

HHS Announces Process for Additional \$20B in Stimulus Payments to Eligible Providers

The U.S. Department of Health and Human Services (HHS) has announced a process for the release of an additional \$20 billion (Additional Distribution) of the \$100 billion Public Health and Social Services Emergency Fund that is part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Some providers have already received these funds, but many have not as the process for receiving these payments is different than the initial \$30 billion that was distributed (Initial Distribution).

On April 24, 2020, some providers were automatically sent an advance payment based off the revenue data they submit in Centers for Medicare and Medicaid Services (CMS) cost reports. Providers without adequate cost report data on file or who do not submit cost reports (for example, physicians) will need to submit their revenue information to [this portal](#) to obtain these funds.

This information will include tax documents and financial loss estimates, as HHS is looking for the following:

- (1) a provider's "Gross Receipts or Sales" or "Program Service Revenue" as submitted on its federal income tax return;
- (2) the provider's estimated revenue losses in March 2020 and April 2020 due to COVID-19 (lost revenue can be estimated by comparing year-over-year revenue, or by comparing budgeted revenue to actual revenue);
- (3) a copy of the provider's most recently filed federal income tax return; and
- (4) a listing of the federal Tax Identification Numbers of any of the provider's subsidiary organizations that have received relief funds, but that do not file separate tax returns.

Even if a provider received payments automatically, that provider will still need to submit their revenue information as outlined above so that it can be verified. Payments will go out weekly, on a rolling basis, as information is validated.

All recipients will be required to submit documents sufficient to ensure that these funds were used for healthcare-related expenses or lost revenue attributable to COVID-19.

Like the Initial Distribution, as a condition to receiving the Additional Distribution, providers must agree not to seek collection of out-of-pocket payments from a presumptive or actual COVID-19 patient that are greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network

provider.

Similar to the Initial Distribution, providers who receive funds from the Additional Distribution have to **sign an attestation** confirming receipt of funds, agree to the terms and conditions of payment and confirm the CMS cost report. If a provider receives a payment from the Additional Distribution and retains that payment for at least 30 days without contacting HHS regarding remittance of those funds, the provider is deemed to have accepted the terms and conditions. Some of the noteworthy terms and conditions are as follows:

Once a provider has attested and submitted tax forms and loss estimates, the provider should receive an Additional Distribution or other response within 10 business days.

As has been the case thus far, this is an evolving situation, and HHS may issue additional guidance over time. Please contact the author of this Alert, **Glenn P. Prives** gprives@greenbaumlaw.com | 973.577.1776 with any questions. Mr. Prives is a partner in the firm's **Healthcare Department**.