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Accessing Medicaid Provider Relief Funding: Strategies and Best Practices

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Today's Agenda

- The HHS CARES Act Provider Relief Fund
- $15B Targeted Allocation for Medicaid and CHIP Providers
- Potential Risks Tied to Receipt of Funds
- Compliance Best Practices

Coronavirus Relief Funding for Providers*

FEMA

SBA (PPP)

HHS

RHC Testing

Uninsured Relief Fund

Provider Relief Fund ★ You are here

A provider may receive funding from more than one source, but can get reimbursed for a particular expense only once (no double-dipping)

HHS Provider Relief Fund: Background

- CARES Act allocated $100 billion to provide relief for health care providers impacted by the COVID-19 pandemic
  - — $50 billion → General Distribution
    - ➢ $30B First Round (April 10 – April 17)
    - ➢ $20B Second Round (Began April 24)
  - — $50 billion → Targeted Allocations

HHS Provider Relief Fund: Terms and Conditions

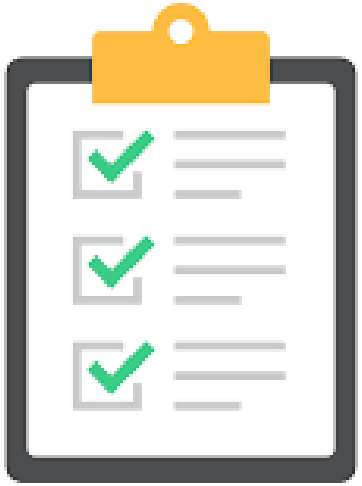
- All recipients of Provider Relief Fund payments must comply with applicable Terms and Conditions
  - Limited permissible uses (more to come)
  - Can't count same costs/expenses to multiple programs
    - Consider local grant funding, PPP, FEMA
    - Cost-reporting considerations
  - Additional restrictions

HHS Provider Relief Fund: Terms and Conditions (cont'd)

- Two categories of permissible uses:
  - **"Healthcare-related expenses attributable to coronavirus"**
  - **"Lost revenues that are attributable to coronavirus"**
    - **Costs must be coronavirus related**
    - **Would otherwise have been covered by revenue lost due to coronavirus**
- Recent HHS guidance provides certain specific examples, but questions and gray areas remain
- At the conclusion of the pandemic, leftover money must be returned to HHS if funds received exceed eligible expenses

HHS Provider Relief Fund: Documentation

- To demonstrate compliance, recipients must:
  - Submit quarterly reports to the Pandemic Response Accountability Committee (if funds received exceed $150,000
  - Comply with cost documentation requirements at 45 C.F.R. part 75
    - *Requires:* Identification of federal funds within provider's accounts, records of all funding sources and applications, adequate safeguards to ensure proper use, specified written procedures, etc.
  - Comply with any future requirements established by HHS
    - Additional guidance will be posted at: https://www.hhs.gov/provider-relief/index.html



Targeted Allocation for Medicaid and CHIP Providers: Overview

- Targeted allocation for Medicaid and CHIP providers announced June 9
- Total of approx. $15 Billion to be distributed
- Each provider to receive an amount equal to 2% of gross revenues from patient care for CY 2017, or 2018 or 2019, as selected by the provider (with supporting tax documentation)

Targeted Allocation for Medicaid and CHIP Providers: Eligibility

- To be eligible, a provider:
  1. Must not have received (or rejected) a payment from the $50 billion General Distribution
  2. Must either (1) have directly billed Medicaid for healthcare-related services during the period of January 1, 2018, to December 31, 2019, or (2) as of the application date, own an included subsidiary that did
  3. Must have filed a federal income tax return (if applicable) for fiscal years 2017, 2018 or 2019
  4. Must have provided patient care after January 31, 2020
  5. Must not have permanently ceased providing patient care, either directly or indirectly through included subsidiaries

Targeted Allocation for Medicaid and CHIP Providers: Application

- Applications must be submitted by **July 20** using new provider payment portal at: https://cares.linkhealth.com/#/
- Each provider may submit only one application and cannot edit once submitted, so be sure you have all required information before applying
- Just like with PPP, this is a finite amount of money

Targeted Allocation for Medicaid and CHIP Providers: Application Process

- Information you will need:
  - Applicant Type
  - Number of “facilities,” and beds
  - Total number of FTE (“Primary Provider,” “Non-Primary FTE,” and “Other FTE”)
  - Gross Revenues % from patient care
  - Lost revenues for March and April, 2020
  - Increased expenses due to COVID-19 for March and April, 2020
  - Government program payor mix
  - Amounts received from SBA (PPP), FEMA
- **Caution:** terms and descriptions are not always precise

Potential Risks

- Everything indicates that audits and overpayment demands are coming
  - Historical trends
  - Regulatory statements
  - Experiences of other industries
- Potential for liability under the False Claims Act (FCA) significantly raises the stakes

Best Practices

- Actively monitor for updated guidance
  - — Download current version of guidance relied upon
  - — Compliance takes ongoing effort – particularly in the current climate
  - — Designate clear responsibility within agency
  - — In the meantime, develop and implement your own tracking plan

Best Practices (cont'd)

- Anticipate delay in audit activity – and staff turnover
  - Audits may take several years, and a lot can change
    - Location
    - Personnel
    - Use of space
  - Consider upfront how to store, organize, and allocate responsibility for records
    - Document work papers, including rationale for decisions

Best Practices (cont'd)

- Watch out for whistleblowers
  - Note that HHS is posting a public list of providers and their payments once they attest to receiving the payment and agree to the Terms and Conditions
  - Pay attention to compliance concerns and how they are handled
  - Retaliation protections apply – seek counsel before taking disciplinary action against a suspected whistleblower

Questions?

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