

HHS is Paying \$30 Billion of Emergency Fund Payments to Health Care Providers Commencing April 10, 2020

Medical providers are encouraged to be on alert for an email from UHG on behalf of the US Department of Health and Human Services (HHS) and a stimulus payment bank deposit from HHS.

One paragraph of the CARES Act (see full text below) added \$100 billion to the Public Health and Social Services Emergency Fund to reimburse Medicare and Medicaid health care providers who “provide diagnoses, testing, or care for individuals with possible or actual cases of COVID-19” for “lost revenues” and “health care related expenses” that are attributable to the coronavirus. HHS administers the Fund. This stimulus relief is separate from, and not in lieu of, other Medicare stimulus provisions including the Accelerated and Advance Payment Program.

Beginning on April 10, 2020, the HHS is paying \$30 billion to providers that received Medicare fee-for-service (FFS) reimbursements in 2019. These payments are not loans. According to HHS, these payments will “provide relief to both providers in areas heavily impacted by the COVID-19 pandemic and those providers who are struggling to keep their doors open due to healthy patients delaying care and cancelled elective services.”

HHS will pay providers via Automated Clearing House account information on file with UHG or the Centers for Medicare & Medicaid Services (CMS). Providers who normally receive a paper check for reimbursement from CMS will receive a paper check in the mail within the next few weeks. The payment will be described as a stimulus payment from HHS. A provider can estimate the provider’s payment by dividing its 2019 Medicare FFS (not including Medicare Advantage) payments received by \$484,000,000,000, and multiply that ratio by \$30,000,000,000. Employed physicians will not receive an individual payment directly; the employer organization will receive the relief payment as the billing organization.

As a condition to receiving these funds, a provider must (1) abstain from “balance billing” any patient for COVID-related treatment (i.e., agree not to seek collection of out-of-pocket payments from a COVID-19 patient that are greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider), and (2) within 30 days of receiving the payment, the provider must sign an attestation confirming receipt of the funds and agreeing to the terms and conditions of payment. The portal for signing the attestation is supposed to open the week of April 13, 2020. *Until the provider makes an affirmative decision to accept the terms and conditions of the attestation, the provider should not spend any of the relief payment.*

By signing the attestation, the medical provider recipient will be agreeing to the following terms and conditions:

- The Recipient billed Medicare in 2019; currently provides diagnoses, testing, or care for individuals with possible or actual cases of COVID-19; is not currently terminated from participation in Medicare; is not currently excluded from participation in Medicare, Medicaid,

and other Federal health care programs; and does not currently have Medicare billing privileges revoked.

- The Recipient will use the payment only to prevent, prepare for, and respond to coronavirus and as reimbursement only for health care related expenses or lost revenues that are attributable to the coronavirus.
- The Recipient will not use the payment to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse.
- The Recipient will submit reports as the HHS Secretary determines are needed to ensure compliance with conditions that are imposed on the payment, and such reports shall be in such form, with such content, as specified by the Secretary in future program instructions directed to all Recipients.
- The Recipient will maintain appropriate records and cost documentation to substantiate the reimbursement of costs, will promptly submit copies of such records and cost documentation upon request, and will fully cooperate in all audits to ensure compliance with the terms and conditions.
- Not later than 10 days after the end of each calendar quarter, any Recipient that is an entity receiving more than \$150,000 total in funds under the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136), the Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123), the Families First Coronavirus Response Act (P.L. 116-127), or any other Act primarily making appropriations for the coronavirus response and related activities, shall submit to the HHS Secretary and the Pandemic Response Accountability Committee a report. This report shall contain: the total amount of funds received from HHS under one of the foregoing enumerated Acts; the amount of funds received that were expended or obligated for each project or activity; a detailed list of all projects or activities for which large covered funds were expended or obligated, including: the name and description of the project or activity, and the estimated number of jobs created or retained by the project or activity, where applicable; and detailed information on any level of sub-contracts or subgrants awarded by the covered recipient or its subcontractors or subgrantees, to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 allowing aggregate reporting on awards below \$50,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

If a provider receives payment and does not wish to comply with the terms and conditions of the attestation, the provider should contact HHS within 30 days of receipt of payment and then refund the full payment to HHS as HHS will instruct.

Text of CARES Act Provision Adding \$100 Billion to the
Public Health and Social Services Emergency Fund

For an additional amount for “Public Health and Social Services Emergency Fund”, \$100,000,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, for necessary expenses to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus:

Provided, That these funds may not be used to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse:

Provided further, That recipients of payments under this paragraph shall submit reports and maintain documentation as the Secretary determines are needed to ensure compliance with conditions that are imposed by this paragraph for such payments, and such reports and documentation shall be in such form, with such content, and in such time as the Secretary may prescribe for such purpose:

Provided further, That “eligible health care providers” means public entities, Medicare or Medicaid enrolled suppliers and providers, and such for-profit entities and not-for-profit entities not otherwise described in this proviso as the Secretary may specify, within the United States (including territories), that provide diagnoses, testing, or care for individuals with possible or actual cases of COVID-19:

Provided further, That the Secretary of Health and Human Services shall, on a rolling basis, review applications and make payments under this paragraph in this Act:

Provided further, That funds appropriated under this paragraph in this Act shall be available for building or construction of temporary structures, leasing of properties, medical supplies and equipment including personal protective equipment and testing supplies, increased workforce and trainings, emergency operation centers, retrofitting facilities, and surge capacity:

Provided further, That, in this paragraph, the term “payment” means a pre-payment, prospective payment, or retrospective payment, as determined appropriate by the Secretary:

Provided further, That payments under this paragraph shall be made in consideration of the most efficient payment systems practicable to provide emergency payment:

Provided further, That to be eligible for a payment under this paragraph, an eligible health care provider shall submit to the Secretary of Health and Human Services an application that includes a statement justifying the need of the provider for the payment and the eligible health care provider shall have a valid tax identification number:

Provided further, That, not later than 3 years after final payments are made under this paragraph, the Office of Inspector General of the Department of Health and Human Services shall transmit a final

report on audit findings with respect to this program to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That nothing in this section limits the authority of the Inspector General or the Comptroller General to conduct audits of interim payments at an earlier date:

Provided further, That not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate on obligation of funds, including obligations to such eligible health care providers summarized by State of the payment receipt:

Provided further, That such reports shall be updated and submitted to such Committees every 60 days until funds are expended:

Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(Emphasis and formatting have been added.)

Sources

(S. 3548 - The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) – 116th Congress (2019-2020) <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>)

<https://www.hhs.gov/provider-relief/index.html>

<https://www.hhs.gov/sites/default/files/relief-fund-payment-terms-and-conditions-04092020.pdf>