HEALTHCARE REGULATORY ROUND-UP

Provider Relief Fund

Latest Developments and Predictions

February 23, 2022

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WE ARE AN INDEPENDENT MEMBER OF HLB—THE GLOBAL ADVISORY AND ACCOUNTING NETWORK

Introductions

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Most Recent Distributions

PYA

- $17B Phase 4 Allocation
  - 75% of payments based on change in revenue & expenses between 7/1/20 and 3/31/21; 25% based on Medicare/Medicaid/CHIP participation
  - Distributions to date
    - Batch 1 (12/21): $8.7B to 69K providers
    - Batch 2 (1/22): $2B to 7,661 providers
  - 37% of allocation remains undistributed; still reviewing 18% of applications to address risk mitigation/cost containment safeguards

Most Recent Distributions

PYA

- $8.5B American Rescue Plan Rural Allocation
  - Based on items and services furnished to rural Medicare/Medicaid/CHIP beneficiaries
  - $7.5B to 44.5K providers since 11/21
    - Don't forget: Recipient must retain control over use of funds
  - 4% of applications still under review
  - What about remaining ~$1B?

POLLING QUESTION #1

Payment Reconsideration

PYA

- Now available for Phase 4/Rural applicants that believe payment calculated incorrectly based on published methodology
  - All prior distributions now closed to reconsideration
  - Limited to review based on published methodology
  - No opportunity to correct application
- Deadline is May 2 or 45 days following receipt of payment, whichever is later
- Detailed information at https://www.hrsa.gov/provider-relief/payment-reconsideration

Remaining PRF Funds

PYA

- As of 12/31/20, Congress has appropriated **$178B** to the PRF
- Per HRSA, 415K providers have attested to **$123.5B** in distributions as of 2/16/22
  - Up from **$118.7B** in September 2021
  - Assume about half of Phase 4 distributions not included in total (90 days to attest)
  - Accounting for funds returned following end of Reporting Period 1?
- As of 2/16/22, 49.5K providers have received **$32.5B** for COVID-19 testing, treatment, and vaccine administration for the uninsured
  - About three times the amount reported in September 2021 ($10.8B)
- At least **$10B** remains available for distribution
  - Excluding undistributed and unattested Phase 4 funds + returned funds

Consolidated Appropriations Act, 2020

“[N]ot less than 85 percent of (i) the unobligated balances available as of the date of enactment of this Act, and (ii) any funds recovered from health care providers after the date of enactment of this Act, shall be … based on applications that consider financial losses and changes in operating expenses occurring in the third or fourth quarter of calendar year 2020, or the first quarter of calendar year 2021, that are attributable to coronavirus”

Last Week's Headlines

PYA

Covid Funding Is Drying Up, White House Warns U.S. Lawmakers

- All money so far is allocated or spent, document shows
- HHS seeking $30 billion to prepare for new variants or waves

HEALTH CARE

Biden wants billions more in Covid funding. Lawmakers aren't eager to spend big — again.

Even Democrats who support the additional public health funds worry the effort could derail the fragile negotiations on the core bill to fund the government.

Industry Advocacy

AMERICA'S HOSPITALS AND HEALTH SYSTEMS

February 8, 2022

The Honorable Charles E. Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Republican Leader
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, DC 20515

Dear Leader Schumer, Speaker Pelosi, Leader McConnell and Leader McCarthy:

As representatives of our nation's hospitals and health systems, we are writing to ask you for additional resources for our members as we are continuing to experience financial and operational challenges related to the impacts of treating new variants of the COVID-19 virus. We are very appreciative of the aid that has been given to date and how it has sustained front-line providers and allowed hospitals to continue providing high quality care for their patients and communities during a critical time in the nation's history.

We are entering the third year of the pandemic, and our nation's hospital and health system workers have cared for over 4 million inpatient admissions of patients with COVID-19. At the same time, patient acuity has risen based on an increase in how long patients are staying in the hospital compared to earlier in the pandemic. The financial pressures hospitals and health systems faced at the beginning of the public health emergency continue, with, for example, ongoing delays in non-emergent procedures, in addition to increased expenses for supplies, medicine, testing and protective equipment.

Hospitals also are facing a shortage of workers needed to meet the increased demand for care, and hospital employment has continued to decline compared to pre-pandemic levels. According to data from the Bureau of Labor Statistics, hospital employment is down 95,600 employees from February 2020. This includes a shortage of nurses, who are essential members of the patient care team. To help mitigate these staffing challenges and maintain appropriate levels of care for patients, nearly every hospital in the country has been forced to hire temporary contract staff at some point during the pandemic, including contract nurses. Unfortunately, some travel nurse staffing agencies seem to be exploiting these shortages by inflating prices beyond reasonably competitive levels – two or three or more times pre-pandemic rates – and reportedly retaining high profit margins for themselves. According to Prolucent Health, there has been a 67% increase in the advertised pay rate for travel nurses from January 2020 to January 2022, and hospitals are billed an additional 28%-32% over those pay rates by staffing firms. These increased rates are unsustainable and have contributed to the dramatic increase in hospitals' labor costs since the beginning of the pandemic.

"We are grateful that Congress in December extended the moratorium on Medicare sequester cuts, with the reductions fully suspended until April 1, and the cuts reduced from 2% to 1% through June 30. We ask for additional relief from these cuts in 2022.

"We also ask Congress to act now to ensure hospitals and health systems have the additional resources they need to continue to care for our communities and patients, including supplies and equipment, as well as to offset staffing costs."

POLLING QUESTION #2

Failure To Report – Period 1

PYA

- Period 1 reporting deadline was extended to November 30, 2021 (+ one week grace period December 13 – 20)
  - No opportunity to submit (or correct) Period 1 report
- Out of compliance with Terms and Conditions; must return payments rec'd as of June 30, 2020 (+ any earned interest) to HRSA
- Non-compliant providers excluded from receiving and/or retaining future PRF payments – including Phase 4 payments (what about ARP Rural payments?)
- HRSA will seek **repayment** on all PRF payments received between April 10, 2020 - June 30, 2020, not reported on during Period 1
  - Versus recoupment (with statutory interest rate)
- Failure to return unused funds?

Balance Billing Audits

PYA

- Terms and Conditions
  - "[F]or all care for a presumptive or actual case of COVID-19, Recipient certifies that it will not seek to collect from the patient out-of-pocket expenses in an amount greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network Recipient."
- OIG Work Plan (January 2022)
  - "We will perform a nationwide audit to determine whether **hospitals** that received PRF payments and attested to the associated terms and conditions complied with the balance billing requirement for **COVID - 19 inpatients**."
  - "We will assess **how bills were calculated** for out-of-network patients admitted for COVID-19 treatment, **review supporting documentation** for compliance, and **assess procedural controls and monitoring** to ensure compliance with the balance billing requirement."

Other Audits & Enforcement Actions

PYA

- Enforcement actions to date
  - False certification of eligibility
  - Mis-use of funds for personal purposes
- PRF Audit Contracts (from ProPublica COVID-19 contract listings)
  - KPMG (program integrity support) - $3 million
  - Kearney & Company (PRF audit support) - $1.6 million
  - Creative Solutions Consulting (audit and financial review services) - $729K
- Audit-related provisions in Terms & Conditions

POLLING QUESTION #3

Use of Funds and Reporting Deadlines

PYA

Table 3: Summary of Reporting Requirements

	Payment Received Period (Payments Exceeding $10,000 in Aggregate Received)	Deadline to Use Funds	Reporting Time Period
Period 1	April 10, 2020 to June 30, 2020	June 30, 2021	July 1, 2021 to September 30, 2021
Period 2	July 1, 2020 to December 31, 2020	December 31, 2021	January 1, 2022 to March 31, 2022
Period 3	January 1, 2021 to June 30, 2021	June 30, 2022	July 1, 2022 to September 30, 2022
Period 4	July 1, 2021 to December 31, 2021	December 31, 2022	January 1, 2023 to March 31, 2023

Any unused funds must be returned 30 days following reporting deadline

What about Phase 4 2022 payments?

Period 2 Reporting – New Reporters

PYA

- Welcome to the Party!
  - HRSA resources – https://www.hrsa.gov/provider-relief/reporting-auditing/reporting-resources
  - PYA resources - https://www.pyapc.com/covid-19-hub/

Period 2 Reporting – Returning Reporters

PYA

- Portal will auto-populate certain information submitted for Period 1; will need to update with Q3 and Q4 2021 information/data
  - Carry forward expenses or lost revenue* not reimbursed by PRF funds received prior to 7/1/20
  - Expenses and lost revenues for Q3 and Q4 2021 **must not be duplicative** of those previously reported for Q1 2020 through Q2 2021

Period 2 Lost Revenue Calculation

Provider may elect to change method used to calculate lost revenue from Period 1 to Period 2

- Must provide written justification to support and explain change in methodology

If provider changes methodology, system will recalculate total lost revenues for entire period of availability, which may impact previously reported lost revenues

- Amount of unreimbursed lost revenues may increase or decrease
- If previously reimbursed for more lost revenues than provider had for the period of availability, provider may be required to return additional funds

Lost Revenues Options	Information Needed for Reporting Lost Revenues
Option i ***difference between actual patient care revenues***	• Actuals for each quarter during the period of availability • Actuals for 2019
Option ii ***difference between budgeted and actual patient care revenues***	• Actuals for each quarter during Period of Availability • Budgets for each quarter during the Period of Availability • Copy of the budget approved before March 27, 2020 • Executive-level attestation
Option iii ***any reasonable method of estimating revenues***	• Calculated lost revenues for each quarter during the Period of Availability • A narrative document describing the methodology, including an explanation of why the methodology is reasonable for the circumstances, and a description establishing how lost revenues were attributable to coronavirus (as opposed to a loss caused by any other source); • A calculation of lost revenues attributable to coronavirus using the methodology described in the narrative document.

Nursing Home Infection Control Distribution

PYA

- NHIC payments can only be used for infection control expenses; cannot use to reimburse lost revenues
- NHIC payments = Targeted Distribution; original recipient is always Reporting Entity
- Portal includes separate expense worksheet for NHIC payments
  - Because use of NHIC payments are limited, must be reported separately from all General/Targeted Distribution payments
  - Total reportable NHIC payment includes total dollar value of NHIC payments received by December 31, 2021, plus the interest earned on those payments
  - Expenses not reimbursed by NHIC payments should not be reported on the NHIC expense worksheet

Period 1 FAQ on Parent/Subsidiary Reporting

PYA

Q: How should providers that require separate reporting on behalf of parent entities and/or subsidiaries calculate lost revenue across these entities?

A: The [parent] has discretion in allocating the payments to support its subsidiaries' health care-related expenses or lost revenues attributable to coronavirus, so long as the payment is used to prevent, prepare for, or respond to coronavirus and those expenses or lost revenues are not reimbursed from other sources or other sources were not obligated to reimburse.

Period 2 FAQ on Parent/Subsidiary Reporting

PYA

If subsidiary transferred Targeted Distribution to parent, how does subsidiary demonstrate use of funds in its report? OK to merely report amount transferred to parent?

- For expenses, subsidiary reporting on payment spent by parent must include any expenses applied to subsidiary's payment regardless of source on subsidiary's expense worksheet
- For lost revenue, subsidiary reporting on how payment was used to reimburse lost revenues should use Option 3 and demonstrate how parent's/other subsidiary's lost revenues to which payment was transferred was considered in lost revenue calculation
  - Parent should then reduce parent's report by amount of lost revenues accounted for by subsidiary's Targeted Distribution payment
  - Deductions and reconciliations must be accounted for in each methodology calculation for parent and subsidiary
  - No transferable Targeted Distributions in Period 3 or 4 (NHIC and ARP Rural not transferable)

But what if a parent and its subsidiary reported differently for Period 1?

HHS Federal Audit Requirements

Fiscal Year End	PRF Amount
June 30, 2021, to December 30, 2021	PRF payments received between 4/10/20 to 6/30/20 (less any amount returned)
December 31, 2021, to June 29, 2022	PRF payments received between 4/10/20 to 12/31/20 (less any amount returned)
June 30, 2022, and beyond…	To be determined

- If PRF Amount + expenditures of other federal funds during the fiscal year ≥ $750K, subject to HHS Federal Audit Requirements ***in addition to*** PRF reporting requirements
- Must be performed by independent CPA
- Due 9 months following end of fiscal year

Three Options

PYA

- Single Audit
  - Most comprehensive (and time consuming and expensive); typically required if entity received funds from more than one federal agency
  - Scope of audit includes entity’s financial statements (in addition to government funds received)
- Program-Specific Audit
  - Only available if entity only received PRF payments (no other federal program)
  - Scope limited to PRF; does not include financial statements
  - Auditor required to (1) gain understanding of internal controls over financial reporting, (2) test internal controls over compliance, and (3) issue a reporting giving opinion on entity’s internal controls
- GAGAS Financial Audit
  - Available to entity that received funds under one or multiple HHS programs
  - Scope limited to federal program(s); does not include financial statements
  - Auditor required to gain understanding of internal controls over financial reporting but **not** required to test internal controls or issue opinion

How Can We HELP?

A national healthcare advisory services firm providing consulting, audit, and tax services