

BUSINESS IN

2022

WEEKLY WEBINAR SERIES

2023

2021

2020

2019



BOND

**SCHOENECK
& KING** ATTORNEYS

Your Host



Gabriel S. Oberfield

Senior Counsel

goberfield@bsk.com

New York, NY

TODAY'S AGENDA

Gabe Oberfield – (12:00PM-12:10PM)

- Intros / Agenda
- COVID and Other Public Health Updates
- Primary Day in New York State

Stephanie Fedorka (12:10PM-12:20PM)

- NY HERO Act Update - Emergency Rulemaking/Update on Regulations

G. Oberfield – (12:20PM-12:30PM)

- Updates on the Healthcare Worker Bonus Program

Liz Morgan – (12:30PM-12:40PM)

- Updates on Employee Retention Tax Credits

G. Oberfield – (12:40-12:45PM)

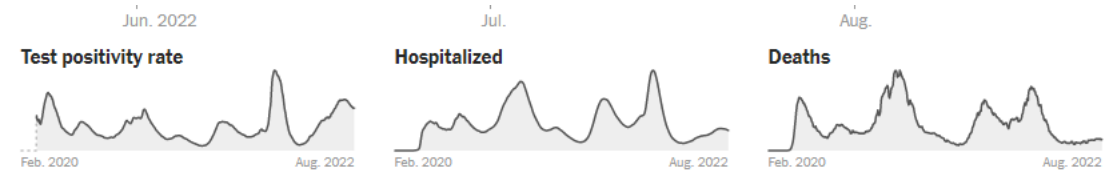
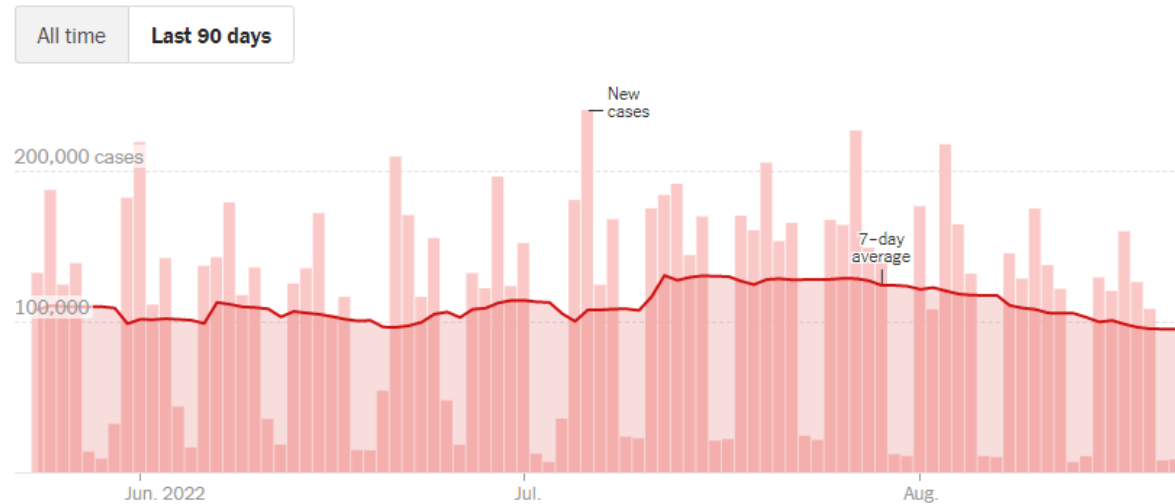
- Fielding open questions and final remarks / adjourn

COVID Infection Trends & Information

Today's COVID Picture, Nationally

Source: New York Times

New reported cases

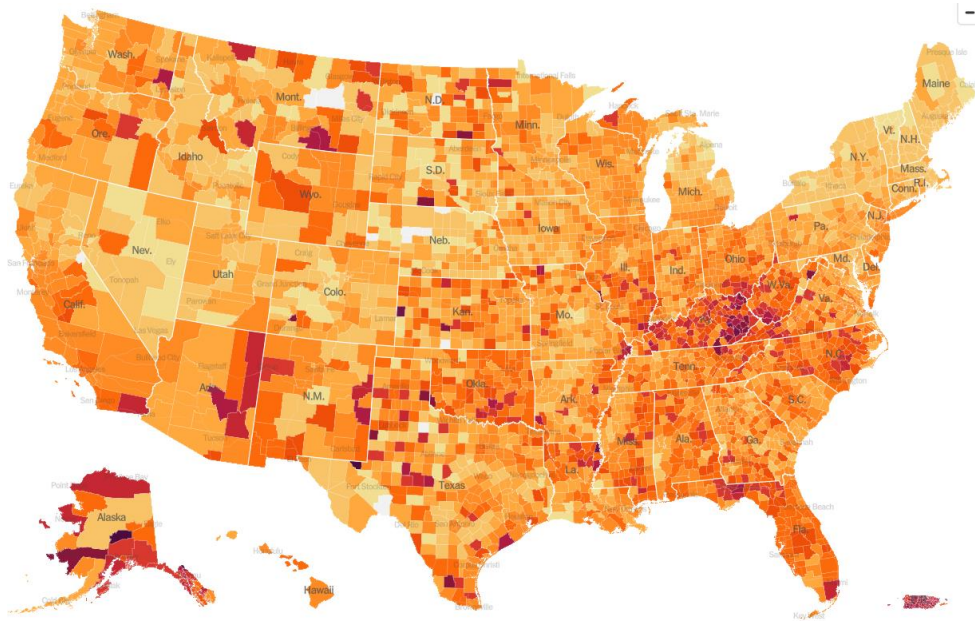


	DAILY AVG. ON AUG. 21	14-DAY CHANGE	TOTAL REPORTED
Cases	95,156	-19%	93,327,201
Test positivity	15%	—	—
Hospitalized	40,375	-7%	—
In I.C.U.s	4,767	-4%	—
Deaths	460	-7%	1,036,368

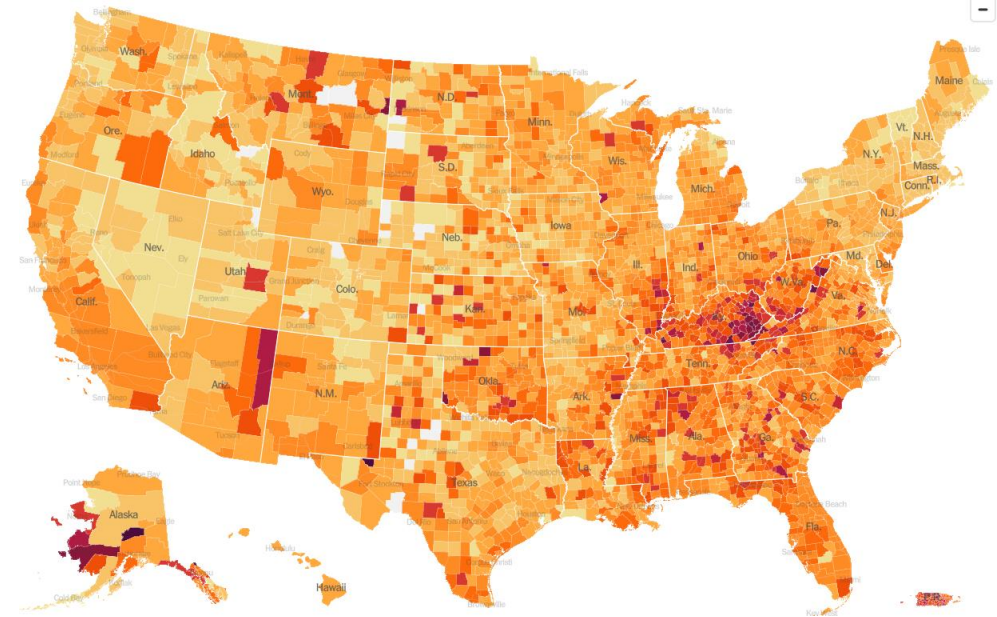
A (continuing) dip in the climb...

Today's COVID Hotspots

Source: New York Times



As of August 9, 2022

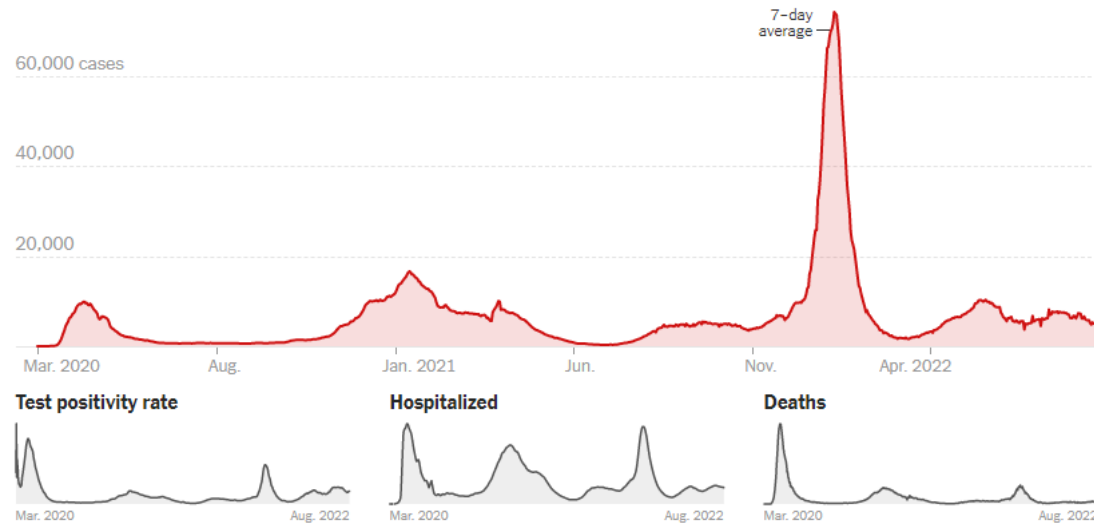


August 23, 2022

The slight downward trend continues...

Today's COVID Picture, in New York State

Source: New York Times



- Average daily caseload statewide has **dropped 32 percent** over a two-week period
- **Recommendations** concerning indoor masking remain in place

	DAILY AVG. ON AUG. 21	14-DAY CHANGE	TOTAL REPORTED
Cases	4,927	-32%	5,928,033
Test positivity	10%	—	—
Hospitalized	2,786	-7%	—
In I.C.U.s	270	-1%	—
Deaths	22	-29%	70,130

Two-Week Differentials in New York

Source: New York Times

August 9, 2022

	CASES DAILY AVG.	PER 100,000	14-DAY CHANGE	TEST POSITIVITY	HOSPITALIZED AVG. PER 100,000	14-DAY CHANGE	DEATHS DAILY AVG.	PER 100,000
New York	6,150	32	-16%	13%	15	-6%	26.7	0.14
New York City ›	3,565	43	-18%	14%	19	Flat	17.0	0.20
Nassau ›	462	34	-28%	14%	36	-1%	1.3	0.09
Sullivan ›	25	33	+29%	16%	15	+40%	0	—
Orange ›	124	32	-14%	15%	14	+27%	0.3	0.07
Rockland ›	103	32	-11%	14%	8	-13%	0.4	0.11
Suffolk ›	453	31	-23%	13%	19	-4%	1.1	0.08
Warren ›	19	29	+10%	10%	12	+50%	0.1	0.22
Westchester ›	281	29	-18%	14%	18	Flat	0.9	0.09
Fulton ›	14	26	+71%	21%	12	+164%	0.1	0.21
Putnam ›	24	25	-7%	14%	11	-1%	<0.1	0.07

August 23, 2022

	CASES DAILY AVG.	PER 100,000	14-DAY CHANGE	TEST POSITIVITY	HOSPITALIZED AVG. PER 100,000	14-DAY CHANGE	DEATHS DAILY AVG.	PER 100,000
New York	4,927	25	-32%	10%	14	-7%	22.0	0.11
New York City ›	2,647	32	-34%	11%	16	-22%	13.4	0.16
Sullivan ›	24	31	-8%	4%	15	-5%	0.1	0.19
Fulton ›	16	31	+30%	27%	10	+52%	0	—
Nassau ›	381	28	-19%	12%	33	-10%	0.9	0.06
Orange ›	103	27	-17%	9%	14	-6%	0.3	0.06
Suffolk ›	388	26	-18%	11%	20	+6%	1.6	0.11
Oswego ›	29	25	+25%	18%	12	+33%	0	—
Rockland ›	79	24	-26%	2%	10	+8%	0.1	0.03
Jefferson ›	26	24	+56%	13%	7	+7%	0.1	0.09
Montgomery ›	12	24	+24%	28%	6	-14%	0.1	0.25

Monkeypox ... Where We Are Now

Sources: New York Times, HHS.gov, nyc.gov, & cnn.com

Mayor Adams Declares Monkeypox State of Emergency in New York City

August 1, 2022

NEW YORK – New York City Mayor Eric Adams today issued an emergency executive order declaring a local state of emergency due to the monkeypox outbreak and released the following statement:

"As the monkeypox outbreak continues to grow in New York City and across the country, I am today issuing an emergency executive order declaring a local state of emergency. New York City now has over 1,200 reported cases, approximately 25 percent of cases nationally, and we are continuing to see the numbers rise. This order will bolster our existing efforts to educate, vaccinate, test, and treat as many New Yorkers as possible and ensure a whole-of-government response to this outbreak in partnership with federal, state, and local officials we will continue to respond with the urgency required to keep people safe and this order is another tool to help us do so."

health Life, But Better Fitness Food Sleep More

For the first time, monkeypox has been reported in a minor in New York state

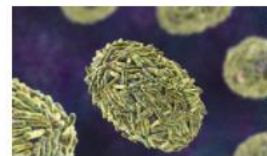
By Samantha Beech and Isa Kaufman Geballe, CNN
Updated 3:20 PM ET, Sun August 21, 2022



Dr. Sanjay Gupta clears up confusion surrounding monkeypox 02:00

(CNN) — A minor in New York state has reportedly contracted monkeypox -- a first among children in the state and at least the third reported case of the disease among children in the US.

The child lives in New York but not in New York City, according to state health department data released last week. The data does not list the child's gender, city of residence nor how the minor became infected.



New York Department of Health spokesperson Monica Pomeroy said she was not able to disclose the minor's age.

"In instances where the number of cases is small, patient confidentiality prohibits the Department from disclosing this information," Pomeroy said.

Related Article: What is monkeypox? Symptoms, risk factors, treatment and how the virus is spread

FOR IMMEDIATE RELEASE
August 4, 2022

Text Resize A A A Print Share

Biden-Harris Administration Bolsters Monkeypox Response; HHS Secretary Becerra Declares Public Health Emergency

U.S. Department of Health and Human Services Secretary Xavier Becerra announced today that he will declare the ongoing spread of monkeypox virus in the United States a Public Health Emergency (PHE). This action will further strengthen and accelerate the Biden-Harris Administration's response in recognition of the continued rapid transmission of monkeypox in the U.S. and globally, and to signal the seriousness and urgency with which the Administration is responding. The announcement comes on the heels of President Biden appointing Robert Fenton of the Federal Emergency Management Agency as White House National Monkeypox Response Coordinator and Dr. Demetris Daskalakis of the Centers for Disease Control and Prevention as White House National Monkeypox Response Deputy Coordinator.

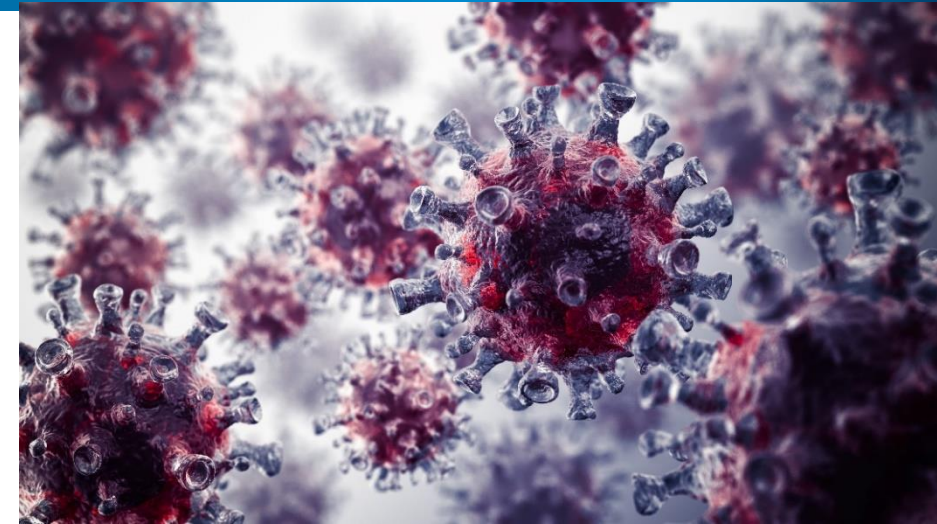
Contact: HHS Press Office
202-690-6343
media@hhs.gov

- Monkeypox has begun to branch into communities across the state – including a child with a confirmed infection.
- This will have implications for the start of the school year, etc.
- College campuses are preparing...
- Gov. Hochul issues remarks on Monday concerning high schoolers.

And Concerning Polio...

Source: *New York Times*

- Evidence of community spread in NYS counties (primarily lower Hudson Valley)
- DOH and other health officials monitoring closely, in the context of vaccination numbers in related communities
- DOH Commissioner pens NYT guest essay, “**Even a Single Case of Polio Is a Threat**”



You are Here: [Home Page](#) > [2022 Press Releases](#) > New York State Department of Health and Rockland County Department of Health Alert the Public to A Case of Polio In the County

New York State Department of Health and Rockland County Department of Health Alert the Public to A Case of Polio In the County

Rockland County Community Members Can Schedule a Vaccine [Here](#)

ALBANY, N.Y. (July 21, 2022) – The New York State Department of Health (NYSDOH) and the Rockland County Department of Health today alerted the public to a case of polio in a Rockland County resident. State and County health officials are advising medical practitioners and healthcare providers to be vigilant for additional cases.

As the polio vaccine continues to be included on the Centers for Disease Control and Prevention's (CDC) [standard child immunization schedule](#), those already vaccinated are considered to be at lower risk. Notably, the polio vaccine is part of the required school immunization [schedule for all children](#), and therefore school-age children are vaccinated before they start school. However, individuals who are unvaccinated, including those who are pregnant, those who have not completed their polio vaccine series previously, or community members who are concerned they have might have been exposed, should get vaccinated by Rockland County – who will be hosting local vaccine clinics – or partnering health agencies and providers in the area. Individuals who are already vaccinated but are at risk of exposure should receive a booster.

"Based on what we know about this case, and polio in general, the Department of Health strongly recommends that unvaccinated individuals get vaccinated or boosted with the FDA-approved IPV polio vaccine as soon as possible," **State Health Commissioner Dr. Mary T. Bassett said.** "The polio vaccine is safe and effective, protecting against this potentially debilitating disease, and it has been part of the backbone of required, routine childhood immunizations recommended by health officials and public health agencies nationwide."

Inflation Reduction Act of 2022

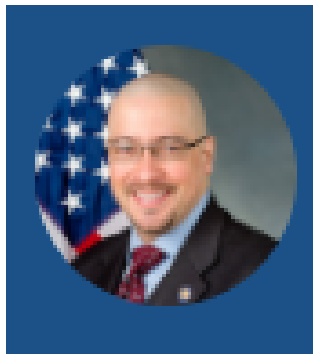
Source: [Whitehouse.gov](https://www.whitehouse.gov)

- Signed Into Law by President Biden, August 2022
- Some key attributes
 - Energy and Climate Provisions
 - \$27 billion in ‘Greenhouse Gas Reduction’ funding
 - Prescription Drug Pricing
 - Medicare program permitted to negotiate elements of drug pricing
 - Some cost capping permitted (primarily in Medicare)
- ***Bond will continue to study client implications...***



It's Primary Day...and Special Election Day

Sources: [Twitter.com](https://twitter.com) (Molinaro official site), [House.gov](https://www.house.gov) and [nysenate.gov](https://www.nysenate.gov)



- **Census-driven redistricting has shifted boundaries and shaped competition**
- **Elections across the State for Congress**
 - Key races in New York City
 - 10th (southern Manhattan and Brooklyn) and 12th congressional district (Rep. Nadler vs. Rep. Maloney)
 - NYT endorsements for Goldman and Nadler, respectively
 - Open seats for special election
 - Marc Molinaro (former gubernatorial candidate)
 - the seat vacated by Lt. Gov. Delgado
- **And competitive State primaries**
 - E.g., current chair of the Senate Health Committee, Gustavo Rivera



NY HERO Act Update



Stephanie H. Fedorka

Associate

sfedorka@bsk.com

Syracuse, NY

Aug. 17, 2022 – Proposed Final Regs/Emergency Rulemaking

- **Removal of reference to “COVID-19”** – More general, applicable to other diseases in future
- **Verbal Review** – Adds that verbal review of the Plan, policies, and employee rights under this part of the NY HERO Act must be conducted with “newly hired employees upon hiring and all other employees as soon as practicable upon the activation of the exposure prevention plan”
- **Exposure Control Measures** - With respect to the plans include control measures including health screenings, face coverings, physical distancing, cleaning/disinfection, and PPE, the language in the updated/revised regulations appears to remove the specific control measures and instead incorporates
 - Cross references requirements and compliance with state or federal laws or regulations relating to the airborne infectious disease at issue, including those adopted pursuant to the law itself, subtitle A of Title 9 (Governor’s Executive Orders) and Title 10 (Department of Health) of the NYCRR, and “any applicable guidance issued by the State Department of Health or CDC.”
- **PPE** – Clarifies that employers must determine and implement appropriate plan for ensuring employees are provided with and properly utilize PPE in accordance with any state/federal law or regulations related to the disease at issue, including those under the Governor’s Executive Orders and Department of Health regulations, and applicable CDC guidance.

Reminders – NY HERO Act

- Even when no designation, employers must still:
 - Have/create AIDEPP
 - Give copy to employees within 30 days of creating Plan
 - Give copy of written plan to new employees upon hire
 - Post plan in each worksite
 - Update plan as necessary
- Stay up to date on guidance
- No update in template Plans or FAQs at this time
 - FAQs: https://dol.ny.gov/system/files/documents/2022/02/heroact-factsheet-02-14-22_0.pdf

Update on the Healthcare Worker Bonus Program



Gabriel S. Oberfield

Senior Counsel

goberfield@bsk.com

New York, NY

Reminder: Health Care and Mental Hygiene Worker Bonus Program – Open Now, and First Deadline is Sept. 2, 2022

Sources: New York State Dept. of Health and the Office of the Governor

New York State Launches Health Care and Mental Hygiene Worker Bonus (HWB) Program and Submissi...



Medicaid Redesign Team Update List <MRT-L@LISTSERV.HEALTH.STA...
To: MRT-L@LISTSERV.HEALTH.STATE.NY.US

Reply Reply All Forward

Wed 8/3/2022 11:19 AM

External Email: Use caution before clicking links or opening attachments.

Dear MRT Listserv Subscriber,

New York's essential frontline health care and mental hygiene workers have seen us through a once-in-a-century public health crisis that transformed our state into a model for battling COVID-19. As part of the Fiscal Year 2023 New York State Executive Budget legislation, \$1.2 billion has been allocated by Governor Kathy Hochul and the State Legislature via the **Health Care and Mental Hygiene Worker Bonus (HWB) Program** for the payment of bonuses to "recruit, retain, and reward health care and mental hygiene workers" who meet specified eligibility requirements. The official press release can be found at the following link: [Governor Hochul Launches Health Care Worker Bonus Program](#).

This listserv notice is to inform our provider community that the New York State Department of Health, working with the Governor's Office and other state agency partners, has launched the [HWB Program Portal](#) to facilitate submission by eligible employers on behalf of their employees who qualify for bonus payments.

As a next step, all providers are strongly encouraged to visit the following links for more information:

HWB Program Announcement and Information

https://www.health.ny.gov/health_care/medicaid/providers/hwb_program/

HWB Program FAQs

https://www.health.ny.gov/health_care/medicaid/providers/hwb_program/hwb_program_faqs.htm

HWB Program Portal

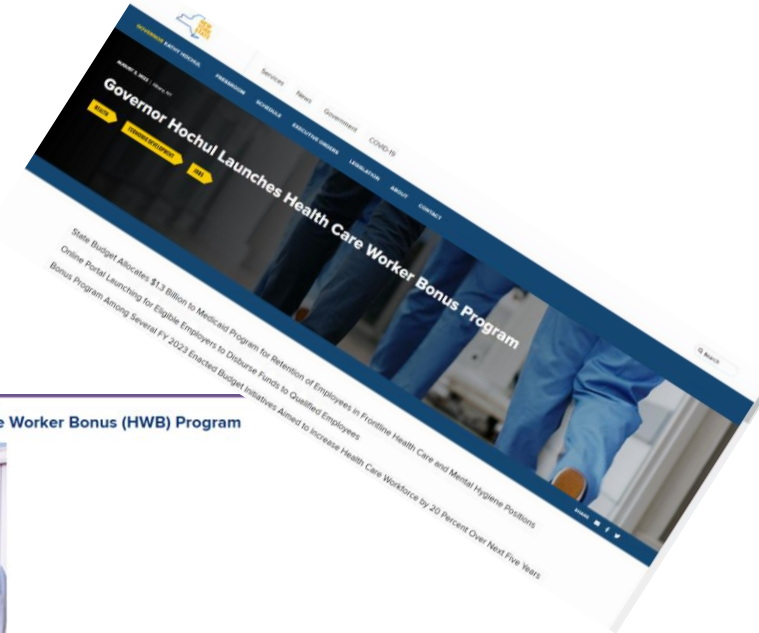
<https://www.nysworkerbonus.com/>

Providers with additional questions may contact the **Health Care Worker Bonus Call Center** at (866) 682-0077 or via email at nysworkersbonus@health.ny.gov.

Thank you.

Medicaid Redesign Team (MRT) Updates

New York State Department of Health
Office of Health Insurance Programs
One Commerce Plaza
Albany, NY 12237
mrtupdates@health.ny.gov



New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program



HWB Program Portal Eligible Worker Titles Frequently Asked Questions (FAQ)

Program Information

New York's essential front line health care and mental hygiene workers have seen us through a once-in-a-century public health crisis and turned our state into a model for battling and beating COVID-19.

To attract talented people into the profession at a time of such significant strain, while also retaining those who have been working so tirelessly these past two years, we must recognize the efforts of our health care and mental hygiene workforce and reward them financially for their service. To do so, as part of the Fiscal Year 2023 New York State Executive Budget legislation, \$1.2 billion in funding has been allocated for the payment of bonuses for certain frontline healthcare workers.

Located within [Part 22 of Chapter 56 of the Laws of 2022](#), the HWB provision allows for the payment of bonuses to "recruit, retain, and reward health care and mental hygiene workers" meeting specified eligibility requirements.

Bonus Program – Its Origins

- Connected to ‘health care worker bonus’ language
 - Approved in SFY 2022-23 State budget
- More than \$1B set aside for envisioned ‘front line’ healthcare worker bonuses
 - Up to \$3K, each – with \$1.5K per vesting period
- An outgrowth of the pandemic
 - Predicated on –
 - Salary – \$125K cap (excluding bonuses and OT) and
 - Role

4. Payment of worker bonuses. (a) Upon issuance of a vesting schedule by the commissioner, or relevant agency commissioner as applicable, employers shall be required to pay bonuses to employees pursuant to such schedule based on the number of hours worked during the vesting period. The schedule shall provide for total payments not to exceed three thousand dollars per employee in accordance with the following:

- (i) employees who have worked an average of at least twenty but less than thirty hours per week over the course of a vesting period would receive a five hundred dollar bonus for the vesting period;
- (ii) employees who have worked an average of at least thirty but less than thirty-five hours per week over the course of a vesting period would receive a one thousand dollar bonus for such vesting period;
- (iii) employees who have worked an average of at least thirty-five hours per week over the course of a vesting period would receive a one thousand five hundred dollar bonus for such vesting period.
- (iv) full-time employees who are exempt from overtime compensation as established in the labor commissioner's minimum wage orders or otherwise provided by New York state law or regulation over the course of a vesting period would receive a one thousand five hundred dollar bonus.

Bonus Program – Employer Elements

- Eligibility:
 - Generally those with linkages to:
 - Medicaid programs,
 - some aligned State programs, and
 - education programs (e.g., medical education – fellows and residents)
- Timing of bonus payments
 - Must be no later than 30 days after receiving State funding for bonus purposes
 - Limitations on employers' ability to 'opt out' (e.g., to avoid administrative hurdles)
 - Penalties dependent on eligible employees
- Attestation requirements

(f) an employer shall be required to submit a claim for a bonus to the department no later than thirty days after an employee's eligibility for a bonus vests, in accordance with and upon issuance of the schedule issued by the commissioner or relevant agency commissioner.

Upon employee vesting, Qualified employers must provide employees with an **Employee Attestation Form** and request this be returned to the employer prior to the claims due date of the claim (i.e., 30 days after vesting).



New York State Health Care and Mental Hygiene Worker Bonus (HWB) Employer Attestation

I, (Insert Name) am the (Insert title Owner/Officer) of (insert Provider/Employer) (the "Employer"), and I am responsible for determining eligibility of the NYS Health Care and Mental Hygiene Worker Bonus ("HWB") for the Employer.

I attest that have read the requirements of section 367-w of the Social Services Law and all guidance, including claiming guidance, pertaining to the HWB. See specific eligibility requirements and claiming guidance available through the HWB webpage: www.nysworkerbonus.com.

I attest that the Employer is a qualifying employer eligible to claim and distribute a HWB as defined in section 367-w(2)(b) of the Social Services Law, and that I have the requisite authority to complete this application and attestation.

I acknowledge that the New York State Department of Health (DOH) requires this Attestation from a qualifying employer before distributing HWB funds.

I attest that the Employer has an **Employee** attestation signed and dated by each employee that am claiming a bonus for in this application for this vesting period.

- The employee attestation at a minimum contains:
 - The employee name;
 - The employee's social security or taxpayer identification number;
 - The employee's attestation as to the amount of the employee's gross waged during the vesting period from ALL employers and contract work;
 - The vesting period applicable to the attestation;
 - A declaration that the employee understands that the document contents are true and accurate and that providing false information may violate State and Federal laws and regulations;
 - The employee's printed name and signature;
 - Date of employee signature.

Bonus Program – Department of Health Resources

New York State Health Care and Mental Hygiene Worker Bonus (HWB) Program



Program Information

New York's essential front line health care and mental hygiene workers have seen us through a once-in-a-century public health crisis and turned our state into a model for battling and beating COVID-19.

To attract talented people into the profession at a time of such significant strain, while also retaining those who have been working so tirelessly these past two years, we must recognize the efforts of our health care and mental hygiene workforce and reward them financially for their service. To do so, as part of the Fiscal Year 2023 New York State Executive Budget legislation, \$1.2 billion in funding has been allocated for the payment of bonuses for certain frontline healthcare workers.

Located within [Part 27 of Chapter 56 of the Laws of 2022](#), the HWB provision allows for the payment of bonuses to "recruit, retain, and reward health care and mental hygiene workers" meeting specified eligibility requirements. Bonus amounts will be commensurate with the number of hours worked by eligible workers covered by the HWB Program during designated vesting periods for up to a total of \$3,000 per covered worker.

The official New York State press release can be found at the following link [Governor Hochul Launches Health Care Worker Bonus Program](#).

- DOH has established
 - o a related Web portal: https://www.health.ny.gov/health_care/medicaid/providers/hwb_program/ and
 - o an FAQ resource: https://www.health.ny.gov/health_care/medicaid/providers/hwb_program/hwb_program_faq.htm

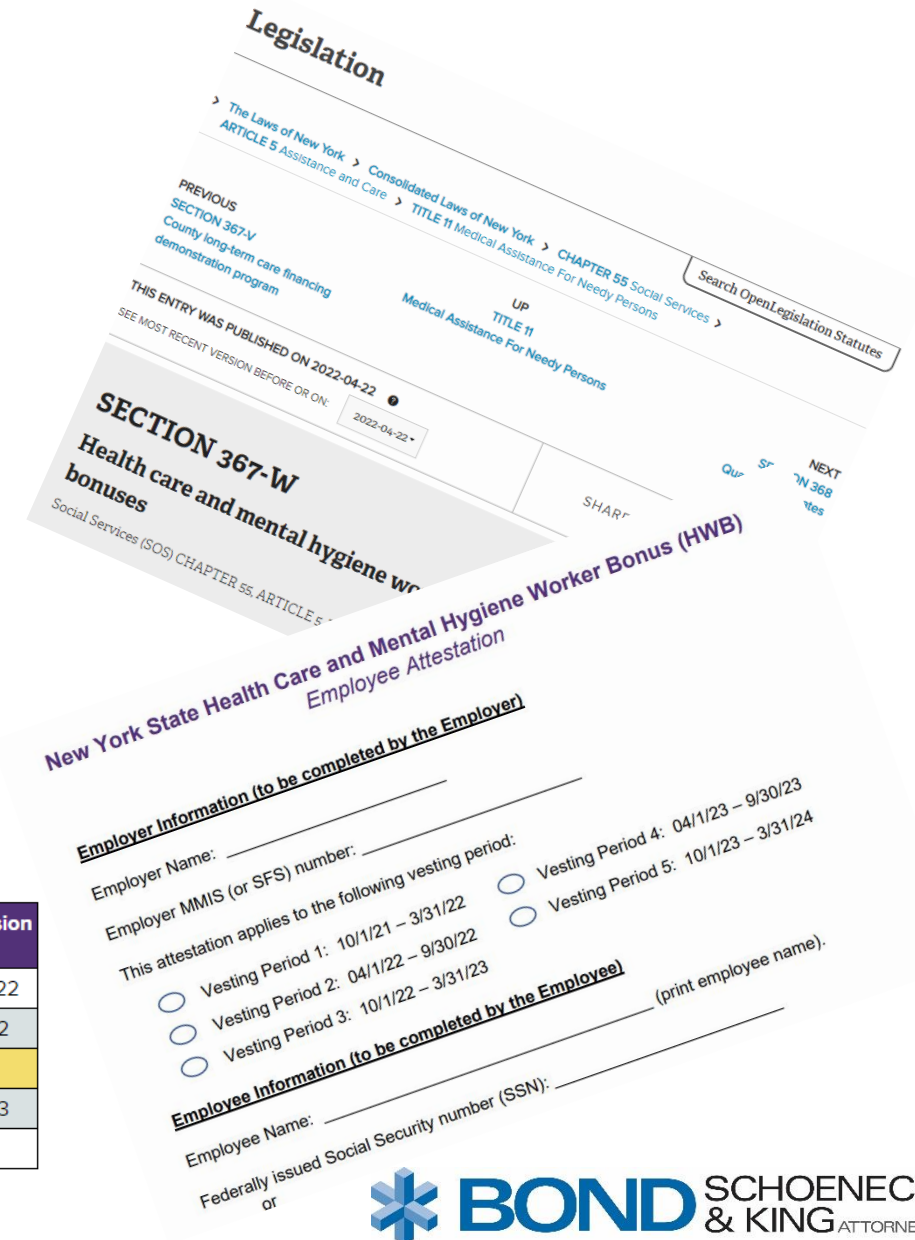
Bonus Program – Vesting Periods

- Five successive ‘vesting’ periods – first open now:

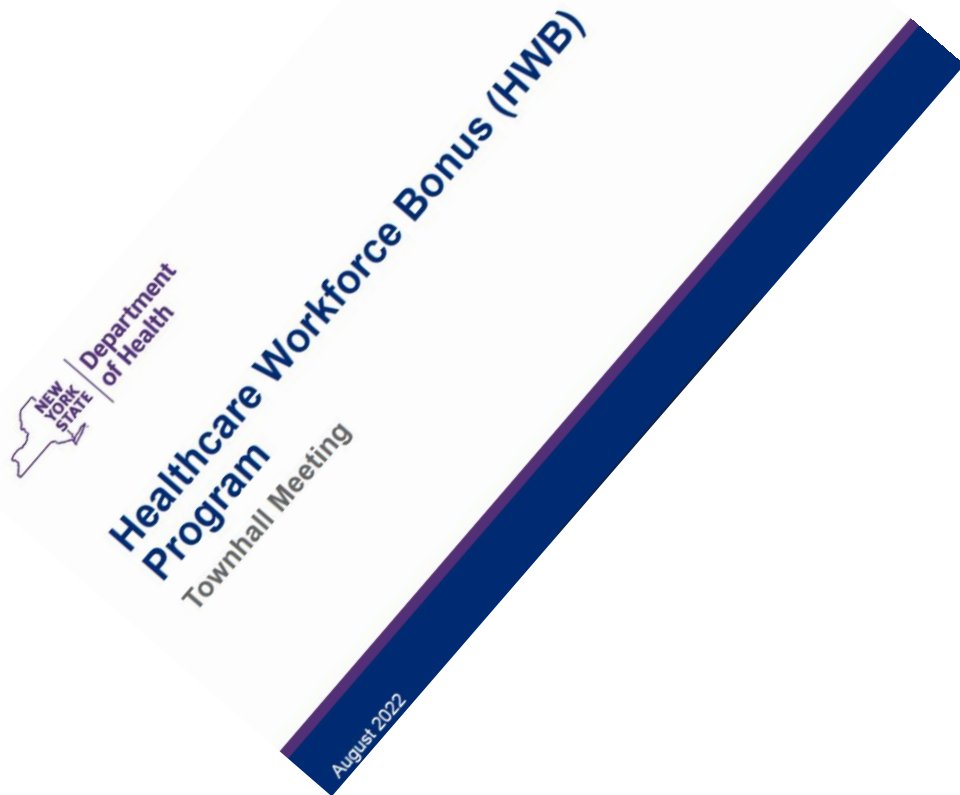
- October 1, 2021–March 31, 2022
- Related submittals due by **September 2, 2022**

- Others:
- October 2022
- May 2023
- October 2023
- May 2024

Vesting Period	Vesting Period Start Date	Vesting Period End Date	Employer Submission Start Date	Employer Submission Close Date
One	October 1, 2021	March 31, 2022	August 3, 2022	September 2, 2022
Two	April 1, 2022	September 30, 2022	October 1, 2022	October 31, 2022
Three	October 1, 2022	March 31, 2023	April 1, 2023	May 1, 2023
Four	April 1, 2023	September 30, 2023	October 1, 2023	October 31, 2023
Five	October 1, 2023	March 31, 2024	April 1, 2024	May 1, 2024



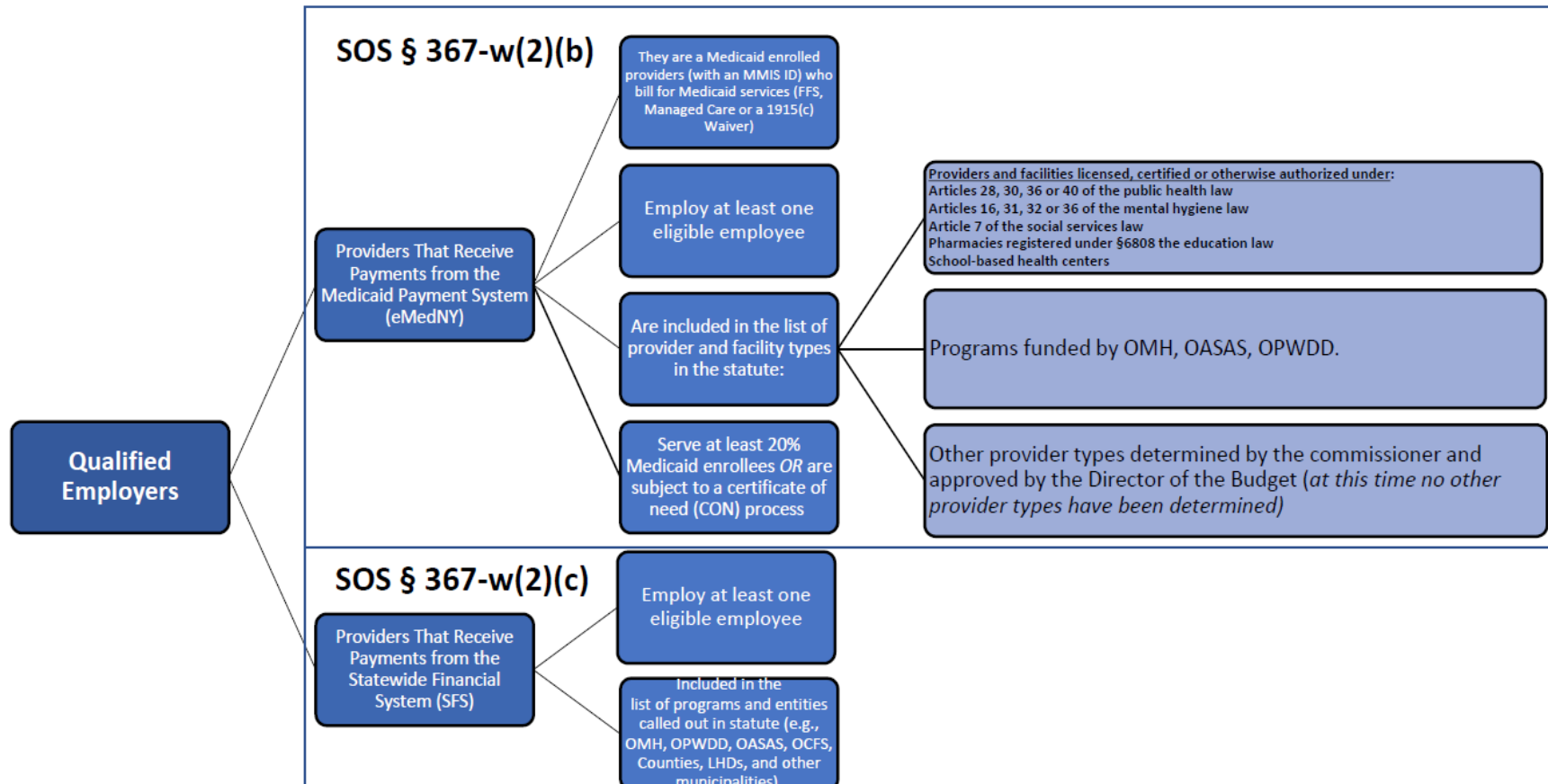
What's New – DOH Hosted a Town Hall on 8/19/22



- Intended to address numerous questions arising both from employers and employees.
 - Touched on issues including:
 - tax implications of bonus payments,
 - attestation requirements, and
 - flexibility timing of various industries' entry into the program (e.g., education as of 10/1/22)
 - Recording available:
 - <https://www.youtube.com/watch?v=v9Ysi-kWqq0>
 - Future Town Halls slated for 8/26 and 9/2 at 11AM

A New Schematic – Who Is a Qualified Employer?

Courtesy of NYSDOH



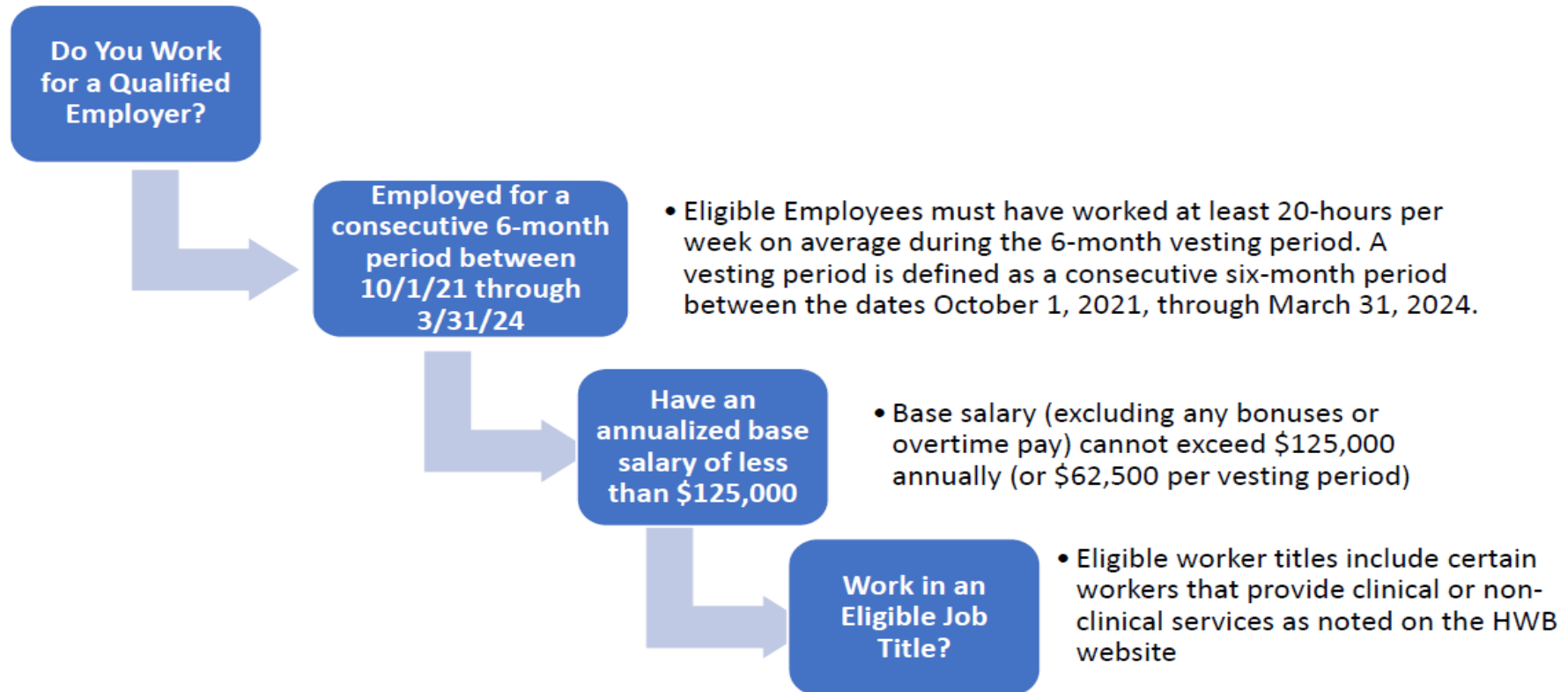
Tax Implications

Courtesy of NYSDOH

- • Employers will be reimbursed for payroll and FICA taxes in their remittance.
 - For Employer questions such as Federal tax rate percentage for the employee payments, the Department of Tax and Finance (DTF) has suggested that employers reference the Internal Revenue Service (IRS) Tax Code - Supplemental Wage Guidance on Page 20 of [2022 Publication 15 \(irs.gov\)](https://www.irs.gov/pub/irs-soi/2022pub15).
- • Employers **are not** required to match 401k or other retirement accounts for the bonus payments under the HWB statute.
 - The bonus is tax-exempt for those employees who are residents of New York State as well as employees who are out of state residents with a NYS income tax filing requirement.
 - Bonuses are excluded from New York state and local income tax (i.e. City of NY)
 - • There is no state withholding requirement for employers. Employers should coordinate with their payroll vendors to remove state/local taxes for the bonus payments.
 - The legislation and DOH guidance released to date notes that federal taxes and other State taxes (such as NJ or CT income taxes) are not exempted from the bonus payment.

Schematic for Employee Eligibility

Courtesy of NYSDOH



Some Employees That Are NOT Included

Courtesy of NYSDOH

- The following titles which apply to care settings are not eligible:
 - **Medical Records employees; Access/Call Center** (works a hybrid of on/offsite, patient interaction on phone) – these staff are not eligible.
 - **Billing Coordinator** (works offsite, patient interaction about bills on phone) – these staff are not eligible.
 - **Workers exclusively at non-patient building** (e.g., Building Maintenance, EVS, etc.) – these staff are not eligible.



Attestations

- Employee attestations **can** be digitally signed.



However, they must be collected **BEFORE** the employer attestation is submitted.

Updates on Employee Retention Tax Credits



Elizabeth L. Morgan

Associate

emorgan@bsk.com

Syracuse, NY

Questions



Gabriel S. Oberfield

Senior Counsel

goberfield@bsk.com

New York, NY

Your Host

Gabriel Oberfield, goberfield@bsk.com

NY HERO Act Update

Stephanie Fedorka, sfedorka@bsk.com

Update on the Healthcare Worker Bonus Program

Gabriel Oberfield, goberfield@bsk.com

Updates on Employee Retention Tax Credits

Elizabeth Morgan, emorgan@bsk.com

New York Employment Law: The Essential Guide

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).

Thank You

The information in this presentation is intended as general background information.
It is not to be considered as legal advice.
Laws can change often, and information may become outdated.

All rights reserved.

This presentation may not be reprinted or duplicated in any form without the express written authorization of Bond, Schoeneck & King PLLC.