that is provided to MCO semi-annually should be “visible.” Another commenter requested that the calculation be provided to both MCOs and providers.
  - *Response:* The Department will calculate each Category 1 measure, based on attribution files submitted to the Department by the MCO, and will provide such calculations to the MCO semi-annually. The contracting parties may negotiate whether and how to share this data.

### III. VALUE BASED PAYMENT

- A few commenters suggested that incentive payments be used to reward both performance improvement and performance maintained, so as to reward and incentivize those already maintaining high performance.
  - *Response:* Setting of performance levels is at the discretion of the contracting parties and is not mandated by the Department. To the extent that the heading “Measure of Improvement” in the tables was being construed as unnecessarily limiting, the tables have been revised to simply list “Measurement Criteria.” These templates are not mandatory and may be modified. The templates are not intended to be inclusive of every possible VBP contracting arrangement between the parties. The templates are not guidance documents.
- Similar to the above, one commenter asked for clarification of the reference to a provider receiving a performance payment in the event the provider’s PAH measurement has “improved.”
  - *Response:* We agree that plans and providers can agree to a performance payment based on performance maintained rather than improved. We have changed this term to allow for more flexibility.
- One commenter said that the option for smaller LHCSAs to contract with a lead LHCSA theoretically makes sense but will be hard to achieve and some LHCSAs may not want to take this route. This commenter did acknowledge that this approach is just one option.
  - *Response:* No changes are needed based on this comment. The use of this option is not mandatory. This proposed arrangement, however, is closer to the natural progression into collaborative arrangements that Levels 2 and 3 of VBP will bring.
- Two commenters suggested that another approach for aggregation of smaller providers could be to measure smaller LHCSAs against either a statewide average or a plan-wide average. Other commenters suggested different approaches.
  - *Response:* The Department has included more than one approach in this template. Neither approach is mandated. The Department agrees that there are many other approaches plans and providers may take and encourages plans to be innovative. The statewide average is published annually as part of MLTC reporting; it is not risk adjusted.
- Several commenters asked for a fixed point in time to determine whether a provider is above or below the threshold of servicing 30 members.
  - *Response:* Attribution of members must be made in accordance with the instructions given by the Department. Additional terms, such as setting a fixed point in time for determinations, may be negotiated by the contracting parties. The PAH measurement will be calculated twice per year.

- One commenter asked why the Department determined 30 members to be the threshold for aggregation.
  - *Response:* It has been DOH policy not to report rates for plans with fewer than 30 eligible members in the reporting of quality measures for Mainstream Managed Care and Managed Long Term Care, as variation and outlying results are difficult to interpret with low enrollment.
- One commenter asked whether CDPAS/FI members will be excluded from the attribution.
  - *Response:* At the current time, attribution is to LHCSA, CHHA and SNF only.
- One commenter requested clarity regarding how funds for VBP arrangements are expected to flow and how this will be communicated to LHCSAs and CHHAs.
  - *Response:* Such guidance will be coming shortly through a webinar hosted by the Department’s Division of Finance and Rate Setting.
- One commenter had concerns with including the Department’s baseline because it has not yet been shared with plans. Other commenters had questions about how the baseline is calculated.
  - *Response:* The Department is still on track to release the baseline measure in October. The PAH measure has been utilized in the MLTC Quality Initiative and the methodology for calculation will not change, except that it will be provided to plans on the provider level based on attribution.
- One commenter asked how baseline performance for new LHCSAs will be determined if they were not included in the baseline attribution file.
  - *Response:* The Department does not mandate any particular method. The plan and the provider could use the statewide average as a benchmark of performance or some other agreed upon number negotiated by the contracting parties.
- One commenter asked whether VBP would be prorated based on length of time services were provided during the Measurement Year, and how the allocation of money would be determined.
  - *Response:* These are terms to be negotiated by the contracting parties. The Department does not mandate these terms.
- Two commenters were confused by the definition of the MLTC Quality Incentive, which includes a withhold from plan premiums, when the bonus amount of a VBP arrangement is to be negotiated by the contracting parties.
  - *Response:* The MLTC Quality Initiative is defined because it is a term used in the template with respect to measures. Category 1 MLTC VBP measures for Measurement Years 2017 and 2018 are selected from the existing MLTC Quality Incentive. This is discrete from an MLTC Level 1 VBP Arrangement, which is a performance bonus agreement between the contracting parties. We have revised the definition of MLTC Quality Initiative in an effort to avoid confusion.
- One commenter objected to the subsection stating “*Future Comparisons for Individual MLTC Level 1 VBP Arrangements.* Each measurement that is compared against the baseline PAH measurement becomes the baseline measurement for the next comparison.”
  - *Response:* These templates were drafted at the request of the MLTC plan trade associations and are solely to be used as an optional tool to assist plans who are getting started with VBP contracting. Use of the templates is not mandatory and this language is not mandatory. This language is illustrative of how an MCO and

a LHCSA may choose to implement a VBP arrangement. These templates are not guidance. Plans and providers may negotiate the specific terms of their VBP arrangements.

- One commenter stated that it is unclear whether the plan or the provider would choose the option in Section III(C)(d).
  - *Response:* As with any other term in a participating provider agreement, plans and providers are expected to negotiate and agree. The Department has included more than one approach in this template. Neither approach is mandated. The Department agrees that there are many other approaches plans and providers may take and encourages plans to be innovative.