

## Health and Human Services Announces Distribution Process for Second Tranche of Relief Fund Payments to Healthcare Providers under the CARES Act Provider Relief Fund

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The CARES Act provided for \$100 billion in emergency relief funds to hospitals and other healthcare providers. The payments to healthcare providers under the Provider Relief Fund (PRF) are not loans and do not need to be repaid if the recipient complies with the terms and conditions applicable to the distribution. A summary of the relief funding follows.

### First Tranche

On April 10, 2020, the Department of Health and Human Services (HHS) began the initial infusion of \$30 billion of the \$100 billion PRF into healthcare system with most payments arriving via direct deposit. Payments were made to eligible providers, proportionate to providers' share of Medicare fee-for-service reimbursements in 2019.

### Second Tranche

On April 22, 2020, HHS announced the allocation of additional distributions under the PRF, and HHS began distribution of the remaining \$20 billion of the \$50 billion allocated to the PRF general distribution funds, commencing on April 24, 2020. According to HHS, this second round of distribution payments to the eligible providers was provided to augment their allocation so that the general distribution fund is allocated proportionate to those providers' share of 2018 net patient revenue.

On April 24, 2020, eligible providers who submitted cost reports were automatically sent an advance payment based on the revenue data they submitted in their Centers for Medicare & Medicaid Services (CMS) cost reports. Providers without cost report data on file will need to submit their revenue information to the HHS portal. Payments will go out weekly, on a rolling basis, as data submitted is validated, with the first wave being delivered beginning on April 24, 2020.

### HHS Portal

The online application portal for eligible providers without cost reports is now available on the HHS website. HHS Application Portal can be found [here](#). Providers who have already received payments from the initial distribution of \$30 billion are able to use the portal.

### Some Initial Takeaways (as of April 27, 2020):

- The portal is only available to those TINs that already received funds under the initial distribution of the Provider Relief Fund.
- Providers must have submitted an attestation to the Terms & Conditions (T&Cs) for the first tranche in order to proceed with this application. They must also agree to the T&Cs as to the second tranche. As a result, providers need to make sure they are in agreement as to those terms. If providers receive a payment from the PRF and retain that payment for at least 30 days without contacting HHS regarding remittance of those funds, they are deemed to have accepted the T&Cs.

- Providers must confirm the amount of first payment.
- Providers must supply an estimate of lost revenue for March and April 2020.
- IRS tax returns need to be submitted.
- Providers agree to possible HHS audit in future.
- The T&Cs provide that the Recipient consents to the Department of Health and Human Services publicly disclosing the Payment that Recipient may receive from the Relief Fund. The Recipient acknowledges that such disclosure may allow some third parties to estimate the Recipient's gross receipts or sales, program service revenue, or other equivalent information.
- More guidance as to the allocation among the applicants is needed.

## Future Distributions as Targeted Allocations

The announcement by HHS also included information as to future distributions under the PRF referred to as "Targeted Allocations." These include the following:

- **Covid-19 High Impact Areas.** \$10 billion will be allocated for a targeted distribution to hospitals in areas that have been particularly impacted by the COVID-19 outbreak.
- **Treatment of the Uninsured.** A portion of the \$100 billion Provider Relief Fund will be used to reimburse healthcare providers, at Medicare rates, for COVID-related treatment of the uninsured. Every healthcare provider who has provided treatment for uninsured COVID-19 patients on or after February 4, 2020, can request claims reimbursement through the program and will be reimbursed at Medicare rates, subject to available funding. Providers can register for the program on April 27, 2020, and begin submitting claims in early May 2020. For more information, visit <https://www.hrsa.gov/coviduninsuredclaim>.
- **Rural Providers.** \$10 billion will be allocated for rural health clinics and hospitals. This money will be distributed on the basis of operating expenses, using a methodology that distributes payments proportionately to each facility and clinic.
- **Indian Health Service.** \$400 million will be allocated for Indian Health Service facilities, distributed on the basis of operating expenses.

## Future Additional PRF Allocations

The April 24<sup>th</sup> announcement by HHS indicates that there are some providers who will receive further, separate funding, including:

- skilled nursing facilities
- dentists
- providers that solely take Medicaid

## HHS Resources Pertaining to the \$20 Billion Second Tranche of Distributions under the Provider Relief Fund:

- HHS Application Portal: <https://covid19.linkhealth.com/>
- HHS General Distribution Portal FAQs: <https://www.hhs.gov/sites/default/files/provider-relief-fund-general-distribution-faqs.pdf>
- HHS Online Cares Act Provider Relief Application User Guide: <https://chameleoncloud.io/review/2977-5ea0af98f0fd0/prod>
- HHS First Tranche T&Cs (\$30 Billion): <https://www.hhs.gov/sites/default/files/terms-and-conditions-provider-relief-30-b.pdf>
- HHS Second Tranche T&Cs (\$20 Billion): <https://www.hhs.gov/sites/default/files/terms-and-conditions-provider-relief-20-b.pdf>

If you are a healthcare provider with questions about this Alert, please contact [Grace Mack](#) or another member of the Wilentz [Health Law team](#).

**Attorney**

- Grace D. Mack

**Practice**

- Health Law