U.S. Department of Health and Human Services

Thursday, October 22, 2020

Reporting Requirements Policy Update

The passage of the CARES Act on March 27, 2020, charged HHS with delivering what eventually became $175 billion of funds dedicated to delivering relief to providers impacted by the coronavirus. In response to calls for immediate relief, HHS quickly distributed $30 billion to approximately 325,000 providers on April 10, 2020. Since then, the Provider Relief Fund (PRF) has obligated over $135 billion to providers affected by the coronavirus.

The PRF distributes funds "…to prevent, prepare for, and respond to coronavirus, domestically or internationally, for necessary expenses to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus." The PRF issued a Frequently Asked Question (FAQ) on June 19, 2020 generally describing the types of expenses that would be permissible uses of Fund distributions. This FAQ emphasized that PRF money can cover any cost that the lost revenue otherwise would have covered, so long as that cost prevents, prepares for, or responds to coronavirus. In this FAQ, HHS encouraged providers to expend PRF funds in place of lost revenue to maintain current healthcare delivery capacity.

All healthcare providers felt the financial impact of the coronavirus, with some hit harder than others. In consideration of this fact, HHS has sought to balance the dual objectives of providing broad-based relief to providers while delivering targeted relief to those most in need of support.

The PRF provided significant relief to many providers. For some providers, the distributions were so significant that they became more profitable during 2020 than the preceding year.

On September 19, 2020, HHS issued instructions for reporting on the use of PRF distributions. These instructions, reflecting the Department's balancing of dual objectives, limited the applicability of funds to an amount that would allow most providers[1] to be no more profitable in 2020 than in 2019. At the time, HHS concluded that it would be inequitable to allow some providers to be more profitable in 2020 than 2019, while so many other providers struggled to remain viable. The September 19, 2020 reporting instructions placed a limitation on the permissible use of PRF money that HHS had not previously articulated, although previous guidance did not preclude the establishment of such a limitation in the future.

[1] HHS established an exception for providers that were unprofitable in 2019. These providers could deploy PRF funds toward lost revenue in an amount that would allow the provider to break even in 2020.

This decision to prohibit most providers from using PRF payments to become more profitable than they were pre-pandemic, in order to conserve resources to allocate to providers who were less profitable, has generated significant attention and opposition from many stakeholders and Members of Congress. There is consensus among stakeholders and Members of Congress who have reached out to HHS that the PRF should allow a provider to apply PRF payments against all lost revenues without limitation.

In consideration of this feedback, HHS has amended its reporting instructions to provide for the full applicability PRF distributions to lost revenues.