

CLIENT ALERT

Summary of Additional Provider Funding Now Available Under Health Care Enhancement Act

APRIL 28, 2020

On April 22, 2020, the U.S. Department of Health and Human Services (HHS) announced the additional allocation of \$70 billion in support for health care providers through the CARES Act Provider Relief Fund (the Provider Relief Fund). As we previously reported, HHS initially infused \$30 billion into the health care system starting on April 10.

In announcing the latest round of funding to health care providers, HHS Secretary Alex Azar said that “[HHS’s] goal in all of the decisions [HHS is] making is to get the money from the Provider Relief Fund out the door as quickly as possible while targeting it to those suffering the most from the pandemic . . . [and HHS] will continue using every regulatory and payment flexibility [HHS] ha[s] to help providers continue doing their vital work until we’ve defeated this virus.” HHS also noted that the allocation of these additional funds is intended to address both the economic harm across the health care system that has resulted from the stoppage of elective procedures and the economic impact on providers incurring additional expenses related to the response to COVID-19.

NEW DISTRIBUTIONS TO PROVIDERS

- **General distribution** of an additional \$20 billion based on 2018 net patient revenue, completing the total of \$50 billion allocated for Medicare facilities and providers impacted by COVID-19. HHS previously distributed \$30 billion to providers based on 2019 Medicare fee-for-service (FFS)
- **Targeted allocations**, including \$10 billion in distributions to hospitals in areas that have been particularly impacted by the COVID-19 outbreak. Additionally, HHS announced that the Provider Relief Fund will include:
 - **allocation for treatment of the uninsured**, with reimbursement to health care providers, at Medicare rates, for COVID-19-related treatment of the uninsured.
 - **allocation for rural providers**, with \$10 billion going to rural health clinics and hospitals, most of which operate on especially thin margins and are less likely to be profitable than their urban counterparts.
 - **allocation for Indian Health Service (IHS)**, with \$400 million going to IHS facilities.
- **Additional allocations** to skilled nursing facilities, dentists, and providers that solely service Medicaid patients, such as assisted living facilities.

GOVERNMENT OVERSIGHT AND ENFORCEMENT

HHS highlighted that the Provider Relief Fund terms and conditions include measures to help prevent fraud and misuse of the distributions. As outlined in the terms of conditions, all recipients are required to submit documents sufficient to ensure that these funds were used for health care-related expenses or to replace lost revenue attributable to coronavirus. HHS made it clear that there will be significant anti-fraud and auditing work related to the distributions, including efforts from the HHS Office of the Inspector General (OIG). OIG oversight activity will complement the U.S. Department of Justice's previously announced COVID-19- enforcement priorities and the establishment of Coronavirus Fraud Coordinator in each U.S. Attorney's Office nationwide. As we have previously reported, providers should carefully consider the terms and conditions of accepting and using the Provider Relief Fund payments, as misuse (whether intentional or unintentional) could raise fraud and abuse issues, including potential civil exposure under the federal False Claims Act.

WHAT'S NEXT?

On April 24, President Trump signed the Paycheck Protection Program and Health Care Enhancement Act (the Act) into law, approving an additional infusion of \$484 billion in aid for small businesses and hospitals.

The Act authorizes \$310 billion to replenish the Paycheck Protection Program for small businesses (\$60 billion of which will be set aside for small, mid-size, and community lenders), \$60 billion to Economic Injury Disaster Loans and Grants, \$75 billion in additional assistance to hospitals and health care providers, and \$25 billion to accelerate an expansion of COVID-19 testing efforts nationwide.

Upon the signing of this new COVID-19 relief package, HHS Secretary Alex Azar announced that "HHS has worked rapidly to distribute aid from Congress to the health care providers who have been hit hardest, and that work will continue with this new infusion of support." He explained that "[a]s states prepare to begin reopening their economies, we now have billions in new resources to supplement the expertise, staff, and funding we've already sent to states to track and eventually contain the spread of the virus."

As noted above, the Act provides \$75 billion to eligible health care providers for health care- related expenses or lost revenues that are attributable to COVID-19. The funds provided under this Act may be used for

- Building or construction of temporary structures;
- Leasing of properties;
- Medical supplies and equipment, including personal protective equipment and testing supplies;
- Increased workforce and trainings;
- Emergency operation centers;
- Retrofitting facilities; and
- Surge capacity.

The Act specifies that these funds may not be used to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse. In order to be eligible for payments, an eligible health care provider, who must have a valid tax identification number, must submit an application to the HHS Secretary that includes a statement justifying the need for the payment.

For any questions regarding CARES Act Provider Relief Fund payments or additional funding through the Paycheck Protection Program and Health Care Enhancement Act, please contact the Winston partners listed below or your Winston relationship attorney. View all of our COVID-19 perspectives [here](#). Contact a member of our COVID-19 Legal Task Force [here](#).

4 Min Read

Related Locations

Charlotte

Chicago

Dallas

Houston

Los Angeles

New York

San Francisco

Silicon Valley

Washington, DC

Related Topics

Health Care

COVID-19

HHS

Health and Human Services (HHS)

Related Capabilities

Health Care

Related Regions

North America

Related Professionals



Amandeep S. Sidhu



T. Reed Stephens