

CORONAVIRUS RESOURCE CENTER

HHS Announces Additional Funding for Healthcare Providers Impacted by COVID-19

April 23, 2020

As we have discussed [here](#), the Coronavirus Aid, Relief, and Economic Security Act (“CARES ACT”) includes an appropriation of a \$100 billion “Public Health and Social Services Emergency Fund” for certain healthcare providers impacted by the COVID-19 pandemic. Over the past several weeks, the Department of Health and Human Services (“HHS”) [has described](#) how parts of this funding would be distributed. An announcement by HHS on April 22, 2020 describes how HHS plans to distribute the remainder of the fund. Providers should take note that in some cases, submissions of applications or other information will be required in order to receive funding. Links to application and attestation portals can be found [here](#).

Provider Funding

HHS has announced \$70.4 billion in specific allocations: \$50 billion in a General Allocation, \$10 billion to hospitals heavily impacted by COVID-19, \$10 billion to rural hospitals, and \$400 million to the Indian Health Service. Additional funding will also be distributed to certain categories of providers not otherwise captured by other allocations. HHS has also committed to reimbursing providers for the treatment of uninsured patients with COVID-19.

General Allocation

HHS has allocated \$50 billion for what it has termed a “General Allocation” to healthcare providers. HHS has already distributed \$30 billion of this “General Allocation” to providers based on their Medicare fee-for-service revenues.

HHS has now announced that the remaining \$20 billion will be disbursed to “providers with a relatively small share of their revenue coming from Medicare fee-for-service, such as children's hospitals.” This allocation is intended to address concerns that certain types of healthcare providers, such as pediatricians and obstetricians, do not regularly see Medicare patients and thus did not benefit from the previous distribution of \$30 billion. HHS has not further explained the eligibility criteria for these remaining funds.

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HHS has also not presented the formula by which providers’ payments from the \$20 billion will be calculated. Instead, HHS has stated its intent “that the whole \$50 billion general distribution is allocated proportional to *providers' share of 2018 net patient revenue*.” It is not clear at this time exactly how HHS intends to calculate that number. According to HHS, on April 24, 2020, it will make advance payments to certain providers for whom it already has sufficient data to estimate revenues from earlier reporting (likely including providers who serve large Medicare Advantage and/or Medicaid populations). HHS is also planning to open [a portal](#) this week where providers who have not previously provided cost reporting data to HHS will have to provide additional information as of yet unspecified. Providers who receive advance payments from HHS will also be required to submit net revenue information.

Allocation for COVID-19 high impact areas

HHS has allocated \$10 billion for a targeted distribution to hospitals in areas that have been particularly impacted by the COVID-19 outbreak. HHS expects that New York hospitals will receive “a large share of the funds” due to the percentage of the nation’s cases clustered there.

Hospitals must apply for this funding by midnight on April 23, 2020 through a portal that requires limited information on total ICU beds and total admissions with a positive COVID-19 diagnosis. HHS intends to use that information to distribute funds to those locations where the impact from COVID-19 is greatest. HHS also intends to take into

consideration whether a hospital serves a significant number of low-income patients, as reflected in their Medicare Disproportionate Share Hospital (DSH) Adjustment.

Allocation for rural providers

HHS has allocated \$10 billion for rural health clinics and hospitals out of concern for the “precarious financial position” of many rural hospitals. HHS expects to distribute these funds as early as next week. Funds will be distributed in proportion to facilities’ operating expenses.

Additional allocations

HHS has allocated \$400 million to the Indian Health Service. HHS also intends to provide additional funding to certain providers, including skilled nursing facilities, dentists, and providers that solely take Medicaid, but HHS has not provided any additional information about that funding.

Reimbursement for treatment of the uninsured

HHS had previously announced that an unspecified portion of the fund will be used to reimburse healthcare providers at Medicare rates for the treatment of uninsured patients with COVID-19. HHS’s April 22 announcement outlined the process for making these payments. All healthcare providers who provided treatment for uninsured COVID-19 patients can request claims reimbursement and will be reimbursed at Medicare rates—subject to available funding.

Providers will need to first enroll in the program. Registration will be available [here](#) starting on April 27. Providers will then need to check patient eligibility and submit claims. HHS will begin accepting claims in early May. Providers must agree to accept the Medicare rate and not to “balance bill” any patient covered by the program for COVID-19-related treatment.

HHS Funding Overview

Program	Amount Available	Eligibility	Provider Action Required
General Allocation – Medicare	\$30 billion	Providers who bill Medicare FFS	Sign attestation within 30 days of receipt of funds
General Allocation – Non-Medicare	\$20 billion	Providers whose primary revenues are sources other than Medicare FFS	Provide financial information requested by HHS, sign attestation
Allocation for High Impact Hospitals	\$10 billion	Hospitals in areas heavily impacted by COVID-19	Provide admissions information requested by HHS Provide admissions information requested by HHS
Allocations for Rural Hospitals	\$10 billion	Rural hospitals	None stated at this time
Additional Allocations	Unknown	Providers including skilled nursing facilities, dentists, and Medicaid-only providers	Unknown
Reimbursement for Uninsured	As long as funds last	Providers who treated uninsured patients for COVID-19	Register for program, submit claims, agree not to balance bill
Total	\$100 billion		

Attestation, Documentation, and Potential Impact of the False Claims Act

Although HHS is disseminating large amounts of money quickly—in some cases without requiring providers to do anything other than sign an attestation—providers should be attentive to the requirements that attach to the receipt of these funds. During the press conference announcing this newest round of funding, HHS Secretary Alex Azar stressed that the Office of the Inspector General and others at HHS will be auditing recipients and looking for signs of fraud.

A provider that keeps disbursed funds but fails to satisfy the relevant terms and conditions—or is unable to adequately demonstrate compliance—may be subject to an action under the False Claims Act (“FCA”) in some circumstances. FCA violations can be costly because they can result, in some cases, in treble damages and/or large statutory penalties. Providers who receive General Allocation funds automatically should assess whether they can satisfy the relevant requirements and should consider returning the

funds if they are concerned that they are unable to meet these obligations. Providers who must apply for funding should similarly first consider whether they can satisfy applicable requirements before submitting the application.

Providers receiving General Allocation funds should carefully read HHS's terms and conditions, found [here](#). Among other provisions, these funds will "reimburse the Recipient only for health care related expenses or lost revenues that are attributable to coronavirus." Providers should be prepared to prove their compliance with this provision to an auditor. This might entail calculating and recording losses from reduced patient visits during February, March and April or documenting expenses incurred in retrofitting a facility to treat COVID-19 patients.

As a condition for receiving General Allocation funding, providers must also agree not to bill insured patients treated for COVID-19 for more cost sharing than those patients would owe if the care was provided by an in-network provider. As this may differ from many providers' general policies, providers should ensure that any automated processes or standard protocols are modified to prevent the "surprise" billing of patients covered by the General Allocation attestation.

Similarly, providers submitting reimbursement requests for care of uninsured patients should compile and maintain appropriate documentation before submission. As a condition of accepting this funding, providers cannot bill patients for any difference between their customary rates and the rates paid by Medicare. As this may differ from many providers' general policies, providers should also ensure that any automated processes or standard protocols are modified to prevent the balance billing of patients covered by the reimbursement program.

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For more information regarding the coronavirus, please visit our [Coronavirus Resource Center](#).

Please do not hesitate to contact us with any questions.

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