

# Healthcare Legal Alert: Update on Federal Provider Relief Fund Distributions Filing Deadlines and Requirements

*This Alert has been updated to include additional information that became available after it was initially published (May 22, 2020).*

On May 20, 2020, the United States Department of Health and Human Services issued a formal reminder to all eligible providers that they have until June 3, 2020 to submit required revenue and tax information to remain eligible for additional distributions from the \$50 billion allocated by the Provider Relief Fund for general distributions. The Provider Relief Fund was created as part of the Corona Aid, Relief and Economic Security (CARES) Act. In addition to the \$50 billion allocated for general distributions, an additional \$50 billion has been allocated for certain “targeted” distributions. HHS has also updated its CARES Act FAQs to guide eligible providers through the requirements for the general as well as the targeted distributions. **It is important to understand that the June 3, 2020 filing deadline is separate and apart from the deadline with respect to the attestation and confirmation that eligible providers are required to file following their receipt of each individual general distribution.**

**UPDATE – Late on May 22, 2020, HHS also announced that it was further extending the time period within which eligible providers must electronically file attestations and confirmation related to distributions by another 45 days. Thus, eligible providers now have 90 days from the date they receive each distribution to file the required attestation and confirmation or, if applicable, return the distributions which such providers do not wish to retain or which such providers have determined were not calculated correctly.**

In April, the first \$50 billion in general distributions from the Provider Relief Fund was automatically distributed to Medicare participating providers, in two separate payments. These two distributions, combined, were based on the lesser of 2% of the eligible provider’s net patient revenue for 2018 (or the most recent complete tax year), regardless of payer mix, or the sum of the provider’s incurred losses for March and April. Providers are required to attest to the general distributions they received, agree to the terms and conditions applicable to the disbursement and submit tax and financial information.

**These steps must be accomplished via the Provider Relief Fund Payment Portal within 90 days of the eligible provider’s receipt of each general distribution, per the most recent extension of this deadline.**

Each payment must be attested and agreed to separately. Providers can also reject either or both general distributions via the Portal if they do not wish to comply with the terms and conditions, do not feel they qualify for the distributions, or believe the calculation of the total general disbursements they received is incorrect.

The May 20 notice reminds eligible providers, however, that if they wish to be eligible for additional general distributions, **they must submit the required revenue information by June 3, 2020.** This is also to be accomplished via the Portal. Providers are advised to be mindful of this deadline even if their 90-day deadline for attesting and agreeing to the terms of the general distribution falls on a later date.

The current targeted distribution/reimbursement programs include:

- Reimbursement for caring for and treating uninsured individuals related to a positive diagnosis of COVID-19.
- Relief payments for facilities facing “High Impact” for responding to the public health emergency, as measured by the number of COVID-19 inpatients treated at such facility.
- Relief payments for rural acute care general hospitals, Critical Access Hospitals, Rural Health Clinics and Community Health centers located in rural areas.
- Relief payments for rural testing initiatives.
- Relief payments for tribal health care providers.
- **UPDATE – Relief payments of \$4.9 billion for skilled nursing facilities.**

As noted in Hancock’s previous alert, each distribution obligates all recipients to accept certain terms and conditions, and recipients of more than \$150,000 in relief payments also have significant reporting obligations. Eligible providers are advised to carefully review the terms of each distribution to ensure that they are willing and able to comply before accepting or retaining such relief payments.

Further information on all relief programs, the Portal and the terms and conditions can be found at the following links:

CARES Act Provider Relief Fund: <https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/index.html>

Information on June 3<sup>rd</sup> Deadline: <https://www.hhs.gov/about/news/2020/05/20/providers-must-act-june-3-2020-receive-additional-relief-fund-general-distribution-payment.html>

Information on Targeted Distributions: <https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/payment-allocation-methodology/index.html>

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