

Healthcare Law Alert: HHS Issues Guidance on Calculation of Provider Relief Fund Payments and Handling Suspected Overpayments/Underpayments

May 29, 2020 - In addition to the first Provider Relief Fund payments that providers received automatically during the week of April 10, 2020, HHS began offering on April 24, 2020, a second round of Provider Relief payments for which most providers would need to submit an application. HHS explains in its updated [Frequently Asked Questions](#) how the second payment amount is calculated. (Some of you may have noticed that a calculation briefly appeared on the Provider Relief Fund Attestation Portal a couple of weeks ago but was taken down.) The purpose of the second payment is to augment a provider's initial payment so that the total of the two payments combined would be proportional to the provider's share of 2018 net patient revenue from all sources. HHS clarifies that the allocation methodology is designed to provide relief to providers (who bill Medicare fee-for-service) with at least 2% of that provider's net patient revenue regardless of the provider's payer mix. Payments are determined based on the lesser of a) 2% of a provider's 2018 (or most recent complete tax year) net patient revenue, or b) the sum of incurred losses for March and April which a provider must report in the attestation for the first payment.

To estimate this 2% of annual patient revenue, the provider should perform the following calculation: Individual Provider Revenues (the Gross Receipts of Sales or Program Service Revenue reported on the 2018, or most recent, tax return) divided by \$2.5 Trillion, then multiplied by \$50 Billion. Providers may not receive a second relief payment if the provider received a first distribution payment equal to or more than 2% of their patient revenue.

Providers that received the first payment must sign an attestation confirming receipt of the funds and agree to the Terms and Conditions within 45 days of payment. **HHS states in the guidance that if a provider believes they were overpaid or may have received a payment in error, they should reject the entire payment via the [Attestation Portal](#) and submit the appropriate revenue documents through the [General Distribution Portal](#) to facilitate HHS determining their correct payment.** Providers may not retain a portion of the payment and return only the overpayment amount. If a provider believes they were underpaid, they should accept the payment and submit their revenues in the General Distribution Portal to determine their correct payment.

Providers may return a payment by going into the Attestation Portal within 45 days of receiving payment. The Attestation Portal will guide providers through the attestation process to reject the funds. To return the money, the provider needs to contact their financial institution and ask the institution to refuse the received Automated Clearinghouse (ACH) credit by initiating an ACH return using the ACH return code of "R23 - Credit Entry Refused by Receiver." If a provider received the money via ACH they must return the money via ACH. If a provider was paid via paper check, after rejecting the payment in the Attestation Portal, the provider should destroy the check if not deposited, or mail a paper check to UnitedHealth Group with notification of their request to return the funds. The address is UnitedHealth Group, Attention: CARES Act Provider Relief Fund, PO Box 31376, Salt Lake City, UT 84131-0376.

HHS states in its updated guidance that it does not intend to recoup funds as long as a provider's lost revenue and increased expenses exceed the amount of Provider Relief funding a provider has received. HHS may, however, audit Relief Fund recipients in the future to ensure that this requirement is met and collect any Relief Fund amounts that were made in error or exceed lost revenue or increased expenses due to COVID-19. Failure to comply with the Terms and Conditions may be grounds for recoupment.

If a provider already attested and accepted funds but now needs to reject the funds based on this new guidance, it appears that the provider can go back into the Attestation Portal, with the TIN and first payment, and attest again to reject the payment. If

the portal does not allow rejection of the payment, we recommend that providers call the UnitedHealth Group (UHG) Provider Relief hotline at (866) 569-3522.

If you have any questions about this alert or any other Healthcare Law issue, please contact:

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