

METHODS OF COMPENSATION FOR SOLIHTEN AFFILIATED CENTER COUNSELORS

Historically there have been four basic compensation models used by Solihten Affiliated Centers to pay counselors: **set salary, hourly, percentage of fees collected, and set salary plus bonus.** Until recent years, most Centers paid clinicians based on a percentage of fees collected. Due to legal review and on-going compliance efforts, we have revisited and revised our recommended methods of compensation for Solihten Affiliated Center Counselors. This led the Institute to no longer endorse the percentage/fee-split model. This model has the most challenges being compliant with the Fair Labor Standards Act (FLSA). While there has not been a legal challenge to a Behavioral Health entity using a fee split compensation model, there has been such challenge in the field of nursing.

A frequent question that is raised is whether therapists working in a Solihten Affiliated Center, either part-time or full-time pass the test to be 1099 (Independent Contractors). The short answer is NO, these employees do NOT pass the IRS test.

Here is the information provided by the IRS: [Independent Contractor \(Self-Employed\) or Employee?](#)

What follows are five models of compensation (A-E) that are currently in use within the Solihten Network. All of these models have individual advantages and disadvantages.

Regardless of which model is selected for use within your agency, **the Institute recommends Center Leadership has their compensation model reviewed by an attorney well-versed in the current employment laws in your state.** Solihten Institute also encourages each Center's Board and Staff Leadership to consider which method of compensation best fits both the needs for ongoing sustainability and growth, as well as the best interest of its employees.

The Institute's goal is to promote Centers' compliance with state and federal wage and hour laws. Solihten staff remains available to be a thought-partner for Center Leadership in their review of compensation method decisions.

Three Basic Premises that apply to **all** of the compensation programs:

1. Centers must provide competitive compensation to attract and retain good staff members.
2. For the purpose of comparing compensation packages, the peer group is Solihten Affiliated Center counselors. Note: Solihten Centers' Annual Statistical Report, Compensation Averages collected every other year. While the actual figures are remarkably comparable across *positions and hours worked* (full-time equivalency), Center leadership should still consider factors in regional differences based on the cost of living.
3. Counselors who are part of the Solihten Ministry share the responsibility for helping a Center fulfill its mission. This includes providing counseling for some low-paying clients, attending staff meetings, helping the agency with publicity, participating in supervision, and assisting in caseload development.

Supplemental Benefits can accompany **any** of the compensation methods:

- ⌘ Paid holidays, vacations, and/or PTO
- ⌘ Ancillary insurance products (life, disability, accident, dental, vision)
Note: a competitive program is available to all Solihten Affiliated Centers with an open enrollment period that typically takes place in February/March.
- ⌘ Access to a health insurance plan or **assistance with medical costs** (i.e., HSA, FSA, or Cafeteria Plan); even if a Center cannot pay the full cost.
- ⌘ Retirement Plan (403(b); IRA; pension fund, etc.)
- ⌘ Retirement Matching/Contributions
- ⌘ Professional License Fees
- ⌘ Funds for CEUs required for maintaining licensure
- ⌘ Clinical Supervision (in-house or funding)
- ⌘ Professional Liability Insurance
- ⌘ Financial Assistance for laptop or cell phone
- ⌘ Parental Leave
- ⌘ Free parking
- ⌘ **Are there other creative offerings your Center can offer as a supplemental benefit that financially may cost very LITTLE but could be a BIG impact?**

Non-Tangible Benefits of being a **counselor** at a Solihten Affiliated Center:

- ★ **A culture and mission** driven by the practice of integrated health and spiritually integrated psychotherapy at a Center that incorporates mind, body, spirit, and community into every aspect of its work.
 - ★ **Flexible scheduling.** Both in terms of the hours that they work, as well as the times in which they are done. This could also include unlimited, unpaid vacation time.
 - *Indeed*, one of the most utilized job sites in the world, offers a **resource around the concept of unlimited PTO**: <https://www.indeed.com/career-advice/career-development/unlimited-pto>
 - ★ **Hybrid work environment that supports collegiality.** A model that offers the opportunity to work from home or work from the Center.
 - ★ **What else does your Center offer that sets you apart from other community entities, a private practice, or a demanding clinic environment?**
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Method A: Set Salary

A set salary employment agreement¹ guarantees a specific amount of compensation per workweek and does not fluctuate based on the quantity or quality of work performed by the Counselor. The set salary, commiserate with experience, unique skills or abilities, or contributions to the Center, must be equal to at least \$684.00 per week (\$35,568 annually).², and can be paid on a weekly, bi-weekly, or monthly basis.

This arrangement can include benefits, in addition to, not in place of, \$684.00 per workweek. The set salary model would most typically be used with a full-time, salaried, exempt employee, and would require that the Center offer paid time off as well.

Advantages:

- ◆ A set salary arrangement offers a greater sense of security for counselors, as well as a commitment to a number of clinical hours for the Center.
- ◆ The Center's budgeting and payroll is easier, which equates to less administrative management.
- ◆ Low-paying clients do not reduce counselors' income.
- ◆ A set salary eliminates the need to pay an hourly worker for time spent in required supervision, staff meetings, and involvement in agency development.

Disadvantages:

- ◆ Counselors who have trouble setting and collecting fees, keeping a full caseload, retaining clients, or working with higher paying clients cost a Center considerable income with this type of employment agreement.
- ◆ Centers using set salary bares the financial liability for the clinicians' salary, and as a result must closely monitor their counselors' financial productivity, Center cash flow, financial reserves, and annual fundraising.

Comments:

- ✓ The Leadership Team members of many Centers have a set salary employment agreement, enabling them to be compensated for Center administration and development.
- ✓ A set salary employment agreement can clearly state productivity standards. However, underperforming clinicians cannot be penalized with reduced income. Productivity expectations can be stated in terms of billable hours per year and/or a specific amount of anticipated fee income to be generated.

¹ In drafting Employment Agreements, make sure it states in the agreement that the employment relationship remains at-will at all times.

² This dollar amount went into effect January 1, 2020

Method B: Set Salary Plus

This model is the same as Model A, where the employee receives a set salary of at least \$684.00 per week or \$35,568 annually, which does not fluctuate based on the quantity or quality of work performed. However, this model includes an opportunity for additional compensation beyond the base salary via bonus or incentive pay for higher volume and/or higher revenue generating clinicians.

Advantages:

- ◆ It provides the security of a set salary contract.
- ◆ The system rewards counselors (or other staff members with documented benchmarks) who do clinical hours and generate revenue beyond their contracted numbers.
- ◆ This method allows for growth on the part of the clinician without the Center absorbing additional financial liability.

Disadvantages:

- ◆ Center Leadership needs to monitor the counselors' financial productivity.
- ◆ This model requires an additional level of accounting requirements for the administrative staff in developing methods for prompt reimbursement from clients, and third-party reimbursement sources, as well as necessary annual fundraising activities, and maintenance of reserve funds when cash flow is inadequate to meet payroll.
- ◆ Center Leadership must make certain the counselors participate in their fair share of necessary non-clinical activities that support the mission of the Center.

Comments:

- ✓ Center Leadership should consult their CPA regarding how the bonus or incentive pay needs to be taxed, whether it is at the capital gains' rate or is subject to the standard rate of taxation.
- ✓ With this plan it is most imperative that the Center not financially penalize the clinician for seeing low-fee clients. Shared responsibility of the therapists and the Center to live out the mission.
- ✓ Counselors who like to work more hours and increase their income do well with this system. It encourages them to stay with the Center rather than seek other employment opportunities.
- ✓ The bonus or incentive system can also be used for the Center's Leadership Team.
 - In some scenarios, consideration is given to determining the bonus amount on the basis of overall Center productivity. It is more common that separate bonus amounts are given at year end based on the Center meeting pre-defined goals.
 - It is possible to pay a base salary and have the bonus amount be delayed until certain requirements are met. This may be necessary for Centers in times of tight budget constraints.

- In determining realistic constraints on Center budgets, it may be helpful in shifting from a pure fee split compensation model to a set salary based on previous annual revenue generated by full time Center clinicians. The bonus model can be based on increasing amounts of revenue generated (and/or hours or other factors).
- ✓ LinkedIn, Compensation Insider offered an episode that answers a reader's question, *Whether there is Wisdom in Paying Incentives Annually Versus Quarterly:* <https://www.linkedin.com/pulse/reader-question-wisdom-pay-incentives-annually-vs-quarterly-bardot/>
- This could also present interesting fodder for conversation as there are advantages and disadvantages to both approaches.

Example: The current³, FLSA required minimum annual salary for a full time (exempt) employee is \$684 per week, for a total of \$35,568 required annual base salary.

If the average income generated under a previous fee split compensation model in the Center was \$55,000 (the reported network average in 2019 was \$58,480), then the Center would want to be sure that a clinician would be compensated to a comparable level with this set salary plus bonus model. Therefore, in this example if the annual salary was set at \$40,000 so that "risk" was shared by the Center and the clinician, and if the clinician received a % bonus beyond the set salary, it would mean that for every \$1,000 in revenue generated beyond the base salary amount the clinician will receive 50% of revenue generated. This would essentially equal the salary under the previous 65% – 35% fee split agreement.

Here are factors to consider:

- Using this example, a clinician would have generated \$84,615 in revenue to make \$55,000 in a 65% -35% fee split compensation model.
- With a base salary of \$40,000 and a bonus of 50% on additional revenue generated with the same amount of revenue generated as the previous year, the clinician would make \$15,000 in additional bonus income for a total of \$55,000.
- This would also mean that the clinician had generated \$29,615 in income for the Center.
- If cash flow is a serious problem at the Center a lower base salary may be necessary as long as it is equal to the base salary required by FLSA, currently \$35,568.
- Remember, however, the bonus income, whether distributed monthly quarterly, semi-annually, or annually may be subject to a different rate of taxation. If that is the case, that would be rectified when the employee completed their tax return, but the lower the base salary, the more risk there is on the part of the clinician versus the Center.

The need to be realistic about cash flow will need to be taken into consideration along with what compensation approach will attract and retain qualified clinicians.

- Centers could have a range of both higher and lower bonus percentages with additional factors, commiserate with experience, unique skills or abilities, or contributions to the Center as desired and as feasible financially.
- In using this compensation model with full-time, exempt employees, Centers will need to offer paid time off.

³ This dollar amount went into effect January 1, 2020

Method C: Alternative Hourly Model

A *Base Hourly Pay* rate is established that is commiserate with the clinician's education/license type, experiences, specialties, and years of work for the Center. This rate needs to be set at a rate that balances the need to establish a fair wage for a full-time, non-exempt⁴ clinician while also ensuring it is a level that the Center can sustain. *This amount will vary by reimbursement rates and region.*

For an Intake (90791), the clinician is paid two times the *Base Hourly Rate* to cover both the time of the session, as well as time spent on paperwork and administrative tasks for that session.

The clinician is paid 1.50 times *Base Hourly Rate* for all other sessions.

The clinician is paid this *Base Hourly Rate* amount for meetings and marketing as approved by Center Leadership. It is also utilized for presentations when the number of hours for both preparation and presentation time is agreed upon with Center Leadership.

The *Base Hourly Rate* can be used for any non-clinical responsibilities as agreed upon by the clinician and Center Leadership.

Advantages:

- ◆ Clinicians get paid a fair wage for hours spent working for the Center.
- ◆ There is an incentive for the clinician to work more hours up to a full-time schedule.
- ◆ The Center is not financially committed to a set salary that could strain their finances.

Disadvantages:

- ◆ Supervisory responsibilities may become extra work for Center Leadership for clinicians who are prone to being behind on paperwork and hold up collections.
- ◆ Center Leadership should consult an employment attorney regarding the classification of Exempt versus Non-Exempt for full-time clinicians, as the latter would be due overtime pay for more than 40 hours worked per week.
- ◆ This model could be particularly accommodating to newly hired clinicians who are working to build a full caseload for the Center.

Method D: Traditional Hourly Model

Hourly compensation is a method that may be best used for part-time clinicians. These employees will be paid an hourly rate for all hours worked, which includes participation in clinical supervision, staff meetings, marketing efforts, etc. Counselors paid on an hourly rate must be paid at least minimum wage.

⁴ Non-exempt employee is an individual who is **not** exempt from the overtime provisions of the FLSA and is therefore entitled to overtime pay for all hours worked beyond 40 in a workweek (as well as any state overtime provisions). Nonexempt employees may be paid on a salary, hourly or other basis

It will also be important to monitor the number of hours worked weekly, as [overtime pay would be required for these non-exempt employees if they work beyond 40-hours in a workweek](#).

While it is not required to provide Paid Time Off (PTO) to part-time non-exempt employees, Centers may choose to offer it on a pro-rated basis for these staff members.

Advantages:

- ◆ A set hourly wage for all hours worked offers a greater sense of security to part-time counselors.
- ◆ Setting a specific number of hours a part-time counselor can work, without additional approval of the Executive Director, helps keep workload expectations clear for both the employee and the Center, and allows for appropriate budgeting.
- ◆ If a set hourly rate is paid for all hours worked, a low-paying client would not reduce counselors' income.

Disadvantages:

- ◆ Counselors who have trouble setting and collecting fees, keeping an appropriate caseload, or retaining clients could cost the Center substantial revenue with this type of arrangement.
- ◆ Leadership in Centers using an hourly compensation method will need to monitor their part-time counselors' clinical and financial productivity within the hours worked, and carefully consider additional work assignments due to budgetary implications.
- ◆ If a Center's clinical staff has many, or all, part-time counselors being paid in this method, it may be difficult to grow the Center due to the wage cost.

Method E: Percentage/Fee Split Model

Disclaimer: The percentage/fee-split model compensation method is included in this resource because it remains in use through the Solihten Network. However, the Institute can no longer endorse this model as being compliant with the Fair Labor Standards Act (FLSA). While there has not been a legal challenge to a Behavioral Health entity using a fee split compensation model, there has been such challenge in the field of nursing.

The Percentage/Fee Split compensation model provides each clinician with a percentage of fees collected by the Center.

Advantages:

- ◆ There is potential motivation for clinicians to increase their individual caseloads, and long-term stability often leads to better paying clients.
- ◆ Financial liability for the Center is minimized as a clinician does not get paid until the fees are collected.

Disadvantages:

- ◆ It could be difficult for clinicians to make minimum wage (as defined by the Center's state) as they are building a case load, which would not be compliant with the FLSA.

- ◆ Compensation for clinicians may become dependent upon administrative staff collecting claims with due diligence. There is case law that has ruled in the favor of the employee (in this case the clinician) where collections were not deemed thorough.
- ◆ There is no way to control the timeliness of third-party payors even with due diligence on the part of the Center's administrative staff in filing the claims.
- ◆ It can be difficult to motivate clinicians to attend meetings.
- ◆ Clinicians may refuse low-fee clients, unless there is strong fundraising to ensure the clinicians are reimbursed at a level commiserate with the average collected fee.