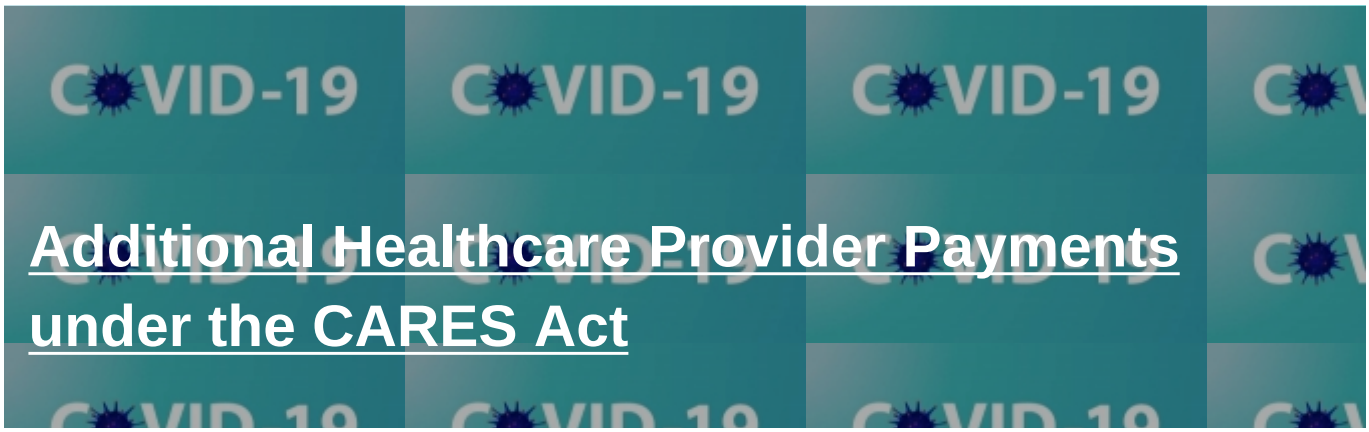


Additional Healthcare Provider Payments under the CARES Act

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On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") into law, allocating $100 billion in funding for eligible healthcare providers. Of this $100 billion, now known as the CARES Act Provider Relief Fund (the "Fund"), $50 billion is designated as a general allocation for all eligible healthcare providers. On April 10, 2020 the U.S. Department of Health and Human Services ("HHS") distributed the first $30 billion of this general allocation, in proportion to providers' 2019 Medicare fee-for-services ("FFS") reimbursements. For more information about this initial distribution and who is eligible, please see our previous alert here.

On April 22, 2020, HHS announced its plan to distribute the Fund's remaining $70 billion. This latest distribution includes additional general allocations, as well as funds targeted at specific sectors of the healthcare field. The most important information regarding these new distributions is outlined below. Please note that the Fund and its terms are nuanced and may raise specific questions not addressed herein. The summary below is not an exhaustive list of all information regarding the Fund, and there may be additional provisions that are relevant to your facility or practice. The entirety of HHS guidance on the Fund may be found here.

$50 Billion General Allocation

According to HHS, the Fund will be split in half: $50 billion for targeted distributions to certain providers and $50 billion in general allocation to all eligible providers. The $30 billion in provider payments delivered mid-April was part of the $50 billion general allocation.

Distribution of the remaining $20 billion began on April 24, 2020, and will continue each week on a rolling basis. All facilities and providers that participated in the Medicare program and received Medicare FFS reimbursements in 2019 are eligible to receive these payments. This second wave of payments will be proportioned in such a way that, when combined with any payment received from the initial $30 billion distribution, each provider will receive an allocation in proportion to its 2018 share of CMS net patient revenue. These payments, much like the first wave, are considered grants and do not have to be repaid by the providers.

HHS is distributing the $20 billion in payments automatically to institutional providers based on the revenue data in their CMS cost reports. Non-institutional providers such as individual practitioners and physician groups should visit this website to submit their revenue data.

Providers who receive an additional allocation from this $20 billion distribution must sign an attestation verifying receipt of the payment, confirming the CMS cost report used to calculate the payment amount, and agreeing to the terms and conditions of the payment. Providers have 30 days following receipt of the payment to sign the attestation. Other than a term requiring the provider's consent to HHS publicly disclosing any payment such provider received from the Fund, the terms and conditions for this second wave of payments are identical to those for the first wave of payments. For a more detailed discussion of these terms, see our previous Provider Relief Payment alert here, or the full text of the terms and conditions here.

Allocation for Treatment of the Uninsured

The $50 billion remaining in the Fund will be split among certain targeted portions of the healthcare industry. One designated target for these payments is providers that have treated uninsured patients for COVID-19 on or after February 4, 2020. At this time, HHS has not indicated how much of the $50 billion in targeted distributions will be set aside for these reimbursements.

Unlike the general allocations, these payments will not be made automatically. A provider must first enroll as a provider participant and check patient eligibility and benefits. Providers who are eligible must then submit patient and claim information, and agree to receive payment via direct deposit. Registration for uninsured treatment reimbursement began April 27, 2020 through this portal. Please note that providers wishing to obtain payment for treatment of uninsured COVID patients must not engage in "balance billing" for the COVID-19 related treatment.

$10 Billion Allocation for Rural Providers

HHS has set aside $10 billion of the $50 billion in targeted allocations for rural health clinics and hospitals. Automatic distribution to rural providers began as early as April 27, 2020. These payments are based on operating expenses and will be distributed proportionately to each rural facility. At this time, HHS has not indicated that rural providers will need to provide any additional information or agree to terms and conditions related to these targeted payments.

Additional Allocations

HHS stated that additional targeted allocations will be set aside for other providers, including skilled nursing facilities, dentists, and providers that solely take Medicaid. However, HHS has not provided any additional information about these allocations at this time.

This article is general in nature and does not constitute legal advice. Readers with legal questions should consult the authors, Mark Opara (mopara@sb-kc.com) and Emily Crane (ecrane@sb-kc.com) or any shareholders in Seigfreid Bingham's Health Law Group, including Mark Thompson, Lori Beam, Joseph Hiersteiner, Mark Gilgus, John Neyens, Heath Hoobing, and John Fuchs, or your regular contact at Seigfreid Bingham at 816-421-4460. For more information and updates, visit our COVID-19 Resources page.