

Healthcare Provider Provisions in the Recent 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 $2 trillion in funding for various programs, families, and businesses affected by the COVID-19 pandemic. A large portion of the CARES Act is geared towards providing funding and support for the healthcare industry, including at least $100 billion in funding for hospitals, rural health systems, and other healthcare providers. Please note that the summary below is not an exhaustive list, and the CARES Act may contain additional provisions that are relevant to your facility or practice. Articles containing more specific and detailed discussions are available from various industry trade groups, such as the **American Hospital Association** and the **American Medical Association.** An outline of all healthcare provisions in the CARES Act can be found **here.**

Public Health and Social Services Emergency Fund

The CARES Act allocates an additional $100 billion in funding to the Public Health and Social Services Emergency Fund. This provision is intended to reimburse eligible healthcare providers for expenses incurred or revenue lost as a direct result of COVID-19. Possible examples of expenses incurred due to COVID-19 include the increased costs of testing, diagnosing, and treating possible or actual cases of COVID-19. Possible examples of revenue lost due to COVID-19 include a decrease in elective surgeries and lower emergency room volume.

These reimbursements are available to public entities, Medicare or Medicaid enrolled suppliers and providers, and such other for-profit and not-for-profit entities specified by the Secretary of the Department of Health and Human Services ("HHS"), as long as the entity is providing diagnoses, testing, or care for individuals with suspected or actual cases of COVID-19.

Eligible entities must apply to HHS in order to be reimbursed, but detailed guidance from HHS about exactly who can apply and how they can apply is still pending. However, under the Act itself, applications for payment from this fund will be reviewed on a rolling basis, so applying as soon as possible may be advisable. Providers should be prepared to quantify the expenses and lost revenue attributable to

COVID-19.

Medicare Hospital Inpatient Prospective Payment System ("IPPS") Add-On for COVID-19 Patients

For the discharge of a COVID-19 patient, the Medicare weighting factor that would normally apply to the patient's assigned diagnosis-related group is increased by 20%. This add-on is only applicable during the period through which either the president or the Secretary of HHS has declared a public health emergency due to COVID-19.

Adjustment of Medicare Sequestration

From May 1, 2020 through December 31, 2020, the 2% Medicare sequestration cut is temporarily eliminated. However, the CARES Act offsets this delay by extending the sequestration period from 2029 to 2030.

Additional Rural Health Grants

Section 3213 of the CARES Act allocates $79,500,000 to the Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement grant programs each year beginning in 2021 and continuing through 2025.

Delay in Medicaid Disproportionate Share Hospital ("DSH") Payment Reductions

The CARES Act delays the $4 billion Medicaid DSH payment reductions until December 1, 2020, and delays the $8 billion DSH reduction until fiscal year 2022. The reductions still continue each year through the 2025 fiscal year.

Diagnostic Testing Pricing

Providers may be entitled to reimbursement from insurance companies for COVID-19 diagnostic testing at either (1) a rate previously negotiated between the insurance company and the provider or, (2) in the absence of a negotiated rate, the cash price for the diagnostic service as listed on the provider's website.

Substance Abuse Disorder Records

The CARES Act eases the Part 2 restrictions on disclosure of substance abuse disorder records, allowing use or disclosure for various healthcare operations, so long as the patient consents. It also aligns Part 2 more closely with HIPAA and adds anti-discrimination provisions.

Telehealth

The CARES Act contains various provisions regarding telehealth, outlined in detail by shareholder Lori Beam **here.**

This article is general in nature and does not constitute legal advice. Readers with legal questions should consult the authors, Mark Thompson (markt@sb-kc.com) and Emily Crane (ecrane@sb-kc.com) or any shareholders in Seigfreid Bingham's Health Law Group, including Lori Beam, Joseph Hiersteiner, Mark Gilgus, John Neyens, Mark Opara, 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.