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HHS Staggers PRF Spending, Reporting Deadlines; Expect Payback Method

By Nina Youngstrom

In guidance on the Provider Relief Fund (PRF) updated June 11, HHS gave hospitals and other providers more bread crumbs to follow in reporting their use of COVID-19 relief money and additional time to get it done.

Providers now have 90 days to report how they used PRF money instead of 30 days, according to the reporting requirements^[1] and related answers to frequently asked questions.^[2] HHS also explained that providers will be able to return unused funds through the reporting portal, said attorney Ahsin Azim, with King & Spalding in Washington, D.C.

“This is welcome news for providers,” Azim said. Before they were under pressure to spend all the PRF money by one hard-and-fast deadline regardless of when they received it. Now there are staggered deadlines for using the money and reporting how it was spent.^[3] Azim added that the PRF portal is only available for registration at the moment, but HHS indicated it will open for reporting July 1.

The updated reporting requirements are helpful in other ways, Azim said. For the first time, they explain the order in which to report the use of funds: interest earned on the PRF payment, other assistance received, use of skilled nursing facility and nursing facility infection control distributions, use of general and other targeted distribution money, net unreimbursed expenses attributed to COVID-19, and lost revenue attributed to COVID-19.

The PRF, which was created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, made \$175 billion available to hospitals and other providers for diagnosing and treating patients and replacing revenue lost because of the pandemic. Congress added another \$3 billion in the 2021 Consolidated Appropriations Act.^[4]

Providers were required to sign an attestation that they will comply with terms and conditions attached to the money. The overarching one is that PRF funds “will only be used to prevent, prepare for, and respond to coronavirus.”

There are general and targeted PRF distributions, which are disbursed and overseen by the HHS Health Resources and Services Administration (HRSA). The three tranches of general distributions were rolled out last year, followed by targeted distributions to certain providers, including hospitals in high-impact COVID-19 areas, rural providers and skilled nursing facilities. The CARES Act also requires auditing of PRF payments, which will be performed by HRSA. The HHS Office of Inspector General also is auditing compliance with the terms and conditions of PRF funds.

‘There Are a Lot of Eyes on the Provider Relief Fund’

Azim said the PRF is a significant compliance risk area for providers. “Recipients should remain mindful of the terms and conditions when using these funds,” he noted. “Throughout this process, we’ve had quite a few wait-and-see periods, as providers anxiously awaited how HHS guidance on reporting and use of funds would take

shape. HHS's newest notice and FAQs provide important pieces of the larger puzzle, but we still have unanswered questions."

Although the PRF money has been a lifesaver for many hospitals and other providers, it has moved into a new stage. "There are a lot of eyes on the Provider Relief Fund because the stakes are so high," Azim said. "Providers must review the guidance and the FAQs so they are clear on the permissible use of funds and what they should report on." HHS noted in the update that it's "authorized to recoup any Provider Relief Fund amounts that were made in error or exceed lost revenue or expenses due to COVID-19, or in cases of noncompliance with the Terms and Conditions."

Updated details about audits of compliance with the terms and conditions are expected, said Melaney Scott, senior manager with Moss Adams LLP. Under pre-June 11 guidance and generally speaking, nonprofit health care organizations will undergo a Single Audit if their expenses and/or lost revenue exceeded \$750,000 of PRF money during their fiscal year, she said. For-profit health care organizations that received more than \$750,000 in PRF money have a choice in their audits: either undergo a Single Audit or a program-specific audit, which is conducted in accordance with Government Auditing Standards.

It's one thing for hospitals to know in theory they will be audited on their compliance with the terms and conditions; it's another to have auditors decide whether real-world expenses qualify as "used to prevent, prepare for, and respond to coronavirus." How hospitals fare will depend largely on their documentation, Scott said. For example, a lot of entities established COVID-19 task forces, with people from different departments meeting regularly to plan their response to the pandemic. "Often the quantification of participants' time applies to the PRF," she said. "This will come back to documentation to support the expenses that were recorded." Meeting minutes that show who attended, start and stop times, and the content of the discussion would help validate the time attributed for certain managers to the PRF funds. "That will be the responsibility of the entity to demonstrate they have support and what was supportable," Scott explained.

On the flip side, she has seen the potential for underreporting PRF expenses because of siloed hospital departments. "Often the hospitals created a special accounting code to identify expenses related to the PRF," Scott said. They do their own auditing and accounting and, in the process, may fail to capture all items that could be given the code. "Was everything captured that could have been captured?" If not, hospitals may lose out on PRF funds to which they're entitled.

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1 HHS, "Provider Relief Fund General and Targeted Distribution Post-Payment Notice of Reporting Requirements," June 11, 2021, <https://bit.ly/3gq3lpi>.

2 HHS, "CARES Act Provider Relief Fund: Frequently Asked Questions," updated June 11, 2021, <https://bit.ly/3eoCRSi>.

3 Nina Youngstrom, "Summary of New HHS Deadlines for Spending, Reporting Provider Relief Funds," *Report on Medicare Compliance* 30, no. 23 (June 21, 2021).

4 Consolidated Appropriations Act, H.R. 133, 116 Cong. (2020), <https://bit.ly/397VfOx>.

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