



HHS ANNOUNCES ADDITIONAL ALLOCATIONS OF CARES ACT PROVIDER RELIEF FUND

April 23, 2020

Posted: April 23 at 4:13 PM

On Apr. 22, 2020, the Department of Health and Human Services (HHS) issued guidance which can be found [here](#) outlining the allocation of an additional \$70 billion in appropriations allocated by the CARES Act to the Public Health and Social Services Emergency Fund (the Provider Relief Fund).

The initial \$30 billion tranche of the total \$100 billion provided for under the CARES Act was distributed earlier this month based on 2019 Medicare fee-for-service (FFS) receipts and was summarized in an earlier article, which can be found [HERE](#). One of the complaints about the methodology used for the initial \$30 billion distribution was that it did not provide relief for providers with a relatively small share of their revenue coming from Medicare FFS, such as children's hospitals. In addition, another complaint was that the previous distribution did not allocate additional funds to areas that have been severely impacted, such as New York.

In allocating the funds, HHS stated they are "working to address both the economic harm across the entire health care system due to the stoppage of elective procedures, and addressing the economic impact on providers incurring additional expense caring for COVID-19 patients, and to do so as quickly and transparently as possible." In this new guidance, HHS provides for both a "General Allocation" of \$50 billion and smaller "Targeted Allocations."

It should be noted that, on Apr. 21, 2020, the U.S. Senate passed a bill, colloquially referred to as "Stimulus Phase 3.5," which provides for an additional \$75 billion to replenish the Provider Relief Fund. These latest allocations are not related to the potential Stimulus 3.5 Funds. We will continue to monitor and update once additional guidance is released.

General Allocation

\$50B to Providers

- HHS indicated that, beginning this week, they will begin distribution of \$20 billion (in addition to the \$30 billion that was distributed on Apr. 10) to providers to augment their allocation so that the whole \$50 billion general distribution is allocated proportional to a provider's share of 2018 net revenue
- On April 24, a portion of providers will automatically be sent an advance payment based off the revenue they submit in CMS cost reports. Providers without adequate cost report data on file will need to submit their revenue information to a portal opening this week, which can be found [here](#). Providers who receive their money automatically will still need to submit their revenue information so that it can be verified.
- Payments will go out weekly, on a rolling basis, as information is validated, with the first wave being delivered at the end of this week.

Targeted Allocations

\$10B to COVID-19 High Impact Areas

- \$10 billion will be allocated for a targeted distribution to hospitals in areas that have been particularly impacted by the COVID-19 outbreak. Hospitals that want to apply for the funds must provide four pieces of information via an authentication portal before midnight PT, Thursday, April 23: (i) Tax Identification Number; (ii) National Provider Identifier; (iii) total number of Intensive Care Unit beds as of Apr. 10; and (iv) total number of admissions with a positive diagnosis for COVID-19 from Jan. 1, 2020 to Apr. 10, 2020. The guidance notes that supplying the information does not guarantee funds.

\$10B for Rural Providers

- \$10 billion will be distributed as early as next week on the basis of operating expenses, using a model that distributes payments proportionately to each facility and clinic.

\$400M for Indian Health Service

- \$400 million will be allocated for Indian Health Service (HIS) facilities, distributed on the basis of operating expenses.

Allocation for Treatment of Uninsured

- Any provider that has treated an uninsured COVID-19 patient on or after Feb. 4, 2020 can request claims reimbursement at Medicare rates, subject to available funding. Providers can register for the program on Apr. 27, 2020 and begin submitting claims in early May. For more information, please click [here](#).

Additional Allocations

- HHS indicated that "some providers will receive further, separate funding, including skilled nursing facilities, dentists, and providers that solely take Medicaid."

Terms and Conditions

Providers who receive funds from the general distribution have to sign an attestation, which can be found [here](#), confirming receipt of funds and agreeing to the terms and conditions. The terms and conditions include measures to ensure that these funds were used for health care-related expenses or lost revenue attributable to coronavirus. HHS warned that there will be significant anti-fraud and auditing work done by HHS, including the work of the Inspector General. In the latest allocation, HHS reinforced President Trump's directive that as a condition to receiving these funds, providers must agree not to seek collection of out-of-pocket payments from a presumptive or actual COVID-19 patient that are greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider.

Failure to abide by the terms and conditions could result in False Claims Act liability for health care providers that do not make proper use of the funds. It should be noted that one of the conditions is that providers will not use the funds to pay for expenses that have been reimbursed (or will be reimbursed) from other sources, including insurance proceeds or other stimulus funds such as the Paycheck Protection Program. Providers should consult with their respective professionals about best practices for tracking such funds and ensuring that proper controls are in place for proper use of the funds.

If you have questions or would like to discuss further, please contact [Jarod Moss](#).

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