

Healthcare Law Alert: HHS Provides Clarification on Eligibility for Provider Relief Fund

April 16, 2020 – As we reported in our [Healthcare Law Alert on April 13](#), the Department of Health & Human Services (HHS) began distributing relief payments to participating Medicare providers under the Public Health and Social Services Emergency Fund (PHSSEF). The \$30 billion in grant payments are part of the \$100 billion in relief included in the federal CARES Act of 2020. HHS has now released on its [webpage](#) the following guidance regarding provider eligibility for the grant:

- If you ceased operation as a result of the COVID-19 pandemic, you are still eligible to receive funds so long as you provided diagnoses, testing, or care for individuals with possible or actual cases of COVID-19. **Care does not have to be specific to treating COVID-19. HHS broadly views every patient as a possible case of COVID-19.**

In addition, HHS updated the Terms and Conditions of the payment to provide in the second bullet:

- The recipient certifies that it billed Medicare in 2019; **provides or provided after January 31, 2020** diagnosis, 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 healthcare programs; and does not currently have Medicare billing privileges revoked.

The bolded language replaces the original requirement that the recipient “currently provides” diagnosis, testing, or care for individuals with possible or actual cases of COVID-19.

HHS has therefore confirmed its intention for these funds to “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.” Practices that have had to cease rendering patient care or whose patient volumes have been reduced as a result of COVID-19 in light of state executive orders (such as, for example, a dermatology practice with a reduced volume), clearly will be considered as adversely affected by COVID-19, and thus will be eligible to retain the funds they have received. We will provide any additional updates or guidance as we receive them, including as to how the funds may be used.

As previously noted, all providers who received a PHSSEF payment will need to carefully review and ensure compliance with all of the Terms and Conditions of the payment. Within 30 days of receipt of the payment, providers will be required to sign an attestation through the HHS online portal confirming receipt of the funds and agreeing to the Terms and Conditions of payment. Providers who do not return the payment to HHS within 30 days of receipt will be viewed as accepting the Terms and Conditions. The portal containing the necessary attestation is now available [online](#) or on this [HHS webpage](#).

Any providers with questions regarding a payment received or the Terms and Conditions for this grant, please contact:

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