



\$75 Billion More to Come to Health Care Providers – But To Whom and How Remains a Question

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As most health care providers (and many of their patients) are aware, the [CARES Act](#) allocated [\\$100 billion](#) in “[Provider Relief Funds](#)” to be distributed to various providers due to the COVID-19 pandemic. However, with the constant inundation of COVID-19 news, providers may have missed the fourth coronavirus relief law, the “[Paycheck Protection Program and Health Care Enhancement Act](#).” This law allowed for the second wave of Paycheck Protection Program loans and, significantly, allocated another \$75 billion to the Provider Relief Fund.

Interestingly, the [Department of Health and Human Services \(HHS\)](#) has yet to decide how this \$75 billion will be disbursed, and it appears knowledge of these additional Provider Relief Fund dollars has largely flown under the radar. This is likely due to the fact that it was included in the Paycheck Protection Program loan legislation. Providers and their financial teams are urged to monitor updates from HHS about this legislation diligently to make sure they do not miss out on another opportunity to receive a portion of this \$75 billion. This \$75 billion is subject to similar terms and conditions to which the prior \$100 billion in Provider Relief Funds were subject. Of these terms and conditions, the following are important to note:

- While HHS is supposed to, on a rolling basis, review “applications” and make payments to providers out of this fund, it seems likely that any applications will be relatively simple for providers given the applications filled out for the initial round of Provider Relief Funds.
- These funds are available to “prevent, prepare for, and respond to [the] 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 [the] coronavirus.” Due to the reference to “lost revenues,” it is

generally accepted that recipients are free to use these funds to pay for almost any costs or items associated with their practices or facilities, subject to the other restrictions in the terms and conditions.

- Recipients cannot use these funds “to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse.” While the full scope of this provision is unclear, it likely pertains to, for example, sources such as insurance payments made to cover business losses, or loans that are designated for a particular purpose, such as the Paycheck Protection Program.
- The Inspector General of HHS has authority to conduct interim audits related to the distribution of these funds and will conduct a final audit, no later than 3 years after final payments are made. In light of this requirement, it is advisable for recipients to (i) keep Provider Relief Fund dollars in a separate bank account, and (ii) accurately document the subject and amount of all their expenditures of Provider Relief Fund dollars.

Again, providers are urged to monitor announcements about this \$75 billion in funding from HHS moving forward. As a recap, the original \$100 billion in Provider Relief Funds under the CARES Act could be broken down into \$50 billion buckets:

The First \$50 Billion Bucket

Fifty billion dollars is allocated for general distribution to Medicare facilities and providers impacted by COVID-19 and is subject to several [terms and conditions](#). Of this \$50 billion, there was an initial tranche of [\\$30 billion](#) in funds that was distributed to providers between April 10 and April 17, proportionate to their share of Medicare fee-for-service reimbursements in 2019.

The remaining [\\$20 billion](#) began to be distributed to providers Friday, April 24, based on a percentage of each provider’s 2018 net patient revenue from all payors, not just Medicare fee-for-service payments. The first disbursement from this \$20 billion was calculated based on Medicare cost report data, and providers

without adequate cost report data are required to submit their revenue information through an [HHS portal](#). Payment to those additional providers will be done on a weekly, rolling basis as their revenue information is verified. Providers receiving automatic payments still must verify their payment amount by submitting revenue information through the same portal.

The Second \$50 Billion Bucket

HHS indicated the following providers will be aided with payments from the other half of the \$100 billion in Provider Relief Funds: (i) \$10 billion to hospitals in areas with high numbers of COVID-19 cases, (ii) an undisclosed amount to a program administered by the Health Resources and Services Administration for providers treating uninsured COVID-19 patients, (iii) \$10 billion for [rural health clinics](#) and hospitals, and (iv) \$400 million for Indian Health Service facilities. Finally, HHS indicated separate financial assistance would be forthcoming for other providers, such as nursing facilities, dentists, and providers solely treating Medicaid patients.

The Final Tally

To date, this means that the federal government has allocated for distribution \$175 billion in Provider Relief Funds to help health care providers deal with the effects of the COVID-19 pandemic. If you have questions about these funds or their terms and conditions, Frost Brown Todd's [Health Care Innovation Team](#) can help.

Please reach out to the author with any questions. You can also visit our [Health Law Matters blog](#) for more insight into legal issues impacting the health care industry.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are prepared to answer your questions on a wide range of legal topics and provide practical guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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