

HHS ISSUES MUCH ANTICIPATED UPDATES TO PROVIDER RELIEF FUND DEADLINES AND REPORTING REQUIREMENTS

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**HHS Issues Much Anticipated Updates to
Provider Relief Fund Deadlines and Reporting Requirements**
By: Kelly T. Custer, Esq., Jeffrey S. Baird, Esq. and Scotty Sykes, CPA, CFP®

Pharmacies across the country were pleasantly surprised with the release of updated reporting requirements and deadlines in connection with funds received from the CARES Act Provider Relief Fund (PRF). On June 11, 2021, the Department of Health and Human Services (HHS) issued the revised post-payment notice of reporting requirements that supersedes all prior versions of the notice.

The updated requirements reflect the Health Resources and Services Administration’s (HRSA) focus on giving providers equitable amounts of time for use of these funds, maintaining effective safeguards for taxpayer dollars, and incorporating feedback from providers requesting more flexibility and clarity about PRF reporting.

Summary of Key Updates

- The period for use of funds is based on the date payment is received rather than requiring all payments to be used by June 30, 2021, regardless of when they were received.
- Recipients are required to report for each Payment Received Period in which they received one or more payments exceeding \$10,000 in the aggregate rather than \$10,000 cumulatively across all PRF payments.
- Recipients have a 90-day period to complete reporting rather than a 30-day reporting period.
- The PRF Reporting Portal opened for providers to submit information on July 1, 2021.

Timing of Required Use of Funds and Reporting Deadlines

The following deadlines apply to payments received. If the pharmacy received funds during more than one of the periods identified below, it will be required to report use of the funds in each applicable reporting period—it does not appear that there will be a mechanism to report funds from multiple periods in a single report. Pharmacies that fail to meet the respective deadline are out of compliance with Terms and Conditions and may be subject to recoupment.

	Payment Received Period (Payments Exceeding \$10,000 in Aggregate Received)	Deadline to Use Funds	Reporting Time Period
Period 1	From April 10, 2020, to June 30, 2020	June 30, 2021	July 1 to September 30, 2021
Period 2	From July 1, 2020, to December 31, 2020	December 31, 2021	January 1 to March 31, 2022
Period 3	From January 1, 2021, to June 30, 2021	June 30, 2022	July 1 to September 30, 2022

Period 4	From July 1, 2021, to December 31, 2021	December 31, 2022	January 1 to March 31, 2023
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Details of Reporting Requirements

Pharmacies are required to report and maintain documentation to substantiate that PRF payments were used for eligible expenses to prevent, prepare for, and respond to the coronavirus. Payments may also be used to reimburse lost revenues attributable to the coronavirus. The burden of proof is on the pharmacy to ensure that documentation is maintained to show that expenses are to prevent, prepare for, and respond to the coronavirus.

Pharmacies must use the funds before the deadline that corresponds to the relevant Payment Received Period as mentioned in the table above. It is important to note that expenses or losses used by the PRF payments may not be reimbursed from other sources and other sources are not obligated to reimburse them. Pharmacies will be required to report the use of funds using their normal accounting basis (i.e., cash or accrual). The following data points, in relevant part, will be required:

- Interest earned on PRF payments:
 - For pharmacies that held the PRF payment(s) being reported in an interest-bearing account, the dollar value of interest earned on those PRF payment(s) must be reported.
- Other assistance received by quarter, including:
 - Department of the Treasury or Small Business Administration funding, including from the Paycheck Protection Program and SBA Loan Forbearance debt relief
 - FEMA funding
 - HHS CARES Act testing
 - Local, state and tribal government assistance
 - Business insurance proceeds
 - Other COVID-19 related assistance
- Use of general and other targeted distribution payments for general expenses, including:
 - Mortgage/rent
 - Insurance – premiums paid for property, malpractice, business, or other insurance relevant to operations
 - Personnel – gross wages paid for employees to prevent, prepare for, or respond to coronavirus during the reporting period, such as workforce training, staffing, the independent contractor payments and/or overhead. Note – Terms and Conditions of the PRF do not permit pharmacies to use PRF money to pay any salary at a rate in excess of \$197,300 (2020) or \$199,300 (2021), exclusive of fringe benefits.
 - Fringe benefits – extra benefits supporting an employee’s salary including health insurance, hazard pay and accountable plan reimbursements such as travel
 - Operating Lease payments – new equipment or software leases, such as fleet cars and medical equipment that are not purchased and will be returned to the owner
 - Utilities/operations – lighting, cooling/ventilation, cleaning, or other third-party vendor services

- Other expenses generally considered to be part of general and administrative expenses that are attributable to the coronavirus
- Other health care related expenses exclusive of general expenses above, including:
 - Supplies related to the coronavirus such as PPE, hand sanitizer, vaccination or point of care testing supplies and materials, laundering services and/or disinfection services
 - Required equipment such as refrigeration systems for vaccine storage
 - IT and computer expenses to support coronavirus care delivery such as licensing fees, telehealth infrastructure, increased bandwidth, and teleworking to support remote workforce
 - Facility expenses such as permanent or temporary structures, or to retrofit facilities to accommodate patient treatment practices for the coronavirus
 - Taxes imposed and paid on Provider Relief Fund payments
 - Other expenses related to prevention, preparation for, and/or response to the coronavirus
- If using any PRF for lost revenues, additional information is required including how lost revenues have been determined. Lost revenues can be calculated in one of the following three ways:
 - Difference between actual patient care revenues for each quarter versus the corresponding 2019 quarter
 - Difference between budgeted patient care revenues (prior to March 27, 2020) and actual revenues
 - Any other reasonable method of estimating revenues. Note – additional information will be required describing the method chosen, why the methodology is reasonable and how the lost revenue is attributable to the coronavirus. Guidance implies a higher risk of audit by HRSA if choosing this option.

Reporting will also require disclosure of significant additional organizational details. The pharmacy is encouraged to read the full HHS release and to stay up to date as additional reporting guidance is made available. Additionally, the FAQ section on the HHS website is a useful resource. Any unused funds may be returned through the Reporting Portal.

Single Audit Requirements

Pharmacies that received more than \$750,000 in federal funds, including PRF monies, will be subject to single audit requirements. There are two reporting options:

- A financial audit of the use of the awards in accordance with Generally Accepted Government Auditing Standards; or
- An audit in compliance with the Single Audit Act.

More details about these options and the corresponding reporting requirements will become available in the coming weeks and months.

Updated HHS FAQs Relevant to Pharmacies

On July 15, 2021 HHS updated its FAQs to include three topics of interest to pharmacies. Those FAQs follow:

How can a provider return unused Provider Relief Fund payments that it has partially spent? (Added 7/15/2021)

Providers that have remaining Provider Relief Fund payments that they cannot expend on allowable expenses or lost revenues attributable to coronavirus by the relevant deadline to use funds are required to return this money to the federal government. To return any unused funds, use the [Return Unused PRF Funds Portal](#). Instructions for returning any unused funds are available at: <https://na3.docusign.net/Member/PowerFormSigning.aspx?PowerFormId=45c01db6-78db-403abaa3-480c1950f596&env=na3&acct=dd54316c-1c18-48c9-8864-0c38b91a6291&v=2>.

The Provider Relief Fund Terms and Conditions and applicable laws authorize HHS to audit Provider Relief Fund recipients now or in the future to ensure that program requirements are/were met. HHS is authorized to recoup any Provider Relief Fund payment amounts that were made in error, exceed lost revenue or expenses due to coronavirus, or in cases of noncompliance with the Terms and Conditions.

When reporting on lost revenues, how should Reporting Entities treat “contractual adjustments from all third party payers” and “charity care adjustments” when determining what to exclude from patient care-related revenue sources? (Added 7/15/2021)

Reporting Entities should exclude the amount of contractual adjustments from all third party payers and charity care adjustments, as applicable, when determining patient care-related revenue sources.

How do I appeal or dispute a decision made? (Added 7/15/2021)

HHS recognizes that providers may have questions regarding the accuracy of their Provider Relief Fund payments. HHS is developing a structured reconsiderations process to review and reconsider payment accuracy based on submitted supporting documentation. Details regarding this process will be provided in coming weeks.

Significant Step Forward

While there are still details to be determined, the new reporting requirements and deadlines are clearly a significant step forward. HHS is expected to issue additional FAQs and guidance, and pharmacies are encouraged to monitor the HHS website for updates. For now, the pharmacy should start documenting what it can and prepare to report at the appropriate time.

The pharmacy should review the updated notice and plan for meeting the reporting requirements as deadlines approach. The pharmacy should create a reporting system that ensures all deadlines are met for each of the reporting periods in which the pharmacy may have received funds. Further, if the pharmacy has not already categorized its expenses into those that were permitted by the PRF Terms and Conditions, now is a good time to start that process. Also, the pharmacy should carefully document lost revenues and be prepared for a detailed audit to occur. The pharmacy should retain all records and contemporaneously note any key items or facts that may be relevant in a future audit. Over-documentation is always preferred.

THIS ARTICLE DOES NOT CONSTITUTE LEGAL ADVICE. THIS ARTICLE WAS PREPARED ON A SPECIFIC DATE. THE LAW MAY HAVE CHANGED SINCE THIS ARTICLE WAS WRITTEN. BEFORE ACTING ON THE ISSUES DISCUSSED IN THIS ARTICLE, IT IS IMPORTANT THAT THE READER OBTAIN ADVICE FROM A HEALTH CARE ATTORNEY.

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