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HHS Updates FAQ for Provider Relief Funds

HHS released an updated version of Frequently Asked Questions (FAQ) related to Provider Relief Funds (PRF) on January 28, 2021. Of key importance – **the updated deadline for reporting on 2020 activity has still not been released**. Unchanged from the January 15 update, the FAQ still indicates that “in the near future, HRSA will announce the window for submitting the first report on a recipient’s use of funds.” The deadline for the second and final report (covering the use of funds from January 1, 2021 through June 30, 2021) remains set at July 31, 2021.

Key changes from prior versions of the FAQ include the following:

- **The question “What expenses or lost revenues are considered eligible for reimbursement?”, last modified October 29, 2020, was removed in its entirety.** This is the answer that had previously included a list of various eligible expenses, as well as the explicit direction that PRF funds could be applied to expenses incurred prior to the receipt of PRF payments so long as the expenses were “attributable to coronavirus and were used to prevent, prepare for, and respond to coronavirus.” Further, this is the response that had referenced use of funds for “maintaining healthcare delivery capacity”, which included a list of such expenses. It is unclear what the removal of this question means; however, it appears that the current guidance is geared more towards incremental expenses relating to preventing, preparing for, and responding to coronavirus rather than maintaining operating capacity. It is likely that this shift is a result of the more provider-friendly calculation of Lost Revenue than what appeared in earlier guidance. In other words, it may be HHS’s position that the Lost Revenue provisions allow entities to “maintain healthcare delivery capacity,” resulting in more stringent restrictions on the expenses to which PRF payments may be applied in order to duplication.
- Modifies several questions under the Ownership Structures and Financial Relationships section to **allow parent organizations to allocate targeted distributions to any subsidiaries that are “eligible healthcare providers** in accordance with the Coronavirus Response & Relief Supplemental Appropriations Act.” Parent entity is responsible for attesting to terms & conditions if it received the payment.
- Added new Q&A under Use of Funds and modified prior guidance:
 - **Reporting entities will submit a consolidated report** rather than reporting each general and/or targeted distribution payment separately.



- **Unreimbursed expenses are still considered first in the overall use of funds calculation**; amounts not fully expended on unreimbursed healthcare related expenses attributable to coronavirus are then applied to lost revenues. Prior reference to a cap on lost revenue has been removed.
- If PRF funds were held in interest-bearing account, **interest earned is considered reportable revenue** (rather than “Other Assistance” as noted in prior versions). Interest earned on PRF disbursements may be retained and applied towards a reportable use of funds if all PRF disbursements were expended. Otherwise, interest on remaining unused funds must be calculated, reported, & returned.
- A new question relating to using 2020 budgeted revenues as a basis for reporting lost revenues was added, **allowing entities to use budgeted revenue if the budget and associated documents covering calendar year 2020 were established and approved on or before March 26, 2020**. To be approved, the budget must have been “ratified, certified, or adopted by the ... financial executive or executive officer.” The reporting entity will be required to attest that the budget was established and approved on or before March 26, 2020.
- Question “How does ‘other assistance received’ factor into my reported expenses?” from prior version has been removed in its entirety.
- Miscellaneous:
 - Parent organization must report on use of funds received on behalf of a subsidiary in the form of a Targeted Distribution.
 - If subsidiary was the recipient of a Targeted Distribution, the subsidiary must report on the use of funds.
 - Reaffirms that the **reporting entity must report revenue for the full calendar year 2020** (i.e., cannot isolate just a partial year period that incurred enough lost revenue to justify use of funds).
 - Reaffirms that **all reporting entities must submit actual patient care revenue for calendar years 2019 and 2020**, even if there were enough unreimbursed healthcare related expenses attributable to coronavirus to expend all PRF received and they are not claiming lost revenue.
 - **Costs associated with administering a COVID-19 vaccine to a patient with Medicare Part A but not Part B coverage would be considered unreimbursed**, and PRF payments could be used to cover the incurred expenses.

Additionally, the FAQ added clarification regarding the amount of Phase 3 distributions for those who applied, noting that providers will be paid “the greater of up to 88 percent of their reported losses (both lost revenue and health care-related expenses attributable to coronavirus incurred during the first half of 2020) or 2 percent of annual revenue from patient care.” Any amounts received in prior PRF distributions are considered in the determination of Phase 3 distribution amounts.

We will continue to watch for additional guidance released by HHS in the coming days and weeks.