CARES Act Provider Relief Fund FAQs – FAQs Added On March 31, 2021

Does HHS intend to recoup any payments made to providers not tied to specific claims for reimbursement, such as the General or Targeted Distribution payments?

The Provider Relief Fund Terms and Conditions require that recipients be able to demonstrate that lost revenues and expenses attributable to COVID-19, excluding expenses and losses that have been reimbursed from other sources or that other sources are obligated to reimburse, meet or exceed total payments from the Provider Relief Fund. Provider Relief Fund payment amounts that have not been fully expended on health care expenses or lost revenues attributable to coronavirus by the end of the final reporting period must be returned to HHS. The Provider Relief Fund Terms and Conditions and applicable legal requirements authorize HHS to audit Provider Relief Fund recipients now or in the future to ensure that program requirements are met. Provider Relief Fund payments that were made in error, or exceed lost revenue or expenses due to COVID-19, or do not otherwise meet applicable legal and program requirements must be returned to HHS, and HHS is authorized to recoup these funds.

Is there a set period of time in which providers must use the funds to cover allowable expense or lost revenues attributable to COVID-19?

Yes. As explained in the notice of reporting requirements on the Provider Relief Fund website, available at https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/reportingauditing/index.html, funds must be expended no later than June 30, 2021. HHS will provide directions in the future about how to return unused funds. HHS reserves the right to audit Provider Relief Fund recipients now or in the future, and is authorized to collect any Provider Relief Fund amounts that were overpaid or not used in a manner consistent with program requirements or applicable law. All payment recipients must attest to the Terms and Conditions, which require the submission of documentation to substantiate that these funds were used for health care-related expenses or lost revenue attributable to coronavirus.

What oversight and enforcement mechanisms will HHS use to ensure providers meet the Terms and Conditions of the Provider Relief Fund?

Providers receiving payments from the Provider Relief Fund must comply with the Terms and Conditions and applicable legal requirements. Failure by a provider that received a payment to comply with any term or condition can result in action by HHS to recoup some or all of the payment. Per the Terms and Conditions, all recipients will be required to submit documents to substantiate that these funds were used for health care-related expenses or lost revenue attributable to coronavirus, and that those expenses or losses were not reimbursed from other sources and other sources were not obligated to reimburse them. HHS monitors the funds distributed, and oversees payments to ensure that Federal dollars are used in accordance with applicable legal and program requirements. In addition, the HHS Office of the Inspector General fights fraud, waste and abuse in HHS programs, and may review these payments.

In order to accept a payment, must the provider have already incurred eligible expenses and losses higher than the Provider Relief Fund payment received?

No. Providers do not need to be able to prove, at the time they accept a Provider Relief Fund payment that prior and/or future lost revenues and expenses attributable to COVID-19 (excluding those covered by other sources of reimbursement) meet or exceed their Provider Relief Fund payment. HHS expects that providers will only use Provider Relief Fund payments in accordance with legal and program requirements. These requirements specify that if, on June 30, 2021, providers have remaining Provider Relief Fund money that they cannot expend on permissible expenses or losses, then providers will return this money to HHS. HHS will provide directions in the future about how to return unused funds. The Provider Relief Fund Terms and Conditions and legal requirements authorize HHS to audit Provider Relief Fund recipients now or in the future to ensure that program requirements are met. HHS is authorized to recoup any Provider Relief Fund amounts that were made in error or exceed lost revenue or expenses due to COVID-19, or in cases of noncompliance with the Terms and Conditions.

Can an organization that received a Provider Relief Fund payment and provided care on or after January 31, 2020 that sold, terminated, transferred, or otherwise disposed of a provider accept the payment (received via ACH or check) associated with the sold provider?

If an organization that sold, terminated, transferred, or otherwise disposed of a provider that was included in its most recent tax return gross receipts or sales (or program services revenue) figure can attest to meeting the Terms and Conditions, it may accept the funds. The Terms and Conditions place restrictions on how the funds can be used. In particular, all recipients will be required to substantiate that these funds were used for health care-related expenses or lost revenue attributable to coronavirus, and that those expenses or losses were not reimbursed from other sources and other sources were not obligated to reimburse them. An organization that sold part of a practice in 2019 or January 2020 received a payment under the General Distribution that reflected the 2019 Medicare fee-for-service billing of the part of the practice that was sold.

Can the parent entity return a portion of the payment for the part of the practice it no longer owns?

No. A provider may not return a portion of a Provider Relief Fund payment. If a provider that sold a practice that was included in its most recent tax return gross receipts or sales (or program services revenue) figure can attest to meeting the Terms and Conditions, it may accept the funds. The Terms and Conditions place restrictions on how the funds can be used. In particular, all recipients will be required to substantiate that these funds were used for health care-related expenses or lost revenue attributable to coronavirus, and that those expenses or losses were not reimbursed from other sources and other sources were not obligated to reimburse them.

Can a parent organization transfer General Distribution Provider Relief Fund payments to its subsidiaries?

Yes, a parent organization can accept and allocate General Distribution funds at its discretion to its subsidiaries, as long as the Terms and Conditions are met. Eligible health care entities, including those that are parent organizations must substantiate that these funds were used for health care-related expenses or lost revenue attributable to COVID-19, and that those expenses or losses were not reimbursed from other sources and other sources were not obligated to reimburse them.

Can a parent organization allocate Provider Relief Fund General Distribution to subsidiaries that do not report income under their parent's employee identification number (EIN)?

Yes, as long as the Terms and Conditions are met. The parent organization (an eligible health care entity) must substantiate that these funds were used for health care-related expenses or lost revenue attributable to COVID-19, and that those expenses or losses were not reimbursed from other sources and other sources were not obligated to reimburse them.

How does cost-based reimbursement relate to my Provider Relief Fund payment?

Recipient must follow CMS instructions for completion of cost reports available at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-ManualsItems/CMS021935 Under cost-based reimbursement, the payer agrees to reimburse the provider for the costs incurred in providing services to the insured population. In these instances, if the full cost was reimbursed based upon this method, there is nothing eligible to report as an expense attributable to coronavirus because the expense was fully reimbursed by another source. Provider Relief Fund payments cannot be used to cover costs that are reimbursed from other sources or that other sources are obligated to reimburse. Therefore, if Medicare or Medicaid makes a payment to a provider based on the provider's Medicare or Medicaid cost, such payment generally is considered to fully reimburse the provider for the costs associated with providing care to Medicare or Medicaid patients and no money from the PRF would be available for those identified Medicare and Medicaid costs. However, in cases where a ceiling is applied to the cost reimbursement or the costs are not reimbursed under cost-based reimbursement (such as costs for care to commercial payer patients) since the reimbursed amount by Medicare or Medicaid does not fully cover the actual cost, those non-reimbursed costs are eligible for reimbursement under the Provider Relief Fund.

When reporting my organization's healthcare expenses attributable to coronavirus, how do I calculate the "expenses attributable to coronavirus not reimbursed by other sources?"

Healthcare related expenses attributable to coronavirus may include items such as supplies, equipment, information technology, facilities, employees, and other healthcare related costs/expenses for the calendar year. The classification of items into categories should align with how Provider Relief Fund recipients maintain their records. Providers can identify their healthcare related expenses, and then apply any amounts received through other sources, such as direct patient billing, commercial insurance,

Medicare/Medicaid/Children's Health Insurance Program (CHIP), or other funds received from the Federal Emergency Management Agency (FEMA), the Provider Relief Fund COVID-19 Claims Reimbursement to Health Care Providers and Facilities for Testing, Treatment, and Vaccine Administration for the Uninsured, and the Small Business Administration (SBA) and Department of Treasury's Paycheck Protection Program (PPP) that offset the healthcare related expenses. Provider Relief Fund payments may be applied to the remaining expenses or costs, after netting the other funds received or obligated to be received which offset those expenses. The Provider Relief Fund permits reimbursement of marginal increased expenses related to coronavirus provided those expenses have not been reimbursed from other sources or that other sources are not obligated to reimburse.

For example, assume the following: A $5 increase in expense or cost to provide an office visit is calculated by pre-pandemic cost vs. post-pandemic cost, regardless of reimbursement source:

- Pre-pandemic average expense or cost to provide an office visit = $80
- Post-pandemic average expense or cost to provide an office visit = $85

Examples of reimbursed amounts may include, but not be limited to:

- Example 1: Medicaid reimbursement: $70 (Report $85-$80 = $5 as expense attributable to coronavirus but unreimbursed by other sources)
- Example 2: Medicare reimbursement: $80 (Report $85-$80 = $5 as expense attributable to coronavirus but unreimbursed by other sources)
- Example 3: Commercial Insurance reimbursement: $85 (Report $5, commercial insurer did not reimburse for $5 increased cost of post-pandemic office visit)
- Example 4: Commercial Insurance reimbursement: $85 + $5 insurer supplemental coronavirus related reimbursement (Report zero since insurer reimbursed for $5 increased cost of post-pandemic office visit)
- Example 5: COVID-19 Claims Reimbursement to Health Care Providers and Facilities for Testing, Treatment, and Vaccine Administration for the Uninsured: $80 (Report $5 as expense attributable to coronavirus but unreimbursed by other sources)

Is a health care provider eligible to receive a payment from the Phase 3 – General Distribution even if the provider received funding from the Small Business Administration's (SBA) Payroll Protection Program or the Federal Emergency Management Agency (FEMA) or has received Medicaid HCBS retainer payments?

Yes. If the health care provider otherwise meets the criteria for eligibility, receipt of funds from SBA and FEMA for coronavirus recovery or of Medicaid Home-and Community-Based Services (HCBS) retainer payments, does not preclude a health care provider from being eligible for Phase 3 – General Distribution; however, the health care provider must substantiate that the Provider Relief Fund payments were used for health care related expenses or lost revenue attributable to COVID-19, and those expenses or lost revenue were not reimbursed from other sources or other sources were not obligated to reimburse.