

HHS Announces Additional CARES Act Funding for Qualifying Providers

August 4, 2020

In the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act and subsequent legislation, Congress has appropriated \$175 billion for the Department of Health and Human Services (“HHS”) to distribute to providers who either treat COVID-19 patients or have suffered losses as a result of the pandemic.¹ HHS announced on July 31, 2020 additional funding opportunities and extended deadlines for certain types of providers. We discuss the details below.

MEDICARE PROVIDERS

Deadline Extended to August 28 for Providers Who Did Not Receive Automatic Distribution

As part of its \$50 billion “Phase 1 Medicare General Distribution,” HHS offered providers who were participants in the Medicare program funding equivalent to two percent of their annual revenues. HHS made \$30 billion worth of unsolicited payments to providers who had previously submitted cost reports to the Centers for Medicare and Medicaid Services (“CMS”). HHS subsequently made an additional \$20 billion available under this distribution for providers who did not have comprehensive cost reports on file with CMS. According to HHS, some providers, including Medicaid, Children’s Health Insurance Program (“CHIP”) and dental providers with low volumes of Medicare patients, met the criteria for Phase 1 funding but did not meet a previously announced deadline to apply for their share of this \$20 billion distribution. HHS is therefore extending the deadline to **August 28, 2020** to complete an application for this funding.

Opportunities for Providers with a Change in Ownership

Because HHS made automatic payments to Medicare providers based on pre-existing cost reports, some distributions were made to prior owners of provider groups, and new owners did not receive payments. According to HHS, if a prior owner cannot attest that

¹ We previously discussed CARES Act funding [here](#) and [here](#).

it has provided diagnoses, testing or care for individuals with possible² or actual COVID-19 on or after January 31, 2020, the prior owner must return the funding it received. The prior owner is not allowed to transfer funding that it received to the current owner. However, new owners will have an opportunity, **starting the week of August 10** and ending on **August 28**, to apply to HHS for funding by submitting revenue data and proof of a change of ownership.

MEDICAID, CHIP AND DENTAL PROVIDERS

In June 2020, HHS announced a \$15 billion “Phase 2” distribution for Medicaid, CHIP providers and dentists who did not receive funding from the “Phase 1” program discussed above. Providers in these categories could receive funding up to two percent of their revenues from patient care. HHS has announced that it will extend the deadline to August 28, 2020 for providers to apply under this program. HHS also announced that it will soon provide a simplified application for this program.

PROVIDERS NOT ELIGIBLE FOR HHS' PREVIOUSLY ANNOUNCED DISTRIBUTIONS

HHS recognizes that there are providers who do not meet the current criteria for participating in the Phase 1 or 2 distributions, including new providers in 2020 or providers who bill only commercially or do not otherwise bill the Medicare or Medicaid programs. HHS announced it is “currently working to address relief payments” to such providers but did not provide any further information about its plans.

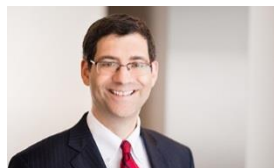
A NOTE OF CAUTION ABOUT HHS FUNDING

As we have previously discussed, HHS conditioned its provision of funding on providers making truthful attestations that they are in compliance with the detailed terms and conditions governing these funds. Among other things, funding recipients must confirm that the funding is being used to cover COVID-19-related expenses or revenues lost as a result of the pandemic. Providers who provide the required attestation should carefully document their eligibility for HHS funding and use of those funds for appropriate purposes. Providers who receive funding for which they are ineligible or who misuse funding may, depending on the circumstances, be sued under the False Claims Act.

² HHS has taken the position that every patient treated since February 2020 is a possible COVID patient.

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Please do not hesitate to let us know if you have any questions.



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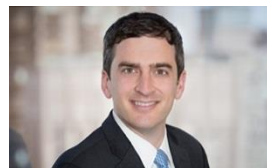
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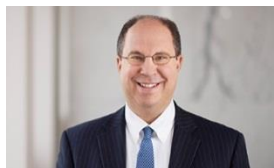
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