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HHS Releases New Details on Provider Relief Fund Reporting Requirements

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On September 19, 2020, the U.S. Department of Health and Human Services (HHS) released long-awaited details about upcoming reporting requirements for certain providers that accepted funding of one or more payments exceeding $10,000 from the Provider Relief Fund (PRF). Key aspects of HHS' new PRF reporting guidance are summarized below. Note that in some cases, the HHS reporting guidance appears to materially change positions previously taken by HHS regarding how providers may apply their PRF payments to healthcare-related expenses and lost revenues attributable to coronavirus.

Allocation of PRF payments to expenses and losses. PRF payments will first be applied to offset healthcare-related expenses attributable to coronavirus. If there are PRF payments remaining after allocating them to such expenses, the remainder will be allocated to lost revenues attributable to coronavirus.

Reporting healthcare-related expenses. Providers that received between $10,000 and $499,999 in aggregated PRF payments must report healthcare-related expenses attributable to coronavirus (net of other reimbursed sources) in two general categories: general and administrative expenses and other healthcare-related expenses. Providers that received $500,000 or more in PRF payments must report more detailed information within these two general categories.

Change in calculation of lost revenues.

Methodology. Lost revenues attributable to coronavirus will be reported as the difference between 2019 and 2020 “net patient care operating income (i.e., patient care revenue less patient care–related expenses…), net of the healthcare-related expenses attributable to coronavirus.” This position that providers must use a year-over-year net operating income (not revenue) comparison is a significant departure from HHS’ guidance over the past several months that providers can use any reasonable methodology to calculate lost revenues.

Cap on amount of reportable lost revenue. PRF payments may be applied toward lost revenue only up to the amount of the provider’s 2019 net gain from healthcare-related sources. Providers with negative net operating income from patient care in 2019 may apply PRF amounts to lost revenues up to a net zero gain/loss in 2020. This position is also a new change that springs from the HHS imposition of a “net operating income” standard, instead of a true lost revenues calculation. It does, however, allow providers that lost money in 2019 to break even in 2020.

Reporting on 2021 use of PRF payments. If providers do not expend PRF in full by the end of calendar year 2020, they will have until June 30, 2021, to use the remaining amounts toward qualifying expenses and lost revenues. The January-June 2021 reporting period will be compared to January-June 2019, and lost revenues reported for 2021 may not exceed the provider’s 2019 net gain.

Reporting entity: parent vs. subsidiary. A parent entity can report on the use of general distribution PRF payments by its subsidiaries, but each subsidiary entity that received a targeted distribution PRF payment must individually report on the use of its targeted distribution payments.

Other reportable information. Providers are also required to report information related to acquisitions or divestitures of subsidiary entities, including the date of the transaction, TINs involved in the transaction, percent of ownership in the entity and whether the reporting provider holds a controlling interest in the entity. Additionally, providers must indicate whether they are subject to single audit requirements in 2020 and whether the provider’s auditors selected PRF payments to be within the scope of the single audit.

What this means to you

As announced previously by HHS, the report for use of PRF payments in 2020 is due by February 15, 2021, and the report for use of PRF payments in 2021 is due by July 31, 2021. HHS has stated that the reporting portal for submission of such reports will become available on October 1, 2020.

Contact us

We will continue to track the PRF reporting requirements as more details become available. For more information regarding this or other PRF topics, please contact Joe Geraci, Eric Weatherford, Jameson Sauseda, Andrew Brenton or your Husch Blackwell attorney.

Comprehensive CARES Act and COVID-19 guidance

Husch Blackwell's CARES Act resource team helps clients identify available assistance using industry-specific updates on changing agency rulemakings. Our COVID-19 response team provides clients with an online legal Toolkit to address challenges presented by the coronavirus outbreak, including rapidly changing orders on a state-by-state basis. Contact these legal teams or your Husch Blackwell attorney to plan a way through and beyond the pandemic.

