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Complete Healthcare Compliance Manual 2024
Revenue Cycle: CARES Act Relief Funds

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What Are the CARES Act Relief Funds?

The Provider Relief Fund (PRF) is a $175 billion fund created by Congress to provide financial relief to healthcare providers in the wake of the COVID-19 public health emergency. Congress initially appropriated $100 billion dollars for PRF in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, passed on March 27, 2020, and later appropriated an additional $75 billion in the Paycheck Protection Program and Health Care Enhancement Act, passed on April 24, 2020. [2][3]

The distribution of the PRF is administrated by the U.S. Department of Health & Human Services (HHS), which has divided the fund into a series of general allocations to eligible providers and targeted allocations directed at specific impact areas. The general allocations were divided into three phases, totaling approximately $92.5 billion.[4] The first general allocation payments were deposited directly into providers' accounts based on the amount they billed Medicare in 2019. Additional general allocation payments were available for application. In addition, HHS created several targeted allocations, totaling approximately $56 billion.[5] Targeted allocations included payments to hospitals in COVID-19 high-impact areas, rural providers, and skilled nursing facilities.

A provider that receives and accepts funds under the PRF must certify their eligibility and agree to comply with a series of requirements, including restrictions on the use of the payment and requirements to report specific information to HHS on the use of the funds. Full compliance with program requirements was material to HHS's decision to disburse the funds, thus implicating liability under the False Claims Act.[6]

In addition to HHS review of reports filed by providers, several other federal entities provide oversight of the PRF or have otherwise made pandemic-related enforcement a priority, including the Special Inspector General for Pandemic Recovery (SIGPR) within the U.S. Department of the Treasury,[7] the HHS Office of Inspector General (OIG),[8] and the Department of Justice (DOJ).[9]

Risk Area Governance

The PRF is a US federal government program created under the CARES Act and the Paycheck Protection Program and Health Care Enhancement Act of 2020.

The compliance risk areas associated with the PRF are primarily governed by the terms and conditions associated with each allocation. Each allocation has its own eligibility criteria, terms, and conditions; however, two restrictions apply to every phase of general allocation payments and a majority of the targeted allocations. They are:

1. "The Recipient certifies that it will not use the Payment to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse."
2. "The Recipient certifies that the Payment will only be used to prevent, prepare for, and respond to

> coronavirus, and that the Payment shall reimburse the Recipient only for health care related expenses or lost revenues that are attributable to coronavirus."[10]

HHS has defined "health care related expenses" broadly to include both indirect general and administrative expenses needed to operate and maintain facilities and direct patient care expenses attributable to coronavirus.[11]

Moreover, HHS views every patient as a possible case of COVID-19.[12] Recipients may choose to report their "lost revenue" by one of three methodologies outlined by HHS.[13] First, recipients may report the difference between 2019 and 2020 actual patient care revenue.[14] Second, recipients may report the difference between 2020 budgeted and 2020 actual patient care revenue.[15] Recipients who choose this method must submit their 2020 budget, which must have been in place prior to March 27, 2020.[16] Third, a recipient may use "any reasonable method of estimating revenue."[17] Recipients who use an alternate methodology must submit the methodology to HHS for approval. HHS has also indicated that recipients who use an alternate methodology face an increased likelihood of audit.[18]

In general, any provider that accepted one or more payments under the PRF totaling more than $10,000 in aggregate is required to file reports with HHS demonstrating compliance with the terms of the payment, although some of the targeted allocations are subject to separate, distinct reporting requirements..[19][20] Providers must report various data elements relating to demographic information, their expenses attributable to coronavirus not reimbursed by another source, their lost revenue attributable to coronavirus, and additional nonfinancial data.[21] Providers who accepted $500,000 or more will be required to report addition levels of detail.[22] As a practical matter, when reviewing these reports, HHS will first apply the PRF payment to healthcare expenses attributable to coronavirus not reimbursed by other sources.[23] HHS will then apply any remaining funds to lost revenue.[24]

Special Inspector General for Pandemic Recovery

The SIGPR is charged with a "duty to conduct, supervise, and coordinate audits and investigations of the making, purchase, management, and sale of loans, loan guarantees, and other investments" under programs established by the CARES Act, including the PRF.[25] SIGPR has indicated that it intends to focus on "high impact work," referring to audits and investigations of high-dollar loans or grants and high-risk areas.[26]