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The CARES Act

Solutions for Healthcare Providers

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The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was enacted into law on March 27, 2020. This Act provides a variety of funding sources to address the significant financial needs resulting from the pandemic. Much of the aid is directed at healthcare providers, who are uniquely impacted by rising costs and revenue disruptions associated with responding to patient needs during the crisis while also maintaining long-term financial stability. Additionally, the Act provides increased flexibility to allow healthcare providers to more effectively serve patients during the crisis.

This brief provides an overview of the provisions of the CARES act pertaining specifically to the healthcare industry, as well as some that are not strictly healthcare-related but can be utilized by smaller healthcare entities. The details continue to evolve as additional guidance is issued by the U.S. Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS), the Health Resources and Services Administration (HRSA), and other government agencies.

Public Health & Social Services Fund

The most significant financial component of the Act is the creation of the Public Health and Social Services Fund, which was established to provide grants to healthcare providers. Eligible entities include Medicare or Medicaid-enrolled providers and suppliers, public entities, and other specified for-profit and not-for-profit entities that provide diagnosis, testing, or care for individuals with possible or actual cases of COVID-19. This includes efforts to prevent, prepare for, and respond to coronavirus, with specific funding amounts designated for activities such as innovations related to vaccines, therapeutics, diagnostics, medical supplies, telehealth access and infrastructure.

A sizeable portion of the fund – $100 billion – is designated to reimburse eligible healthcare providers for healthcare related expenses or lost revenues attributable to coronavirus. Funds from this program may be used for:

- Building or construction of temporary structures;
- Leasing of properties;
- Medical supplies and equipment, including testing supplies and personal protective equipment (PPE);
- Increased workforce and training;
- Emergency operation centers;
- Retrofitting facilities; and
- Surge capacity.

To be eligible, a provider must submit an application to the HHS Secretary, including a statement justifying the need for the payment. However, HHS has broad discretion in awarding grants available under this program and has not yet issued guidance regarding the application process or specific requirements.

Additional Reimbursement for Healthcare Providers

Hospital Inpatient Prospective Payment System Add-On Payment

During the emergency period, the weighting factor that would otherwise apply to the diagnosis-related group (DRG) to which the discharge is assigned shall be increased by 20% for Medicare patients diagnosed with COVID-19. State Medicaid agencies are authorized to make the same adjustment, even if they have received a 1115A Waiver. **No action is necessary on the part of enrolled hospitals to receive the additional payments.**

Delay of Medicare Sequestration

During the period May 1, 2020 through December 31, 2020, Medicare sequestration will be temporarily suspended. This will result in a 2% increase in Medicare reimbursement on claims for services provided during that period. Sequestration will be extended through fiscal year 2030 (rather than expiring as scheduled in 2029) to recover those funds. **No action is necessary on the part of enrolled providers to receive the additional payments.**

Paycheck Protection Program

The CARES Act authorizes up to $349 billion in forgivable loans to small businesses to pay their employees during the COVID-19 crisis. While the PPP is not an option for large hospitals or health systems, this program may be an option for qualifying medical practices and other smaller healthcare providers who are experiencing significant disruptions to their normal patient volumes. Eligible entities, which include sole proprietorships, not-for-

profit entities, and self-employed individuals, generally must have fewer than 500 employees. Business may borrow up to 2.5 times average monthly payroll costs, not to exceed $10 million, and funds may be used to pay payroll costs (including benefits), mortgage interest, rent, and utilities during the 8 weeks after receiving the loan.

Loan amounts are forgivable to the extent the number of employees during the 8-week period is maintained at historical levels, and salaries and wages for individual employees are not reduced by more than 25%. It is anticipated that no more than 25% of the forgiven amounts may be for non-payroll related expenses.

Medicare Accelerated/Advance Payment Program

For the duration of the emergency period relating to COVID-19, Medicare Part A and Part B providers may request accelerated payments on a periodic or lump sum basis for up to 100% (or up to 125% for critical access hospitals) for up to a 6-month period. Eligible providers include inpatient acute care hospitals, children's hospitals, specialized cancer hospitals, critical access hospitals, and Part B providers such as ambulatory surgical centers, physicians, and durable medical equipment (DME) suppliers. Hospitals shall have up to 120 days before claims are offset against the advance to recoup the accelerated payments. The outstanding balance must be paid in full within 12 months of the date of the first advance.

Subsequent to the enactment of the CARES Act, CMS issued a press release indicating that the accelerated payment program has been expanded to all Medicare providers throughout the country, including hospitals, doctors, DME suppliers, and other Medicare Part A and Part B providers and suppliers who have billed Medicare for claims within 180 days prior to making the request.

To receive Accelerated/Advance Payments under this program, providers or suppliers must submit a request to their respective Medicare Administrative Contractor (MAC). It is anticipated that approved payments will be issued within 7 days of the submitted request.

Additional Changes Impacting Reimbursement and Reporting

No action is necessary on the part of enrolled providers to effectuate the changes noted in this section.

Delay of Clinical Lab Payment and Reporting Requirements

Certain reporting requirements for clinical laboratories that were scheduled to take effect in 2021 have now been delayed until 2022. Additionally, the phase-in of scheduled payment reductions has been delayed. The percentage by which payments may be reduced has changed from 10% to 0% for 2021 and the 15% reduction will now be applicable for 2022 – 2024.

Delay of DSH Reductions

Disproportionate Share Hospital allotment reductions that were scheduled to be implemented beginning May 23, 2020 have been delayed until December 1, 2020.

Delay of DME Payment Reductions

The timeframe for reduction of payments related to DME and related maintenance and servicing has been extended through the duration of the emergency period relating to COVID-19.

Extension of Work Geographic Index Floor

For physicians in geographic areas where labor costs are lower than the national average (i.e., work geographic index is less than 1.00), the work geographic index shall be increased to 1.0 for the purpose of determining reimbursement rates on Medicare claims. This adjustment was scheduled to expire on May 23, 2020 but has now been extended through December 1, 2020.

Extension of GME Funding

Funding for Community Health Centers, National Health Service Corps., Teaching Health Centers that operate graduate medical education (GME) programs has been extended through November 30, 2020.

Supplemental Awards for Health Centers

The CARES Act appropriates $1.3 billion in supplemental awards for use in the detection of SARS-CoV-2 or prevention, diagnosis, and treatment of COVID-19. Such funding is available to community health centers (CHCs), which are located in areas of high need, provide a comprehensive set of services, are open to everyone, offer sliding scale fee options to low-income patients, and have patient-majority governing boards.

Telehealth Provisions

Telehealth Grants

The CARES Act amended certain provisions of grant programs for telehealth networks and resource centers, opening up application for grants to private providers rather than just not-for-profit entities. The process for obtaining a grant remains unchanged. Grant periods have increased from a maximum of 4 years to 5 years.

Broader Telehealth Waiver Authority

Certain Medicare coverage requirements have been waived, effective as of March 1, 2020. Changes include:

- Over 80 additional services to be furnished via telehealth;
- Removal of requirement that telehealth services may only be provided to patients a provider has provided treatment to within the past 3 years;
- Allowing providers to bill for telehealth visits at the same rate as in-person visits, including home visits, initial nursing facility and discharge visits, emergency department visits, and therapy services, including new and established patient visits;
- Allowing clinicians to provide remote patient monitoring services to patients with acute and chronic conditions and for patients with only one disease; and
- Allowing physicians to supervise clinical staff using virtual technologies when appropriate, instead of requiring in-person presence.

Expansion of Telehealth to FQHCs and RHCs

Both Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) are now allowed to serve as the distant site provider for which telehealth services rendered to a Medicare beneficiary will be covered. Payment rates for these services will be comparable to current physician fee schedule rates.

Hospice Certification via Telehealth

The requirement of a face-to-face encounter for Medicare patients to be certified to receive hospice benefits has been removed. During the emergency period related to COVID-19, a hospice physician or nurse practitioner may conduct the visit via telehealth.

Home Dialysis via Telehealth

The in-person requirement related to clinical assessments for End Stage Renal Disease (ESRD) has been waived so that Medicare beneficiaries may receive additional clinical assessments via telehealth for the duration of the emergency period related to COVID-19.

Home Health Telehealth Reimbursement

Under the CARES Act, the HHS Secretary is required to consider ways to encourage the use of telecommunications systems, including remote patient monitoring (RPM) in the home health setting. Currently, RPM costs are allowable as administrative costs only, and home visits to train a patient on the use of RPM technology is not a billable service. It is possible that these rules could be modified in response to this requirement.

Use of Telehealth in Veteran Programs

The CARES Act allows for the "in-person" visit for a veteran's enrollment or re-enrollment in a Veteran Directed Care Program to be conducted via telehealth.

Telehealth Paid Outside of High Deductible

High deductible commercial health plans with health savings accounts (HSAs) may cover telehealth services and other remote care services prior to patients reaching their deductible without risking the tax advantages of an HSA.

Pricing of Diagnostic Testing

Providers of diagnostic testing shall be reimbursed for COVID-19 testing at (a) the negotiated rate in effect before the emergency declaration or (b) if a health plan does not have a negotiated rate with the provider, the cash price for the service as listed by the provider on a public website (or a lesser price negotiated with the provider). Failure of a provider to publish the cash price for COVID-19 testing on the provider's website shall result in civil monetary penalties of up to $300 per day.

Rapid Coverage of Preventive Services and Vaccines for Coronavirus

Group and individual health insurance providers shall be required to cover – without cost-sharing – certain coronavirus preventive services, within 15 days of such service being recommended. These services include evidence-based items or services as designated with a rating of "A" or "B" by the United States Preventive Services Task Force and immunizations recommended by the

Centers for Disease Control and Prevention (CDC).

Expansion of Access to Post-Acute Care

During the COVID-19 emergency, the Medicare requirement that all patients in inpatient rehabilitation facilities (IRFs) must receive at least 15 hours of therapy per day will be waived.
Additionally, the following payment provisions for long-term care hospitals (LTCHs) will be suspended during the emergency:

- Payment adjustments for LTCHs that do not have at least a 50% discharge payment percentage; and
- Site-neutral payment adjustments.

These adjustments enable LTCHs to accept patients that otherwise might negatively impact the facility's reimbursement rates, which allows hospitals to more easily discharge patients to LTCHs in order to increase hospital capacity that might be needed for more critical patients during the emergency.

Improvement in Care Planning for Medicare Home Health Services

The CARES Act will allow nurse practitioners, clinical nurse specialists, and physician assistants to order Medicare and Medicaid-covered home health services rather than requiring that such orders come from a licensed physician. These providers will also be granted the authority to complete the certification of medical necessity for the ordered services. ***This expanded flexibility will not be available until a date to be established by the HHS Secretary, which shall be no later than 6 months following enactment of the CARES Act.***

It should be noted, however, that this expansion is contingent upon the providers' compliance with state law. Accordingly, the state's scope of practice must allow this level of service.

Limited Liability for Volunteer Healthcare Professionals

Through the duration of the COVID-19 emergency, individuals who volunteer to provide healthcare services in response to the emergency shall not be liable under Federal or State law for any harm caused by an act or omission in the provision of such services, so long as:

- The services provided by the volunteer are within the scope of their license, registration, or certification;
- The volunteer in good faith believes the individual being treated is in need of the services rendered; and
- The volunteer does not act with gross negligence or reckless misconduct, or render services under the influence of alcohol or drugs.

Conclusion

The CARES Act represents an unprecedented response to the emergency facing our nation. The team of JTaylor professionals is proactively working to assist our clients in the healthcare industry, both large and small, in receiving the maximum benefit from the operational and financial provisions of the Act.

Given the magnitude of the legislation and the number of agencies involved in administering the various programs, additional guidance and interpretations are being issued on a daily basis. Be assured that we are closely monitoring such guidance to be able to provide up-to-date advice and insight. If you have questions regarding the application of this legislation to your specific circumstance, please contact us. We stand ready to serve you as together we navigate the COVID-19 crisis.

Disclaimer

JTaylor is an accounting and consulting firm. Our professionals are not attorneys, and the information contained herein does not constitute legal advice. Our goal is to provide guidance to our clients as they seek to make decisions with regard to their businesses, using the best information available at this time. This is an area that continues to evolve, and we reserve the right to update any information contained herein as new information or guidance becomes available.

Because the facts and circumstances of each situation can be unique, particularly as applied to these new, complex provisions of federal legislation and associated interpretive guidance, we recommend seeking professional guidance before undertaking actionable steps in regard to the provisions described herein.