

CORONAVIRUS INFORMATION & UPDATES

October 8, 2020

HHS Provider Relief Fund Opens Portal for Phase Three General Distribution

Background

On October 1, 2020, the U.S. Department of Health and Human Services (“HHS”) [announced](#) \$20 billion in new funding for providers affected by COVID-19 as part of Phase Three of the General Distribution under the Provider Relief Fund established by the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”). Importantly, providers are eligible for funding under Phase Three of the General Distribution even if they previously received funding from the Small Business Administration’s Payroll Protection Program (“PPP”), the Federal Emergency Management Agency (“FEMA”), or Medicaid’s Home and Community-Based Services payment retainer program.¹ During this latest round of funding, providers that previously received payment under prior Provider Relief Fund distributions are eligible to apply for additional funding due to financial losses and changes in operating expenses caused by COVID-19.² Additionally, providers who began practicing in 2020, as well as behavioral health providers focused on mental health and substance use issues exacerbated by the pandemic, are now eligible to apply. Phase Three differs from previous funding in that Phase Three will now take into account documentation of COVID-19’s impact on providers.³ Of note, however, is that Phase Three will also consider a provider’s change in operating revenue derived from patient care less the provider’s operating expenses from patient care.⁴

The application portal to apply for funding under Phase Three opened on Monday, October 5, 2020, and closes on November 6, 2020; however, HHS encourages applicants to submit applications as soon as possible.⁵ Ultimately, the actual percentage amounts paid to providers will be determined following the application deadline and will depend on how many providers actually apply for funding.⁶ HHS indicated that payments will be distributed as soon as possible following the application deadline.⁷

Eligibility

The below listed providers are eligible for Phase 3 General Distribution funding.⁸

1. Providers that billed Medicaid/CHIP programs or Medicaid managed care plans for health-related services between January 1, 2018, and March 31, 2020;
2. Providers that billed a health insurance company for oral health care-related services as a dental service provider as of March 31, 2020;
3. Licensed dental service providers as of March 31, 2020, who do not accept insurance and have billed patients for oral health care-related services;
4. Providers that billed Medicare fee-for-service during the period of January 1, 2019, to March 31, 2020;
5. Medicare Part A providers that experienced a CMS-approved change in ownership prior to August 10, 2020;

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6. State-licensed/certified assisted living facilities as of March 31, 2020; and
7. Behavioral health providers as of March 31, 2020, that billed a health insurance company or those that do not accept insurance and billed patients for health care-related services as of March 31, 2020.⁹

Application Requirements

Additionally, to be eligible to apply, providers must meet all of the following requirements:

1. Filed a federal income tax return for fiscal years 2017, 2018, 2019 if in operation before January 1, 2020, or be exempt from filing a return;
2. Provided patient care (i.e., health care, services, and support, as provided in a medical setting, at home, or in the community) at least sometime after January 31, 2020;
3. Did not permanently cease providing patient care directly or indirectly; and
4. For individuals providing care before January 1, 2020, has gross receipts or sales from patient care reported on Form 1040 (or other tax form).¹⁰

Methodology

All eligible providers will be considered for payment against the below criteria:

1. Confirmation as to whether they have received a Provider Relief Fund payment equal to approximately two percent of patient care revenue from prior general distributions. Applicants that have not yet received Provider Relief Fund payments of two percent (2%) of patient revenue will receive a payment that, when combined with prior payments (if any), equals two percent (2%) of patient care revenue. As discussed below, Phase Three applicants may receive more than two percent (2%) of its patient care revenue, but only if such additional funds are available.
2. With the remaining balance of the \$20 billion budget, the HHS Health Resources and Services Administration (“HRSA”) will then calculate an equitable add-on payment that considers the following:
 - A provider’s change in operating revenues from patient care;
 - A provider’s change in operating expenses from patient care, including expenses incurred related to COVID-19; and
 - Payments already received through prior Provider Relief Fund distributions.

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Application Process

All applicants must submit their Tax Identification Number (“TIN”) and financial information to the Provider Relief Fund Application and Attestation Portal. Applicants who submit by Friday, November 6, 2020, at 11:59 p.m. ET will be considered for funding.¹¹

Note that there is a TIN verification process that applicants will need to complete. Recognized TINs will be automatically validated and the provider may re-enter the portal to complete the application. These automatically validated TINs include:

1. TINs from a state-provided third-party list; or
2. TINs that were previously verified in prior Provider Relief Fund distributions.¹²

Unrecognized TINs are required to complete a three-step verification process, which can take four weeks to complete. As part of this process:

1. HHS shares unrecognized provider TINs with third-party validators, including Medicaid/CHIP agencies, dental organizations, national provider organizations, etc. (7–10 business days);¹³
2. The third-party validator reviews applicant information for eligibility (*e.g.*, actively in practice, in good standing) and then shares the results with HRSA (7–10 business days);¹⁴
3. HRSA accepts the validator’s TIN verification determination, updates the portal accordingly, and notifies the applicant that they can re-enter the portal to apply (3–5 business days).¹⁵

Required Documentation

Providers should be prepared to provide the following types of documentation as part of their application:

1. Most recent federal income tax return for 2017, 2018, or 2019, unless exempt;
2. Revenue worksheet (if required by Field 15); and
3. Operating revenues and expenses from patient care.¹⁶

Payment Information

Providers that did not previously receive approximately two percent (2%) of annual revenues from patient care will receive this amount consistent with prior General Distributions funds, in addition to their Phase Three General Distribution allocation. However, as previously noted, payments received in prior Provider Relief Fund distributions will be considered when calculating a provider’s Phase Three General Distribution payment. Also note that all distributions will be paid to the Filing or Organizational TIN, and not directly to subsidiary TINs, and providers receiving greater than \$100,000 must sign up for Optum Pay to receive their payment.¹⁷

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Looking Ahead

HHS will conduct a webinar on October 15, 2020, at 3:00 PM ET (register [here](#)) and has continued to publish frequently asked questions, as needed. Ropes & Gray LLP will continue to monitor HHS guidance for updates to the guidance for the Phase Three General Distribution fund.

The guidance from HHS and other agencies on federal funding is constantly evolving. Please visit the Ropes & Gray [Coronavirus Resource Center](#) for more information and updates regarding COVID-19 provider funding relief.

1. [CARES Act Provider Relief Fund, Frequently Asked Questions.](#)
2. [Press Release, Trump Administration Announced \\$20 Billion in New Phase 3 Provider Relief Funding \(Oct. 1, 2020\).](#)
3. [CARES Act Provider Relief Fund, Frequently Asked Questions.](#)
4. *Id.*
5. [CARES Act Provider Relief Fund: For Providers.](#)
6. [CARES Act Provider Relief Fund, Frequently Asked Questions.](#)
7. *Id.*
8. *See Id.* (note that to be eligible providers must not currently be excluded from participating in any federal health care program).
9. [CARES Act Provider Relief Fund: For Providers.](#)
10. *Id.*
11. *Id.*
12. *Id.*
13. *Id.*
14. *Id.*
15. *Id.*
16. *Id.*
17. *Id.*