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HHS Issues Notice on Cares Act Reporting Requirements

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On September 19, 2020, the US Department of Health and Human Services (HHS), issued its Notice of the reporting requirements for health care providers that received over \$10,000 in financial assistance under the Coronavirus Aid, Relief and Economic Security (CARES) Act Provider Relief Program (PRF).

Background information

In previous Client Alerts, we discussed the overall PRF program and earlier modifications. While the Terms and Conditions that health care providers were required to accept generally detailed what eligible expenditures would qualify for reimbursement, the HHS Notice goes into greater depth to detail what the categories allow and what information will be required from the health care provider to substantiate payment, as well as providing more detail on key terms that impact retention of the funds, such as “other assistance received” to off-set PRF receivables.

Timing of reporting

In an earlier August 14, 2020 Notice, HHS announced that the reporting system would become active on October 1, 2020, with reports due by all providers within 45 days of the end of the 2020 calendar year on their expenditures through the period ending December 31, 2020. Providers that have expended all PRF funds in 2020 may submit a single, final report by February 15, 2021. Providers who do not expend all PRF funds before December 31, 2020, must submit a second and final report due no later than July 31, 2021.

Additional HHS information and requirements

In this most recent Notice, HHS provides guidance on the use of funds, followed by detailed examples and the elements they will be looking for to substantiate provider claims. In general, the

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funds are first allocated to healthcare-related expenses attributed to COVID that were not reimbursed from other sources and healthcare-related operating expenses, with the remainder allowed for lost revenues, which HHS defines as a negative change in year-over-year net patient care operating income.

HHS has identified a number of data elements that will be required from providers to substantiate their expenditures, which include:

- **Demographic information** including: Reporting Entity, Tax Identification Number (TIN); National Provider Identifier (NPI) *optional*; Fiscal Year-End Date; and Federal Tax Classification (*e.*, Sole Proprietor, LLC, Partnership, Corporation, or non-profit entity).
- **NET Healthcare-related expenses attributable to COVID.** This category is broken into two categories: (i) Reporting entities receiving \$10,000 – \$499,999 in aggregate PRF payments and (ii) reporting entities that received \$500,000 or more in PRF payments. For the former, the report must include General & Administrative (G&A) expenses and other healthcare-related expenses, while the latter category requires additional subcategories under G&A and healthcare-related expenses as follows:
 - G&A subcategory:
 - Mortgage/Rent
 - Insurance
 - Personnel
 - Fringe benefits
 - Lease payment (equipment/software)
 - Utilities/Operational expenses
 - Other G&A not covered by the above subcategories.
 - Healthcare-related expenses used to prevent, prepare for, or respond to COVID :
 - Supplies, such as PPE, hand sanitizer, supplies for patient screening;
 - Equipment, such as ventilators and updated HVAC systems;
 - IT expenses, such as EHR licensing fees, telehealth infrastructure, increased bandwidth, and teleworking to promote virtual a workforce;
 - Facilities expenses, such as permanent or temporary structures, modifications to facilities to accommodate revised patient treatment practices; and
 - Other expenses that are not captured by the specific subcategories.
- **Lost Revenues attributable to COVID.** Lost revenues will be reported as a net loss, based upon a comparison of 2019 and 2020 net revenues from patient-related sources (Medicare, Medicaid, Commercial, and self-pay) and costs/expenses for the same comparison years. Providers will enter their actual revenues and expenses for each calendar year by quarter. Like healthcare-related expenses, providers are to report G&A and healthcare-related expenses as part of the

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lost revenues calculation.

- **Additional non-financial data.** The final category of information HHS will collect on a quarterly basis includes: facility, staffing, and patient care data, such as personnel metrics, patient metrics, and facility metrics, and changes in ownership.

Single audit requirements

Finally, providers that expended \$750,000 or more in federal funding in 2020 are subject to the Single Audit requirements set forth in 42 CFR 75.501. All providers must indicate if they are/are not subject to a Single Audit, and providers subject to the requirements must indicate if their auditor included PRF payments in the scope of the audit. Healthcare providers that have received certain types of federal funds in the past (for instance, nonprofits that have grant funding) may be familiar with the Single Audits, but many providers are not. These call for additional audit and compliance tests, so providers not familiar with Single Audits should consult with their outside auditors early, as this may affect the timing and cost of audit work.

For more information on the PRF and other programs, please contact the authors of this alert or any member of the Butzel Long Healthcare Industry Team. For more information resources on all COVID-19 related legislation, programs, and orders from both federal and state authorities, see the [Butzel Long Coronavirus Resource Center](#).

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