

THOUGHT LEADERSHIP

LEGAL UPDATES

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Healthcare Providers to Receive \$25.5 Billion in Relief Funds

On September 10, the Biden-Harris Administration, in conjunction with the Department of Health and Human Services (HHS), announced that \$25.5 billion in relief funds will be distributed to healthcare providers through the Health Resources and Services Administration (HRSA). The American Rescue Plan (ARP) will provide \$8.5 billion in funding and an additional \$17 billion will be distributed as Phase 4 Provider Relief Funds (PRF).

HHS Secretary Xavier Becerra was quoted as saying the “funding will be distributed with an eye towards equity, to ensure that providers who serve our most vulnerable communities will receive the support they need.” Distribution of the funds will follow the Coronavirus Response and Relief Supplemental Appropriations Act of 2020 (CARES Act) guidelines on distribution for providers’ lost revenues and expenditures between July 1, 2020 and March 31, 2021. Smaller providers that serve rural and vulnerable populations will be the key group targeted by these additional Phase 4 funds and will include bonuses for those who serve Medicaid, CHIP, and/or Medicare patients. All Phase 4 ARP and PRF distributions received between July 1, 2021 and December 31, 2021 must be used by December 31, 2022.

Application for ARP and PRF Funds

Both ARP and PRF applicants will begin the application process through the same Application and Attestation Portal used during the previous PRF distribution phases. ARP rural providers can utilize the HRSA Rural Health Grants Eligibility Analyzer to help determine their qualification as a rural provider. The application portal opens September 29, and HRSA will use existing Medicaid, CHIP, and Medicare claims data to calculate payments in addition to the bonus payments.

Phase 4 of PRF Distribution Methodology

Phase 4 distribution will allocate the revenue losses and COVID-related expenses based on the following guidelines:

75% of the Phase 4 allocation will be based on revenue losses and COVID-related expenses.

Large providers will receive a minimum payment amount that is based on a percentage of their lost revenues and COVID-related expenses.

Medium and small providers will receive a base payment plus a supplement, with small providers receiving the highest supplement, as smaller providers tend to operate on thin margins and often serve vulnerable or isolated communities.

HHS will determine the exact amount of the base payments and supplements after analyzing data from all the applications received to ensure we stay within our budget and funds are distributed equitably.

No provider will receive a Phase 4 payment that exceeds 100% of their losses and expenses.

HHS will continue to use risk mitigation and cost containment measures in Phase 4 to protect program integrity and preserve taxpayer dollars.

25% of the Phase 4 allocation will be put towards bonus payments that are based on the amount and type of services provided to Medicaid, CHIP, and Medicare patients.

HHS will price Medicaid and CHIP claims data at Medicare rates, with some limited exceptions for some services provided predominantly in Medicaid and CHIP.

Rural Health Funds under the ARP

The Health Resources and Services Administration (HRSA) will help facilitate distributions from the PRF and the ARP. The \$8.5 billion in ARP funds will be available for rural Medicaid providers, CHIP, and/or Medicare patients. ARP Rural Distributions will be made to all providers that service patients who live in rural areas, as defined by the HHS Federal Office of Rural Health Policy. The language of the ARP generally tracks the PRF, which provides funding to providers for healthcare related expenses and lost revenues attributable to COVID-19 but not reimbursed by another source.

PRF Phase 3 Compliance and Reconsiderations

Any PRF recipient that has undergone a merger or acquisition must report to the HHS Secretary and will likely face an audit to confirm proper use of funds for COVID-19 related costs that are consistent

with an overall risk-based audit strategy. PRF Phase 3 providers that believe their Phase 3 payments were incorrect will now have an opportunity to file a reconsideration. HRS has provided a detailed methodology on how Phase 3 payments were calculated.

Finally, HHS has announced a final 60-day grace period (expiring 9/30/21) for any PRF provider who need to come into compliance with the PRF reporting requirements. This grace period does not affect reporting of PRF use or reporting requirements, but it will stay any HHS enforcement or collection activities for noncompliant providers.

What This Means to You

All providers who received PRF distributions in any of the other phases may be eligible to receive additional funding under the latest Phase 4 distributions. Moreover, providers need only service rural patients to be eligible for ARP payments. Husch Blackwell can provide assistance in making qualification determinations and provide guidance through the PRF and ARP application process. Providers who received Phase 3 PRF distributions and have questions about the way they were reimbursed under the Phase 3 methodology or believe their payment should be reconsidered can also reach out to Husch Blackwell for assistance in resolving these complicated issues.

Contact Us

If you have questions about this update or how it might affect your business, contact Ellee Cochran, Joe Geraci, Eric Weatherford, Dominic Castillo, John Gramlich or your Husch Blackwell attorney.

Your Comprehensive COVID-19 Legal Resource

Since the pandemic's onset, Husch Blackwell has continually monitored state-by-state orders regarding capacity, masking, vaccines, and more. We regularly address your FAQs and provide you with easy-to-use COVID-19 tools about returning to work and navigating federal programs. Contact our industry-specific legal teams or your Husch Blackwell attorney to plan through and beyond the pandemic.